



Oil and Natural Gas Sector:

Emission Standards for New, Reconstructed, and Modified Sources

ORIGIN: STATUTORY AUTHORIZATION **1970**
2007
2009

Section 111 of the Clean Air Act directs EPA to establish emissions standards for stationary sources of air pollution that “may reasonably be anticipated to endanger public health or welfare.” Section 111(b) and 111(d) establish EPA's authority to regulate new and modified sources, and existing sources, respectively. In 2009, following the Supreme Court's 2007 decision in *Massachusetts v. EPA*, EPA determined that greenhouse gases (GHG), including methane, contribute to climate change, endangering both the public health and the public welfare of current and future generations.

OBAMA ADMINISTRATION: PROPOSED RULE (VOC) **2011**

EPA issued a proposed rule to regulate volatile organic compound (VOC) emissions from new and modified oil and gas production and processing facilities, covering the upstream segment of the oil and gas sector.

OBAMA ADMINISTRATION: FINAL RULE (VOC) **2012**
2013

EPA issued a final rule setting new source performance standards (NSPS) requiring emission reduction, vapor control, and leak detection and repair devices for oil and gas facilities, which were expected to reduce VOC and methane emissions by hundreds of thousands of tons per year. EPA subsequently made several minor amendments to the rule in 2013.

OBAMA ADMINISTRATION: PROPOSED RULE (GHG) **2015**

EPA proposed amending the 2012 NSPS to include regulation for methane and VOC emissions from the oil and gas sectors.

OBAMA ADMINISTRATION: FINAL RULE (GHG) **2016**

EPA issued a final rule which set methane and VOC emission standards throughout the production, processing, transmission, and storage segments of the oil and gas sectors. The amended NSPS extended to new sources such as hydraulically fractured gas and oil wells, fugitive gases, and equipment leaks. EPA also initiated the process for regulating emissions from existing facilities.

TRUMP ADMINISTRATION ROLLBACK: PROPOSED RULE **2019**

EPA proposed to rescind the 2012 and 2016 NSPS, arguing that the agency did not have authority to regulate downstream segments of the oil and gas process and that separate GHG standards were not necessary since VOC emission controls can also reduce GHG emissions.

TRUMP ADMINISTRATION ROLLBACK: FINAL RULES **2020**

EPA's final Review Rule rescinded the Obama Administration's NSPS for VOC and methane emissions, removing all transmission and storage sources from the oil and natural gas source category, and rescinding methane requirements for production and processing sources. Additionally, the rule required EPA to make pollutant-specific findings in order to regulate emissions from a particular source, significantly narrowing EPA's traditional (source-specific) approach and potentially limiting the agency's future capacity to regulate GHG emissions. EPA simultaneously issued technical amendments in the Reconsideration Rule.

LITIGATION **2020**

In *California v. Wheeler*, 24 states and municipalities joined together to challenge the Review Rule and Reconsideration Rule. Ten environmental groups also challenged the rules and the cases were consolidated as *Environmental Defense Fund et al., v. Wheeler*. The petitioners argued that EPA had misconstrued its legal authority and the structure of the oil and gas sector in its decision to limit the scope of regulation and the significant contribution finding process. The D.C. Circuit court of appeals temporarily stayed the rules but ultimately allowed them to proceed as litigation progressed.

BIDEN ADMINISTRATION: REVERSAL **2021**

President Biden issued Executive Order 13990, directing the EPA to consider revising or rescinding the Review Rule by September 2021. As of April, *California v. Wheeler* has been held in abeyance by the D.C. Circuit until EPA is able to review and reconsider the Review Rule under Executive Order 13990. The Agency has been directed to file status reports at 120-day intervals beginning June 14, 2021. In May 2021 the Senate passed Congressional Review Act resolution which would nullify the rule if passed by the House and signed by the President, both of which are anticipated.