

INSIGHTS

EPA Announces Methane Rule Reconsideration, Adding to List of Obama-Era Rules Under Review

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On April 18, 2017, U.S. Environmental Protection Agency (EPA) Administrator Scott Pruitt announced that the EPA will convene a proceeding for reconsideration of certain elements of the 2016 rule establishing methane emissions standards for the oil and gas industry (“Methane Rule”). The Methane Rule applies to oil and gas facilities for which construction, modification, or reconstruction started after September 18, 2015. See 40 C.F.R. Part 60, Subpart OOOOa (40 C.F.R. § 60.5360a *et seq.*, adopted at 81 *Fed. Reg.* 35824 (June 3, 2016).

In particular, EPA will reconsider elements of the fugitive emissions monitoring and repair requirements of 40 C.F.R. § 60.5397a, including the inclusion of low-production wells, and the NSPS Subpart OOOOa provisions relating to approvals for an alternative means of compliance.

In addition to announcing the reconsideration, the letter states that EPA will exercise its authority under Clean Air Act § 307 to issue a 90-day stay of the compliance date for the Methane Rule fugitive emissions monitoring requirements. These provisions require an initial monitoring survey at new well sites and compressor stations no later than June 3, 2017. 40 C.F.R. § 60.5397a(f)(1)-(2). The letter states that sources do not need to comply with the fugitive monitoring requirements of the rule while the stay is in effect.

EPA’s announcement regarding the Methane Rule fugitive emissions requirements adds to the list of actions that the Administration is taking that involve the reconsideration or reevaluation of Obama-era EPA rules. Other announced actions include:

- withdrawal of the information collection request (ICR) seeking information about methane emissions from existing sources in the oil and gas industry;
- a motion requesting that the D.C. Circuit not issue a ruling in the pending case over the Clean Power Plan, to allow EPA to review the Clean Power Plan;
- a motion requesting that the D.C. Circuit delay oral argument in the pending case over the 2015 ozone National Ambient Air Quality Standards (NAAQS), to allow EPA to

reconsider the rule (a request that was granted by the court);

- a motion requesting that the D.C. Circuit postpone oral argument in the pending case over the 2015 rule requiring that states remove from their state implementation plans (SIPs) language that provided exemptions from compliance for periods of startup, shutdown and malfunction (known as the “SSM SIP Call Rule”);
- a motion requesting that the D.C. Circuit postpone oral argument two pending cases involving the Mercury and Air Toxics Standards (MATS) that establish emissions limits for coal and oil-fired power plants; and
- reconsideration of the 2015 effluent limitations for the power industry, which established federal effluent limitations on toxic metal discharges from power plants, as well as a motion requesting that the Fifth Circuit stay the pending case over the rule.

[Click here](#) to access a copy of the April 18, 2017 letter announcing the reconsideration of portions of the Methane Rule.

For more information or insights about any of EPA’s recent actions relating to Obama-era environmental regulations, please contact a member of Bracewell’s Environmental Strategies Group.