

Proposed Clarification of Air Permitting Rules for the Oil and Gas Industry: Fact Sheet

Summary of Action

- On Aug. 18, 2015, the U.S. Environmental Protection Agency (EPA) proposed options for clarifying the agency's air permitting rules as they apply to the oil and natural gas industry.
- The proposed clarifications are part of a package of proposed rules that together will help combat climate change, reduce air pollution that harms public health, and clarify permitting requirements to allow safe, responsible oil and gas development to continue.
- The permitting proposal seeks broad public feedback on the approach for defining the term "adjacent," which is one of three factors used to determine whether oil and gas equipment and activities are considered part of a source that is subject to major source permitting requirements under Clean Air Act air permitting programs. Those programs are the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) preconstruction permitting program and the Title V Operating Permits program. EPA previously addressed this definition through policy interpretation and guidance.
- EPA is proposing for public comment two options for the definition, both of which are intended to clarify permitting requirements for the onshore oil and natural gas industry while minimizing emissions from oil and gas operations. One definition would define "adjacent" in terms of proximity; the other would consider activities adjacent if they are either close together or are related by function.
- The permitting proposal is part of a package of proposed rules for this rapidly expanding industry that also includes: standards for methane and volatile organic compounds (VOCs) from new, modified and reconstructed sources; guidelines for states to reduce VOC emissions from existing oil and gas sources in certain ozone nonattainment areas and the Ozone Transport Region; and a federal plan to implement EPA's Indian Country Minor NSR permitting program for oil and gas production in Indian Country.
- EPA uses three key factors to determine whether a source needs a permit and the type of permit required. The factors are whether equipment and activities are:
 - In the same industrial grouping (defined by standard industrial classification code, or "SIC code"),
 - Under the control of the same person/people, and
 - Located on contiguous or adjacent properties.

- EPA previously addressed the term “adjacent” through guidance. The agency has decided to address the term for the oil and gas industry through rulemaking, however, because of uncertainty over the definition of the term created by recent litigation, and because of the recent increase in domestic oil and gas.
- EPA is co-proposing two definitions for the term “adjacent” and is seeking comment on both:
 - The first option, which the agency prefers, would define adjacent based on proximity. Under this definition, equipment or activities would be considered adjacent if they are located on the same site or are on sites that are within a short distance (1/4 mile) of each other. EPA believes this straightforward definition will clarify permitting, compliance and enforcement for state, local and tribal air agencies, source operators and other interested parties.
 - The second option would define adjacency by looking at either proximity or function. This definition would consider equipment or activities adjacent if they are near each other or if they are related by function – such as being connected by a pipeline, for example.
- The proposed definition would apply to equipment and activities used in onshore oil and natural gas production, and in natural gas processing. It would not apply to offshore operations.
- EPA will take written comment on the proposed permitting rule for 60 days after the proposal is published in the Federal Register. The agency will hold three public hearings. Details will be announced shortly.
- To read the proposed permitting clarification and other proposed rules for the oil and gas industry, visit <http://www.epa.gov/airquality/oilandgas/actions.html> .

About EPA’s Air Permitting Programs

- New Source Review is a Clean Air Act program that requires industrial facilities to install modern pollution control equipment when they are built or when they make a change that has the potential to significantly increase emissions. The program accomplishes this by requiring owners or operators to obtain permits that limit air emissions before they begin construction. For that reason, NSR is commonly referred to as the “preconstruction permitting program.”
- The purpose of the NSR program is to protect public health and the environment, even as new industrial facilities are built and existing facilities expand. Specifically, its purpose is to ensure that air quality:

- Does not worsen where the air is currently unhealthy to breathe (nonattainment areas), and
 - Is not significantly degraded where the air is currently clean (attainment areas).
- Permits in nonattainment areas are known as NNSR permits; permits in attainment areas are known as PSD permits. PSD and NNSR permits often are issued by state or local permitting agencies.
 - Title V operating permits are legally enforceable documents that permitting agencies issue to pollution sources after the source has begun to operate. These permits are designed to improve compliance by clarifying what facilities (also called “sources”) must do to control air pollution. Title V permits include both federal and federally enforceable state regulations that apply to a particular source.

How to Comment

- For more information on today’s proposed actions and instructions on submitting comments, visit <http://www.epa.gov/airquality/oilandgas/actions.html>

More Information

- For more information on EPA’s air rules for the oil and natural gas industry, visit <http://www.epa.gov/airquality/oilandgas/index.html>.
- For information on the New Source Review permitting program, see <http://www.epa.gov/nsr/>.
- Information on the Title V Operating Permits program is available at <http://www.epa.gov/oaqps001/permits/>.