

LEGAL UPDATES

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Service

Environmental

EPA Announces Final Methane Rules for Oil and Gas Industry

As part of its continuing effort to limit greenhouse gas emissions, the U.S. Environmental Protection Agency (EPA) on May 12, 2016, issued three final rules aimed at curbing methane emissions from new, modified and reconstructed sources in the oil and gas sector. The EPA also took the first formal step toward regulating emissions of methane from existing sources by issuing a draft information collection request that would require oil and gas companies to provide extensive information on methane emissions from numerous sources.

The Final Rules

The EPA's final rules will become effective 60 days after they are published in the *Federal Register*. They will (1) impose additional New Source Performance Standards (NSPS) requirements at oil and gas exploration and production sites, (2) modify air permitting Source Determination rules, and (3) establish a federal implementation plan for EPA's Indian Country Minor New Source Review (NSR) program for natural gas production and processing facilities.

New Source Performance Standards

The final NSPS rule builds on EPA's 2012 requirements to reduce volatile organic compound (VOC) emissions in the oil and gas sector. It adds requirements that the oil and gas industry reduce methane emissions at new, modified and reconstructed sources, including hydraulically fractured oil wells, and covers additional equipment and activities in the oil and gas production chain. The additional requirements apply to natural gas and oil well sites, natural gas production gathering and boosting stations, and natural gas transmission compressor stations. The final rule adopts the same best system of emission reduction (BSER) for methane that is currently in place for VOCs.

For natural gas and oil well sites, the final rule adds new requirements for detecting and repairing fugitive emissions from leaks and adds requirements to limit emissions from pneumatic pumps. The rule requires owners or operators of well sites to develop and implement leak monitoring plans using optical gas imaging and establishes deadlines for conducting leak surveys and repairing leaks. At oil well sites, the final rule also sets emissions limits for completions of hydraulically fractured oil wells and requires that methane emissions from hydraulically fractured oil wells be captured. The rule requires that emissions reductions be achieved via “green completions” over a phase-in period. New exploratory, delineation and low-pressure wells are exempted from the green completions requirements.

Source Determination (Aggregation)

The final Source Determination rule specifies that equipment and activities in the oil and gas sector that are under common control will be considered the same source if they are located on the same site or on sites that share equipment and are within one-quarter mile of each other. The final rule applies to equipment and activities used for onshore oil and gas production and gas processing; it does not apply to offshore operations.

Aggregation of multiple adjacent sources into a single source could affect Clean Air Act obligations under “major source” permitting programs such as Prevention of Significant Deterioration, Nonattainment New Source Review and Title V.

Federal Implementation Plan for Indian Country Minor New Source Review

EPA finalized a Federal Implementation Plan (FIP) to implement EPA’s Indian Country Minor New Source Review program for oil and gas production and natural gas processing activities. The final FIP will be used instead of source-specific minor NSR preconstruction permits in Indian country. The rule incorporates emissions limits and other requirements from eight federal standards.

Beginning October 3, 2016, new, modified and reconstructed minor sources using the FIP will be required to register using a specific form tailored for the FIP rather than a permit application. The FIP applies throughout Indian country except in non-reservation areas, unless a tribe or EPA demonstrates jurisdiction for those areas. It does not apply in areas designated as nonattainment for National Ambient Air Quality Standards.

What This Means to You

The oil and gas industry maintains that it has already reduced methane emissions through engineering controls, making the final rules unnecessarily costly and repetitive. Sources already subject to the 2012 NSPS rule have been required to put controls in place to reduce VOC emissions, and those same controls limit methane emissions. Thus the industry views the final rules as merely

adding additional regulatory requirements and compliance costs to achieve what will likely be a limited practical effect on methane emissions, and at a time when the oil and gas industry is struggling with an historic downturn in the oil and gas market.

According to EPA, because the new limits and control requirements for methane emissions are the same as the current standards for VOCs, sources already subject to the 2012 NSPS requirements for VOC reductions—including hydraulically fractured gas well completions and equipment leaks at natural gas processing plants—will not need to install additional controls or incur additional costs to meet the new 2016 requirements. EPA also takes the position that the “green completion” controls recommended by EPA would result in methane and VOC emissions, which have historically been vented or flared, being captured at wells immediately after well completion. This would allow well owners/operators to obtain additional revenue from the sale of captured methane, which could offset some of the costs associated with implementing the NSPS.

While the final rules apply to new, modified or reconstructed sources, the draft information request issued by EPA makes clear that EPA intends to regulate existing sources, which would result in additional regulatory requirements and associated compliance costs. However, EPA’s authority to establish standards for existing sources under the Clean Air Act Section is likely to be challenged.

Contact Us

For more information on how the EPA’s final rules on methane emissions might impact your business or your clients, please contact a member of Husch Blackwell’s Energy & Natural Resources team.