

Client Alert

Energy Environmental Practice

April 18, 2012

Final EPA Oil and Gas Air Emissions Rule Adopts Phased Approach for “Green Completion” of Gas Wells

Pursuant to a consent decree deadline, the U.S. EPA issued today its long-awaited amended rules for the Oil and Natural Gas Industry. Proposed in August 2011, the amendments substantively revise new source performance standards (NSPS) and air toxics standards (NESHAPs) for the oil and gas sector that have been in place for more than ten years. For many sources in the industry, these rules represent the first federal standards for air emissions.

Focus on Fracking

Comment and controversy over the past months has concerned the proposed requirement to use “reduced emissions completion” (REC) or “green completion” techniques during hydraulic fracturing activities. An REC uses specialized equipment to capture hydrocarbons from flowback and route them to a pipeline. Many operators and organizations, including API, expressed forcefully the concern that the quantities of REC equipment sets necessary for compliance could not be manufactured by the proposed deadline. Other stakeholders, including some operators, strongly supported the proposed rule and its deadlines.

In the final rule, EPA has taken a compromise position and set a phased approach:

- Until January 1, 2015 - Operators must EITHER flare VOC emissions OR use RECs.
- On and After January 1, 2015 - Operators must use RECs.

Also, in the final rule, EPA provides an incentive to use RECs - refracturing of a well will not be considered a “modification” if the operator uses RECs.

What Other Operations Does the Rule Affect?

- Natural gas gathering and boosting stations, and natural gas processing plants - compressors, pneumatic controllers, sweetening units, storage tanks, glycol dehydrators
- Natural gas well sites - pneumatic controllers, storage tanks, glycol dehydrators
- Natural gas compressor stations - storage tanks and glycol dehydrators

For more information, contact:

Cynthia A.M. Stroman

+1 713 276 7364

+1 202 626 2381

cstroman@kslaw.com

King & Spalding

Houston

1100 Louisiana Street

Suite 4000

Houston, Texas 77002-5213

Tel: +1 713 751 3200

Fax: +1 713 751 3290

Washington, D.C.

1700 Pennsylvania Avenue, NW

Washington, D.C. 20006-4707

Tel: +1 202 737 0500

Fax: +1 202 626 3737

www.kslaw.com

Client Alert

What Operations Got Lucky (for now)?

Significant exceptions from the final rule include:

- Exploratory or delineation wells - REC does not apply
- Low-pressure wells - REC does not apply
- Compressors and pneumatic controllers at natural gas compressor stations
- Storage tanks that do not have “flash” potential
- Low-bleed pneumatic controllers at natural gas well sites
- Compressors using dry seals
- Wells “drilled principally for the production of crude oil”

Other Observations

The final rule demonstrates EPA’s attempt to recognize the practical constraints on achieving compliance with ambitious targets against the backdrop of surging natural gas production. Because the issues highlighted in this Client Alert and the other nuances of the nearly 600 page rule will impact different operators at varying levels, we look forward to working with clients on their strategies for managing the implications of the new rule.

Celebrating more than 125 years of service, King & Spalding is an international law firm that represents a broad array of clients, including half of the Fortune Global 100, with 800 lawyers in 17 offices in the United States, Europe, the Middle East and Asia. The firm has handled matters in over 160 countries on six continents and is consistently recognized for the results it obtains, uncompromising commitment to quality and dedication to understanding the business and culture of its clients. More information is available at www.kslaw.com.

This alert provides a general summary of recent legal developments. It is not intended to be and should not be relied upon as legal advice.