

INFORMATION FOR STATES ON ATTAINMENT PLANNING, PERMITTING AND COMPLIANCE

For the first time EPA is regulating volatile organic compound (VOC) emissions generated during the completion stage of hydraulically fractured natural gas wells. Under the final New Source Performance Standards (NSPS) for the Oil and Natural Gas Sector, these activities will be subject to work practice standards that take advantage of cost-effective technologies in common use today by many oil and gas well owners and operators.

- **New wells.** The NSPS has identified green completions, also called reduced emission completions (RECs) and combustion of escaping gas as the Best System of Emission Reduction. Combustion controls (flaring) will also be allowed as a work practice standard until January 1, 2015, to allow time for REC equipment to be broadly available.
- **Modified wells.** Refractured gas wells that use RECs and conform to the notification and reporting requirements for new sources will not be subject to the NSPS. Wells that do not use RECs will be subject to the NSPS provisions for modified wells, which are the same as the requirements for new wells (RECs or combustion controls prior to January 2015, and RECs after that date).
- The NSPS constitutes a federally required minimum level of control. States have the flexibility to put their own programs in place or implement existing programs as long as they are at least as protective as the NSPS.
- EPA will soon be designating areas as nonattainment for the 2008 ozone National Ambient Air Quality Standards (NAAQS) ozone NAAQS. Nonattainment means an area is not meeting the national standards for outdoor air quality. Some of these areas have significant oil and gas sector activities. The nonattainment areas will be required to submit state implementation plans (SIPs) in 2015 and to attain the standard by 2015 and 2018 for areas classified as "Marginal" and "Moderate," respectively. A few areas classified as "Serious" must attain by 2021. States can take credit for federal measures including this NSPS in their nonattainment planning.
- Meeting the oil and gas NSPS using either flaring or RECs will reduce emissions of VOCs, which are a key ingredient in forming smog that threatens air quality and harms public health. Flaring during the transitional period will result in some increases of nitrogen oxides (NOx). The new rule also includes requirements for reducing emissions of air toxics.

Implications for Attainment Planning

- The Oil and Gas Sector NSPS will help states make progress in attaining the ozone NAAQS in nonattainment areas where there is significant well development. States can include the

federal NSPS as a federally enforceable strategy in their nonattainment SIPs. States may "take credit" for the NSPS in their SIPs towards meeting two requirements:

- This rule is expected to achieve 95 percent control of new VOC emissions from new gas wells, making it easier for states to obtain the overall reduction in emissions they need to attain the ozone NAAQS without adding any federal or state permitting requirements.
 - SIPs in Moderate and Serious areas must also show "reasonable further progress" in controlling emissions in the years before they attain the ozone NAAQS. In most areas, states will choose to measure this progress relative to emissions in 2011. In areas that had wells drilled in 2011 and will continue to have more wells drilled in the years ahead, the 95 percent control from the NSPS will provide emission reductions that can be credited toward the reasonable further progress requirement. In areas that had no or few wells drilled in 2011 but that will see drilling activity in the future, the 95 percent control from the NSPS will ensure that emissions from new well development do not impede meeting the reasonable further progress requirement.
- The NSPS will also help areas that now meet the ozone standards to continue to meet those standards, even if well development in the area increases.

Implications for Permitting

- While the NSPS regulates new wells with uncontrolled emissions that are below the existing thresholds that define a major source for pre-construction permit and Title V operating permit purposes, EPA is not changing in any way the actual emission thresholds that trigger the requirements for major source permitting.
- In the absence of the NSPS, some fractured gas wells could have emissions above the thresholds that trigger major source pre-construction and Title V permitting requirements in some ozone nonattainment areas. Federally enforceable emissions limits, such as those in the NSPS, are counted when determining whether a well's emissions exceed these applicability thresholds. Wells complying with the NSPS will not trigger major source permitting thresholds.
- Wells complying with the NSPS may also have emissions low enough to avoid needing a minor source permit from the state.
- The NSPS recognizes that some state permitting programs already regulate these wells, such as Wyoming and Texas. States that do not already have a permitting program for these wells are free to determine whether they want to have one.
- Some states require any source subject to a federal NSPS to get a state minor source air permit. The final NSPS provides a path (RECs) for existing wells that are refractured to avoid falling under the scope of the NSPS at all, thereby avoiding any automatic requirement to

get a state minor source permit. However, states may include modified wells in their minor source permitting rules if they choose.

- In Indian country, EPA is developing a general permit for these sources, which will need to get a minor source permit from their EPA regional office by 2013.

Implications for Compliance

- The NSPS also reduces compliance burdens on states and industry and takes advantage of existing state compliance mechanisms. To minimize reporting burden to states and industry, the final rule requires pre-notification by email no later than two days prior to the start of hydraulic fracturing of gas wells rather than the 30-day advance notice and two-day confirmation that EPA had proposed.
- The final rule also offers an alternative to the traditional annual compliance report, allowing industry to maintain a list of completed wells and to document well completion using photographs that are digitally stamped with the date, time and latitude/longitude of the completion. If a state has its own advance notice system, that system can be used instead of requiring the source to report to EPA.