

INSIGHTS

EPA Announces Reconsideration and Stay of Additional Parts of the Methane Rule

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On May 26, 2017, the U.S. Environmental Protection Agency (EPA) issued a pre-publication notice that announced the reconsideration and a three-month stay to the effectiveness of certain portions 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)).

The May 26 notice granted reconsideration for two elements of the Methane Rule: (1) the requirement that the design and capacity assessment of a closed vent system used to comply with the rule be performed by a Professional Engineer; and (2) the requirement that the determination that it is technically infeasible to route a pneumatic pump to a control device or process be made and certified by a Professional Engineer. EPA further elected to stay the effectiveness of those requirements for a 90-day period that will start on the date that the notice is published in the *Federal Register*.

EPA stated that both elements of the rule met the criteria for reconsideration under federal Clean Air Act section 307(d)(7)(B), because the Professional Engineer certification requirements were not proposed for notice and comment, and thus the petitioners seeking reconsideration of these portions of the rule had raised objections that were impracticable to raise during the public comment period.

EPA previously announced that it was reconsidering the Methane Rule’s fugitive emissions monitoring requirements, and issued a 90-day stay of the compliance date for those requirements. The May 26 notice states that, during the reconsideration proceeding, “EPA intends to look broadly at the entire 2016 Rule.”

[Click here](#) to access a copy of the May 26, 2017 notice announcing the reconsideration and stay of additional elements of the Methane Rule.

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