

Memo

TO: File

From: Mark McMillan, Unit Supervisor, Oil and Gas Team

Date: October 15, 2013

Re: Interpretation of “Practically Enforceable” Limits for Storage Vessels Addressed under NSPS OOOO

The Environmental Protection Agency (EPA) released the final New Source Performance Standards (NSPS) for Crude Oil and Natural Gas Production, Transmission, and Distribution stationary sources, known as Subpart OOOO, on September 27, 2013. Under Subpart OOOO section 60.5365(e), single storage vessels located in the oil and gas production segment, natural gas processing segment, or natural gas transmission and storage segment that have the potential for volatile organic compound (VOC) emissions greater than 6 tons per year (tpy) are “affected facilities.” Storage vessels that were constructed, modified, or reconstructed after August 23, 2011 and on or before April 12, 2013 are required to determine if they are an “affected facility” by October 15, 2013. Storage vessels that are constructed, modified, or reconstructed after April 12, 2013 are required to determine if they are an “affected facility” by April 15, 2014. Section 60.5365(e) specifies that, “the determination may take in to account requirements under a legally and practically enforceable limit in an operating permit or other requirement established under a Federal, State, local or tribal authority.”

Legally and Practically Enforceable Limit or Requirement

For purposes of accounting for a “legal and practically enforceable limit” in this determination, the Air Pollution Control Division (Division) hereby interprets this language to indicate that an oil and gas storage vessel with an associated and properly operating flare or other commonly-recognized emission control device may take credit for the emissions reductions achieved by that control device when evaluating if the storage vessel is an “affected facility,” where the control device is required through any of the following:

1. Colorado Air Quality Control Commission regulations (*i.e.*, Regulation No. 7 Sections XII or XVII);
2. Colorado Oil and Gas Conservation Commission (COGCC) regulations;
3. Enforcement documents, such as a Compliance Order on Consent issued by an air authority such as the Division or EPA;
4. Federal regulations (*i.e.*, NSPS or MACT); or,
5. Local air quality requirements or regulations.

In addition, operators who hold a valid operating or construction permit for a storage vessel that is controlled may take credit for those emissions reductions if the storage vessel emissions are specifically limited to less than 6 tpy in the associated permit. The Division believes these requirements to use emissions control devices under local or State regulations, enforcement documents or permits meet EPA's definition of a "legally and practically enforceable limit . . . or other requirement..." It is expected that operators will maintain records demonstrating compliance (*e.g.*, properly operating flare or emission control device) and that those records will be available to the Division upon request. Oil and gas operators should be mindful of the importance of flare or other emission control device downtime as this could affect their demonstration to the State.

The Division is in the process of developing a general permit for storage vessels specific to NSPS OOOO requirements. This permitting tool should bring even greater clarity to the interpretation of "legally and practically enforceable" limits or requirements. It is expected that Colorado oil and gas operators will apply for and secure this general permit once it is made available in the coming months.

Storage Vessel Definition and Vapor Recovery Units

Specific to NSPS OOOO, oil and gas operators are allowed to assess their emissions per storage vessel (as opposed to a per tank battery basis) when determining if the 6 tpy emissions threshold is exceeded.

Furthermore, any emissions from a storage vessel that are recovered and routed to a process through a vapor recovery unit (VRU) should not be included in the determination of potential VOC emissions for purposes of determining affected facility status under Subpart OOOO. The VRU must be designed and operated as specified in the applicable section of Subpart OOOO; please see section 60-5365(e) for applicable requirements. The Division encourages operators to use VRUs as a mechanism to avoid triggering "affected facility" status.

Please note that the Division interpretation contained herein only applies to NSPS Subpart OOOO affected facility determinations and does not alter past or future applicability determinations under Regulation No. 7 or any other State regulation.

Affected Facility Reporting

Depending on the production throughput and emissions associated with the storage vessel, some tanks may still be an "affected facility" under Subpart OOOO even if existing state or federal regulations require an emissions control device. Other storage vessels may not have a legally or practically enforceable limit or requirement to consider in calculating potential VOC emissions. Oil and gas operators bear the responsibility of determining whether or not they have "affected facilities" under OOOO. The initial report for all storage vessel affected facilities, as determined by October 15, 2013, is due to the Division on or before January 15, 2014.

The Division is in the process of developing a standardized form for operators to submit mandatory Subpart OOOO reporting elements. The form should be available within the coming months and must be used for submittal of Subpart OOOO reports and notifications for all storage vessel affected facilities.