

# ADMINISTRATIVE WATCH

ADDRESSING ENVIRONMENTAL, ENERGY AND NATURAL RESOURCE ISSUES



## EPA Announces Clean Air Act Proposals Targeting the Oil and Natural Gas Sector

The U.S. Environmental Protection Agency (EPA) recently unveiled a number of regulatory proposals aimed at reducing greenhouse gas emissions from the oil and natural gas industry and clarifying how sources in the industry are to be evaluated for air permitting purposes. These highly-anticipated proposals have the potential to affect sources located across various segments of the industry, including but not limited to operations at natural gas well sites, processing plants, compressor stations, and storage facilities. EPA is or will be accepting public comments on all of the proposals.

As part of President Obama's Climate Action Plan and the related Strategy to Reduce Methane Emissions, the Obama Administration issued a multi-agency announcement in January 2015 which established a goal of reducing methane emissions from the oil and gas sector, specifically, by 40 to 45 percent from 2012 levels by the year 2025. In furtherance of the Obama Administration's goal, EPA recently announced the following initiatives:

- Proposed Revisions to New Source Performance Standards (NSPS) Subpart OOOO:** On August 18, 2015, EPA released a proposed rule that would amend NSPS Subpart OOOO by including standards for reducing methane and volatile organic compound (VOC) emissions from certain new, modified, and reconstructed sources in the oil and natural gas source category, which includes production, processing, transmission, and storage. In general, this rulemaking would subject additional sources to NSPS Subpart OOOO and expand on the current standards by requiring the industry to reduce methane in addition to VOC emissions. EPA will accept public comments for 60 days after the proposal is published in the *Federal Register*.
- Draft Control Techniques Guidelines (CTG) for Existing Sources:** Also on August 18, 2015, EPA issued a draft CTG document providing recommendations for state and local air agencies to consider in developing approaches (subject to EPA approval) for reducing VOC emissions from existing sources in the oil and gas industry that are located in ozone nonattainment areas and/or the Ozone Transport Region. Comments will be accepted for 60 days upon publication in the *Federal Register*.
- Methane Challenge Program:** In an effort to complement the NSPS Subpart OOOO and CTG proposals, EPA announced in July 2015 a proposal to expand on the agency's Natural Gas STAR Program by implementing a Methane Challenge Program to encourage operators to voluntarily reduce methane emissions. Participating operators would enter into a memorandum of understanding with EPA and provide information through the Greenhouse Gas Reporting Program and supplemental data collection. EPA is currently accepting comments until October 13, 2015.

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Additionally, EPA is also taking the following actions in response to recent litigation regarding air permitting and single source determinations for the oil and gas industry.

- **Proposed Source Determination Rule:** On August 18, 2015, EPA released a proposed rule to define the term “adjacent,” which is a component of a multi-factor test for determining whether oil and gas equipment and activities are considered part of a single source that is subject to major source permitting requirements under the Clean Air Act. EPA is proposing two options for defining adjacent; EPA’s “preferred option” would define adjacent in terms of physical proximity only (adopting a one-quarter mile threshold), whereas the alternative definition would define adjacency based on proximity or functional relationship. Comments will be accepted for 60 days upon publication in the *Federal Register*.
- **Proposed Revisions to Regional Consistency Regulations:** On August 19, 2015, EPA published in the *Federal Register* proposed changes to the agency’s Regional Consistency Regulations, in direct response to litigation which struck down a previous attempt by EPA to limit the impact of an unfavorable federal court ruling regarding single source determinations and the meaning of “adjacent” to permitting programs in a limited number of states. *See generally Summit Petroleum Corp. v. EPA*, 690 F.3d 733 (6th Cir. 2012); *Nat’l Env’tl. Dev. Ass’n’s Clean Air Project v. EPA*, 752 F.3d 999 (D.C. Cir. 2014). The proposed rulemaking would create an exception to the current requirement that EPA rules, guidance and directives under the Clean Air Act be consistent across all EPA Regional Offices. Public comments will be accepted until October 19, 2015.

If you have questions regarding these EPA proposals, or air pollution control and permitting requirements in general, please contact Michael H. Winek at (412) 394-6538 or [mwinek@babstcalland.com](mailto:mwinek@babstcalland.com), or Meredith Odatto Graham at (412) 773-8712 or [mgraham@babstcalland.com](mailto:mgraham@babstcalland.com).