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Methane/Clean Air Act: U.S. Environmental Protection Agency Finalizes Clean Air Act New Source Performance Standards for Oil and Natural Gas Sector

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The United States Environmental Protection Agency ("EPA") today issued finalized amendments to certain Clean Air Act New Source Performance Standards ("NSPS") addressing methane emissions from the oil and natural gas sector.

The rule finalizing the amendments to the NSPS are 40 C.F.R. Part 60 subpart 0000 and establishes new standards at 40 C.F.R. Part 60 subpart 0000a.

While the principle focus of the Clean Air Act are the baseline National Ambient Air Quality Standards, they are supplemented or supported by federal emission limits. The Section 111 NSPS set uniform emission limits which are applicable regardless of the location of the stationary source and condition of the area's air. This provision of the Clean Air Act requires that EPA promulgate technology-based NSPS applicable to the construction modification of stationary sources that cause or contribute significantly the air pollution which may reasonably be anticipated to endanger public health or welfare. The uniform emission limits are set for specific commercial and industrial categories.

The new standards for the oil and natural gas source category at subpart 0000a set standards for both greenhouse gases (GHGs) and volatile organic compounds (VOC). EPA states that except for the implementation improvements, the new standards for GHGs, the requirements are not changed for operations covered by the current standards at subpart 0000.

EPA states that the standards it is finalizing at subpart 0000a, represent its determinations of the best system of emissions reduction for reducing emissions GHGs, specifically methane, as well as VOC across a variety of additional emission sources in the gas and natural gas source category (i.e., production, processing, transmission, and storage). The agency also notes that besides the final standards for VOC and GHGs it is finalizing amendments to improve several aspects of the existing standards at 40 C.F.R. Part 60, subpart 0000 related implementation. The improvements are stated to include the setting of standards for GHGs in the form of limitations on methane and results from reconsideration of certain issues raised in petitions for reconsideration that were received by EPA on the August 16, 2012, NSPS (77 Fed. Reg. 49490) and on the September 13, 2013, amendments (78 Fed. Reg. 58416).

The NSPS includes both VOC and GHG emission standards for certain new, modified, and reconstructed equipment, process and activities across the oil and natural gas source categories. The emission sources are stated to include the following:

- Sources that are unregulated under the current NSPS at subpart 0000 (hydraulically fractured oil well completions, pneumatic pumps, and fugitive emissions from well sites and compressor stations);
- Sources that are currently regulated at subpart 0000 for VOC, but not for GHGs (hydraulically fractured gas well completions and equipment leaks at natural gas processing plants);
- Certain equipment that is used across the source category, for which the current NSPS at subpart 0000 regulates emissions of VOC from only a subset (pneumatic controllers, centrifugal compressors, and reciprocating compressors), with the exception of compressors located at well sites.

The American Petroleum Institute stated in response to the issuance of today's final rule that:

Costly new regulations on methane emissions the Obama Administration announced Thursday could harm America's shale industry revolution that has lowered U.S. carbon emissions, lower costs for American consumers by more than \$550 at the pump in 2015, and added \$1,337 in disposal income per household (quoting API Vice President of Regulatory and Economic Policy Kyle Isakower).

Sierra Club Executive Director Michael Brune commenting on the final rule stated in part:

EPA's methane standards for new and modified oil and gas sources are a critical step in addressing climate change. We will remain steadfast in our efforts urging EPA to move expeditiously in its commitment to address existing sources that is highly potent greenhouse gas – which will continue to be responsible for the mass majority of its pollutant – it is essential in meeting the Paris climate agreement.