

Proposed Regulations on Natural Gas Production, Processing, Transmission and Storage

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With natural gas now predicted to replace coal as the leading fuel for generating electricity in the U.S. by 2025, efforts to extract, process, transfer and store the clean burning fuel have intensified across the country. Consistent with the emergence of natural gas as a leading fuel, the Environmental Protection Agency (EPA) is proposing changes to the New Source Performance Standard (NSPS) in 40 CFR Part 60 and technology-based National Emission Standards for Hazardous Air Pollutants (NESHAP) in 40 CFR Part 63 that apply to oil and gas production, processing, transmission and storage facilities.

The EPA's proposed NSPS for oil and gas production would be codified at 40 CFR Part 60, in new Subpart OOOO. Generally, the proposed rule aims to reduce emissions of volatile organic compounds (VOC), sulfur dioxide (SO₂) and hazardous air pollutants (HAPs), and would impose significant new reporting requirements on the oil and gas industry. Currently, natural gas processing plants are the only part of the upstream production sector subject to a NSPS. If the new requirement for production operations is adopted as a final rule, the requirements for natural gas processing plants in existing subparts KKK and LLL would be incorporated in Subpart OOOO, along with the new requirements.

The proposed NSPS targets two sectors of the oil and gas industry:

- **production and processing**, including drilling and well completion; producing wells; gathering lines; gathering and boosting compressors; and gas processing plants; and
- **transmission and storage**, including transmission compressor stations, transmission pipelines and underground storage.

More specifically, the expanded scope of the new standard would implicate the following equipment: new and modified gas wellheads, centrifugal compressors, reciprocating compressors, pneumatic controllers, storage vessels, compressors and sweetening units.

If adopted, Subpart OOOO would not only apply to production facilities at which construction is commenced after a final rule is adopted, but would also apply to production facilities existing prior to the final rule if the wells were hydraulically fractured or re-fractured after adoption of the regulation. In those cases, the regulation would apply only to the well and immediate ancillary equipment and not to the other related production equipment, such as dehydrators, separators and storage vessels.

Under 40 CFR Part 63, Subpart HH covers oil and natural gas production facilities that are major or area sources of hazardous air pollutants (HAP) and includes emission standards for glycol dehydrator vents, storage vessels, and natural gas processing plant equipment leaks. Subpart HHH covers natural gas transmission and storage facilities that are major sources of HAP and only include standards for emissions from glycol dehydrator process vents. The EPA's proposal establishes new emission limits for small glycol dehydrators at major sources which were previously exempted under Subpart HH and HHH. The proposal also modifies Subpart HH to require all crude oil and condensate tanks at major sources to control their HAP emissions by at least 95%. It also requires inclusion of all tank emissions when performing major source determinations.

If finalized, the NSPS Subpart OOOO could trigger another set of applicable requirements for oil and gas production beyond the standard itself. Sources subject to an NSPS are generally also subject to state new source review (NSR) permitting. The NSR permitting programs are incorporated into the individual state implementation programs, commonly referred to as the SIP. It is conceivable that new or modified wells undergoing hydraulic fracturing – in addition to being subject to NSPS Subpart OOOO – may also be subject to regulation under minor and major NSR regulations. However, most states do not explicitly link drilling emissions to NSR requirements and the applicable requirements in each state would need to be reviewed to determine applicability.

Finally, the proposed regulations do not contain an exemption from Title V permitting for sources that would become subject to this particular permitting requirement for the first time by virtue of being subject to one or more of the proposed provisions described above. This exemption has been critical for many oil and gas



facilities that are generally regarded as relatively small insignificant sources.

If you have any questions about the EPA's proposed changes to the NSPS and how it may affect your company, please contact your Lathrop Gage attorney or the author listed above.