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Uncertainty, confusion continue to grow around methane tax

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Courtesy LongPath Technologies With the methane emissions tax contained in the Inflation Reduction Act looming, confusion reigns over just how to calculate emissions and concerns grow the tax will hit smaller and mid-size companies hardest.

Confusion and uncertainty reign when it comes to the pending methane emissions tax included in last year's Inflation Reduction Act.

There is concern that the tax will most heavily impact mid-size independent producers, as Grant Swartzwelder, president of OTA Environmental Solutions stated.

"Anyone below 25,000 tons, it won't affect you. The large companies, because of their size and lobbying efforts, won't be affected. It seems those in the middle ground are the ones to get impacted the most and possibly the most negatively," he told Lee Fuller, officer, environment and general strategy with the Independent Petroleum Association of America during the monthly Oilfield Strong webinar.

"That is an accurate characterization of the dynamics," Fuller responded.

A look at the history of the regulatory dynamics with the oil and gas industry shows rural areas, largely comprised of sites with one or two wells, weren't as aggressively regulated as more urban sites with, for example steel plants, Fuller said. In recent years, regulatory changes and growing concerns about climate change and methane emissions has brought a move toward regulators targeting the industry more aggressively, he said.

"Regulators are not well versed in understanding the nature of oil and gas and that leads to challenges, then you get into the dynamics of the industry — the range of very large, publicly traded companies down to the mom-and-pop companies," he said.

Another concern is how the tax was enacted, Fuller continued. “If you look at this methane tax, it’s a very different animal, something that’s never been done before. The history of it is troubling — it was written in secret with no hearings, no reports written in committee or conference to explain how it will work. You have raw legislative language handed to the Environmental Protection Agency to implement. There are elements in it that are intended to try to limit the impact on smaller operations” like the 25,0000-tons-per-year threshold.

The legislation tasked the EPA with improving the Subpart W greenhouse gas reporting program, but Fuller said the timeline for EPA to accomplish that task is too unrealistic: The tax will take effect in 2024 with tax collections beginning in 2025.

Then there is the issue of how emissions are supposed to be calculated. Though smaller operators may report emissions well below that threshold, Fuller said factoring in gathering and boosting facility emissions can put them over the threshold. Then there’s the question of emissions being calculated in tons while natural gas sales are calculated in volumes. Mid-size companies may have good equipment controllers to contain emissions, but because of sales, they are now subject to the tax, he said.

“The EPA is implementing the regulatory components, which will be coming out in the next few months to be ready for 2024. We’ve tried to emphasize they have to make sure, when they put out those regulations, it’s clear how operators are to go about the calculations and when they do calculations under those regulations they won’t be subject to excessive EPA enforcement,” Fuller said.

In the interim, he advised operators to carefully document each piece of equipment, every improvement made to reduce emissions and how they performed their calculations to show regulators.

“It’s unlikely this thing will be turned around soon, but I have some hope Congress will look at the way they passed this and realize the time-line is unworkable and give the industry more time to make adjustments. By then, they’ll have all the methane rules in place and it’s possible this won’t raise that much money and is a big waste of time.”