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What You Need to Know About EPA's Newest Oil and Gas Rules

By [Pete Wahl](#) and [Benjamin Rhem](#)

INTRODUCTION

On April, 17 2012, the U.S. Environmental Protection Agency (EPA) released its final rules regulating emissions of volatile organic compounds (VOCs) and sulfur dioxide (SO₂) generated during the production, storage, processing, and transmission of oil and natural gas. These rules contain the first federal limits on air emissions from oil and gas exploration and production operations and focus extensively on hydraulic fracturing operations. A copy of the pre-publication rule may be accessed by [clicking here](#).

Specifically, EPA's final rules revise the New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPs) for the oil and gas industry. Previous NSPS and NESHAPs were limited to natural gas processing facilities. A 2010 settlement with several environmental groups required EPA to reevaluate its NSPS and NESHAPs related to the oil and natural gas sector. During the rulemaking process, EPA considered over 156,000 comments that were submitted regarding the oil and gas rules. The new final rules significantly broaden the list of operations subject to the NSPS to include hydraulic fracturing of gas wells, pneumatic controllers, compressors, and storage tanks. While the final rules impose unprecedented regulations on the oil and gas industry, the final rules also include some significant changes in industry's favor from the rules proposed in August of 2011, including a phased approach for implementing emission controls on newly fractured or refractured wells.

The final rules also include revisions to the NESHAPs for the oil and gas industry. Under the Clean Air Act (CAA), these standards must reflect the maximum achievable control technology for hazardous air pollutants, including benzene and are referred to as MACT standards. These rules include MACT standards for glycol dehydrators that were not previously subject to regulation and leak detection requirements.

New Source Performance Standards

Hydraulic Fracturing

The new rules require that "reduced emissions completions" (RECs), also know as "green completions," be performed for all newly fractured or refractured gas wells. It is important to note that these requirements do not apply to wells drilled principally for the production of crude oil. RECs use special equipment that separates gas and liquid hydrocarbons from the fluids used for hydraulic fracturing and other materials that flow back out of the well for the three to ten day period after the well has been fractured. Colorado and Wyoming already require RECs for fracturing operations, as do some cities in Texas, including Fort Worth and Southlake, in certain

situations. An initial EPA proposal would have had this requirement effective immediately; however, the final rules require that only those wells fractured or refractured after January 1, 2015 be subject to REC requirements. Until January 1, 2015, all newly fractured or refractured wells are required to use flares to reduce emissions of volatile organic compounds (VOCs) effective immediately.

Other Performance Standards

The final rules also include operational standards and emission limits to control VOC emissions for processes and equipment at natural gas processing plants, including: compressors, pneumatic controllers, and condensate and crude oil storage tanks. EPA is requiring sweetening units located at onshore natural gas processing plants to control 99.9 percent of SO₂ emissions by recovering sulfur during the processing operation.

Emissions During Startup, Shutdown, and Malfunction

Consistent with its proposed rules, the EPA is requiring that emissions during Startup, Shutdown, and Malfunction (SSM) events not be considered a separate operating mode and thus, should be included when determining whether a facility is in compliance with both the NSPS and NESHAPs.

National Emission Standards for Hazardous Air Pollutants

Section 112 of the Clean Air Act establishes a two-step process for EPA's regulation of emissions of hazardous air pollutants (HAPs). The first step requires EPA to identify sources of HAP emissions and identify the maximum achievable control technology (MACT). The second step in the standard-setting process requires EPA to evaluate whether this technology-based standard provides an ample margin of safety. If the technology-based standard does not provide an ample margin of safety, the EPA may require more restrictive standards to reduce the risk from that particular source category.

In its final rules, EPA established new benzene MACT standards for small glycol dehydrators and lowered the threshold for requiring leak detection and repair procedures for valves at natural gas plants. EPA had also proposed new MACT standards for large glycol dehydrators and certain storage tanks. However, EPA determined that there were no significant developments in the practices, processes and control technologies for reducing emissions from these facilities and removed the proposed MACT standards.

Conclusion

These new rules will impose new federal requirements on a number of operations in the oil and natural gas sector, some of which were not previously subject to federal regulation. These new rules mark another milestone in a growing trend of EPA involvement in the oil and natural gas industry. If you have any questions regarding this e-Alert, please contact **Pete Wahl** at 214.953.6101 or pwahl@jw.com or **Benjamin Rhem** at 512.236.2012 or brhem@jw.com.

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