

ALERT

ENERGY & NATURAL RESOURCES



U.S. EPA Seeks Comment on Rollback of New Source Methane Standards

In 2016, U.S. EPA finalized a rule that established first-time federal standards for methane emissions from new, modified and reconstructed sources in the oil and gas industry. The so-called new source performance standards (NSPS) at 40 C.F.R. 60, Subpart OOOOa (Subpart OOOOa) have since become the subject of considerable debate and litigation. Consistent with the Trump administration's other deregulatory efforts, EPA published a proposal in the *Federal Register* on October 15, 2018 that aims to reduce the Subpart OOOOa regulatory burden for industry. The agency has already received several comments from concerned citizens who oppose the proposal. EPA will continue to accept stakeholder feedback through mid-December.

Significant Changes to Applicable Requirements

The 52-page rulemaking notice describes several proposed amendments to Subpart OOOOa. EPA is addressing certain issues that were presented to the agency in formal petitions for reconsideration, as well as "other implementation issues and technical corrections" brought to the agency's attention after Subpart OOOOa was promulgated. For example, it is proposing significant changes to the requirements for fugitive emissions components, including revised leak monitoring frequencies. Whereas the current regulation subjects well sites to semiannual leak monitoring, the revised Subpart OOOOa would require monitoring every other year for low production well sites and annually for all other well sites. The required frequency of compressor station monitoring would be reduced from quarterly to either semiannual or annual. (The proposal includes distinct monitoring requirements for well sites and compressor stations on the Alaska North Slope.) EPA is also proposing to no longer require monitoring surveys at well sites once all major production and processing equipment is removed. These are just a few of the many technical issues for which the agency is seeking public input. Operators should review the rulemaking notice and evaluate how the proposed changes could impact day-to-day operations.

Potentially Overlapping Federal and State Requirements

While EPA may be inclined to relax regulatory obligations at the federal level, states could continue to impose more stringent requirements. For example, Pennsylvania DEP finalized an air permitting package earlier this year that requires *quarterly* leak detection and repair (LDAR) monitoring for well sites subject to the new general permit known as "GP-5A." As proposed, the revised Subpart OOOOa would require only *annual* or in some cases *biennial* monitoring at well sites. In general, where federal and state standards are in conflict, operators will need

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to comply with the most stringent requirement that applies. EPA's rulemaking proposal includes provisions which attempt to address potential overlap in federal and state requirements.

Public Comment Period and Hearing

EPA will accept public comments on the proposed revisions to Subpart OOOOa until December 17, 2018. The rulemaking notice indicates that the agency is seeking comment only on the specific issues identified in the notice. The agency is “not opening for reconsideration any other provisions of the NSPS at this time.” EPA's related fact sheet indicates that it is still evaluating broad policy issues—such as the regulation of greenhouse gases—associated with Subpart OOOOa. According to the agency, such issues will be addressed separately at a later date.

EPA recently announced that it will also hold a public hearing on November 14, 2018, at its Region 8 office in Denver, Colorado. Interested parties who wish to provide oral testimony at the hearing are encouraged to register in advance by November 6, 2018.

Babst Calland actively monitors federal and state air program developments affecting the oil and gas industry. If you have any questions about the proposed changes to Subpart OOOOa or air quality issues in general, please contact Michael H. Winek at (412) 394-6538 or mwinek@babstcalland.com, Meredith Odato Graham at (412) 773-8712 or mgraham@babstcalland.com, or Gary E. Steinbauer at (412) 394-6590 or gsteinbauer@babstcalland.com.

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