

IPANM Annual Meeting –
Federal Session
July 28, 2022

Jim Elliott, Counsel

“Independent Producers Methane Coalition”

- 2011-2012 - NSPS OOOO: IPAA, WV, PA, OH, KY, IL, IN
- 2015-2018 - NSPS OOOO a/ICR: IPAA, AXPC, DEPA, EKOOGA, IOGA, IOGA-WV, INOGA, IADC, KIOGA, KOOGA, MOOGA, NSWA, NDPC, OOGA, OIPA, PIOGA, Texas Alliance, TIPRO, WVONGA

“Independent Producers Methane Coalition”

2019-2021 – NSPS OOOO a, b & c --
AIPRO, DEPA, EKOOGA, GO-WV, IOGA,
IPANM, INOGA, IADC, KIOGA, KOGA,
MOGA, NSWA, NDPC, OOGA,
Petroleum Alliance of Oklahoma, PAW,
PIOGA, Texas Alliance, TIPRO, Western
Energy Alliance

“Independent Producers Methane Coalition”

“Engagement Process” – Every Rule
(Almost Every Rule):

- Meet with EPA in DC and RTP; pre- and post-comment period
- Challenge/Support Final Rule in Court of Appeals for DC Circuit
- Meet with EPA if/when beneficial

OOOO a, b & c 11/15/2021 “Proposal”

- It was not a “proposed rule”
- Our issues:
 - No exemption for low production wells
 - Treatment of pneumatic controllers
 - Appendix K
 - Liquids Unloading/other “sources”
 - Abandoned Wells

OOOO a, b & c 11/15/2021 “Proposal”

- Our issues:
 - Alternative Measurement Technologies
 - Storage Vessels
 - 111(d) “guidelines” for existing sources
 - Timelines
 - EJ/Meaningful Engagement
 - Useful Life

West Virginia v. EPA

June 30, 2022

- Challenge to 2015 Clean Power Plan (& ACE Rule) implemented via §111(d) of the CAA
- CPP/ §111(d) to regulate existing power plants
- According to SCOTUS, central determination of §111(d) – what constitutes the “best system of emissions reduction”

West Virginia v. EPA

June 30, 2022

- EPA determined best “system” was ultimately based on “generation shifting”:
- Coal to Natural Gas to Renewables/trading
- EPA decided which form of generation would generate what % of power
- No coal power plant could meet requirements w/o generation shifting

West Virginia v. EPA

June 30, 2022

- “Major Questions” doctrine utilized by SCOTUS for first time – Chief Justice Roberts (borrowed from Trump EPA in ACE)
- Precedent teaches there are
- “extraordinary cases” in which
- “history and the breadth of the authority that [the agency] has asserted” and
- “economic and political significance”...

West Virginia v. EPA

June 30, 2022

- Provide a reason to hesitate before concluding that Congress meant to confer such authority.
- SCOUTS indicated §111(d) :
 - “operates as a gap-filler”
 - “reflecting the ancillary nature” – used only a handful of times” since enactment in 1970
 - Limits on existing power plants more strict than new plants

West Virginia v. EPA June 30, 2022

SCOUTS indicated §111(d) :

-Congress needs to confer such broad authority in somewhere other than “in the previously little-used backwater of Section 111(d).”

What does all of this mean for the Oil & Natural Gas Industry?

Subpart 0000 a, b & c

Impact on 0000 c (111(d) for oil and gas) – probably limited - CRA/Committee on Energy and Commerce Report -

- Refuted 2020 “Policy Rule” on all accounts
- Cited by EPA in ANPR on 11/15/2021:
 - “directed that ‘regulations of emissions from new and existing’ sources from all sectors to protect human health and welfare”

Subpart 0000 a, b & c

- Cited by EPA on ANPR on 11/15/2021:
- “we encourage EPA to strengthen the standards we reinstate and aggressively regulate methane...throughout the production, processing, transmission and storage segments ... under section 111 ...”
- Senate statement: “the welfare of our planet and of our communities depends on it.”

Subpart 0000 a, b & c

- West Virginia v. EPA – road map for all
- Aspects of ANPR that may go too far:
 - “Meaningful Engagement” Community Monitoring
 - Regulating to point of extinction
 - “Guideline revisions – “useful life”

Subpart 0000 a, b & c

- “Proposed Rule in October 2022?”
- “We” will comment – IPAA leading the charge: AIPRO, DEPA, EKOOGA, GO-WV, IOGA, IPANM, INOOGA, IADC, KIOGA, KOOGA, MOGA, NSWA, NDPC, OOGA, The Alliance (OK), PAW, PIOGA, Texas Alliance, TIPRO, Alliance

Subpart 0000 a, b & c

- Final Rule “mid-2023”?
- Litigation in the Court of Appeals for the District of Columbia – consolidation of cases from 2012

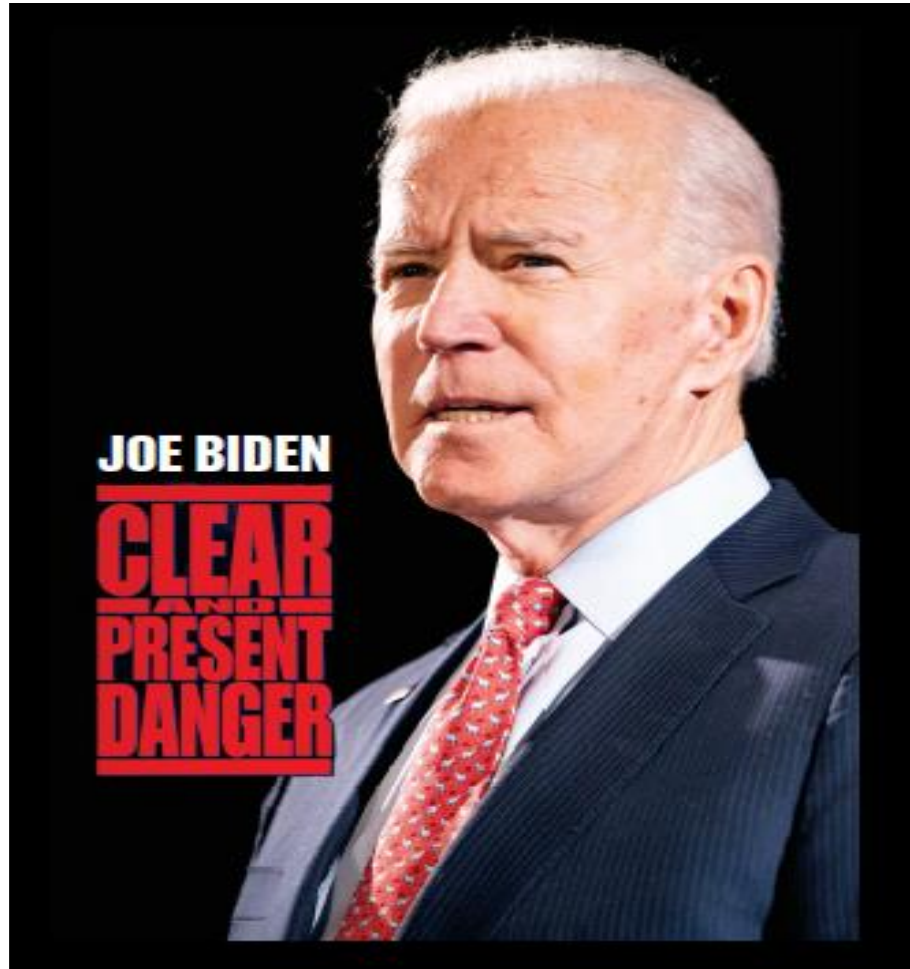
Executive Powers?

- Biden comments at site of Brayton Point Power Plant – July 20, 2022:
- Climate change means “code red for humanity” and is a “clear and present danger”

Executive Powers?



Executive Powers?



Executive Powers?

- The Defense Production Act of 1950
 - Title I – Priorities and Allocations
 - Title III – Expansion of Productive Capacity and Supply
- The National Emergencies Act
 - Response to COVID-19
- Courts/SCOTUS – check and balance



1 Timothy 6:12