Oil & Gas Attorney Blake Gerow for the Journal Record - Is the Oil and Gas Industry Prepared for EPA Rule 0000b?

August 22, 2024

By: Blake H. Gerow

The Journal Record

https://journalrecord.com/2024/08/gavel-to-gavel-is-the-oil-and-gas-industry-prepared-for-epa-rule-0000b/

In March of 2024, the Environmental Protection Agency ("EPA") issued its final rule, EPA Rule 0000b entitled "Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review" (the "Rule"), to expand methane emissions reporting requirements.

In short, the Rule aims to regulate, under the Clean Air Act, greenhouse gas emissions produced by certain industrial facilities, including oil and gas wells. The Rule does so on many grounds including, but not limited to, the imposition of flaring restrictions and monitoring requirements, and establishing reporting requirements for facilities that fall within the "Super Emitter Program," defined as those facilities whose emissions exceed 100 kilograms of methane per hour. The Rule implements requirements for both "new sources," and "existing sources," and non-compliance with the Rule will result in hefty fines.

The implications of the Rule on the oil and gas industry, however, are multifaceted. On the one hand, the EPA touts the Rule as necessary to address climate change while also forcing the oil and gas industry to embrace innovation and a transition towards sustainability. On the other hand, industry representatives have warned that the rule could lead to job losses, reduced investment in oil and gas exploration, and higher energy prices for consumers. They argue that the rule could disproportionately affect rural communities that rely on the oil and gas industry for economic stability and growth.

In response to the Rule, a coalition of twenty-four state attorneys general, led by Oklahoma Attorney General Gentner Drummond, filed a lawsuit challenging its legality. The lawsuit argues that the EPA has exceeded its statutory authority by attempting to regulate greenhouse gas emissions from oil and gas wells and contends that the Clean Air Act does not grant the EPA the power to impose such regulations on the industry. The states also requested a stay on enforcement of the Rule, however, the requested stay was denied on July 9, 2024.

While the Rule is currently in effect as litigation proceeds, the full reach of the Rule has not taken hold. Although the Rule went into effect on May 7, 2024, the more stringent requirements will not become applicable for months and years in the future. However, with uncertainty on the outcome of the pending lawsuit, the oil and gas industry is bracing for a potential outcome that includes the D.C. Circuit upholding the EPA's authority.

Attorneys

- Blake H. Gerow

Practices

- Oil & Gas