

Publications

Oil and Gas Alert: NSPS Notice Requirement for Well Completions

Related Attorneys

Anthony J. Giuliani

CLIENT ALERT | 11.14.2012

The federal government is increasing requirements for oil and gas operators. Pursuant to the recently published New Source Performance Standards (NSPS) for the Oil and Natural Gas Sector, 40 C.F.R., Part 60, subpart OOOO, effective October 15, 2012, owners or operators of hydraulically fractured natural gas wells must notify USEPA not later than two days prior to commencing well completion operations. The notice must provide: the anticipated date of the well completion operation; contact information for the owner or operator; the API well number; the latitude and longitude coordinates for the well; and the planned date for the beginning of flowback. This information can be submitted by email to the appropriate USEPA region (contact information below).

If an owner or operator is subject to state regulations that require advance notification of well completion operations, compliance with the state notification requirements will be sufficient to meet the NSPS notification requirements. According to USEPA, compliance with the state requirements will be sufficient even if the state notice requirement is less than two days' advance notice and even if the state notice does not require well coordinates.

For those owners or operators in Ohio, we have been informed by the USEPA's senior technical advisor, who is responsible for rule administration, that compliance with the notice requirements of Ohio RC §1509.19 for well stimulation will serve as effective notice for the NSPS requirements. Section 1509.19 requires at least 24 hours' notice to an Oil and Gas Resources Inspector before an owner or operator commences well stimulation, which includes hydraulic fracturing. Thus, USEPA would deem notice under ORC §1509.19 as compliance with the notice requirements of the NSPS. Because the Ohio EPA is the delegated authority for enforcing the NSPS provisions in Ohio, producers and operators may want to consider providing the Ohio EPA with a copy of the ORC §1509.19 notice prior to commencing completion operations in order to keep the agency apprised of ongoing activities at the well. While providing the notice to the Ohio EPA is not required by the NSPS, it may help maintain a working relationship with the agency. Ohio EPA has suggested that it is the delegated authority

for NSPS enforcement in Ohio and therefore is entitled to notice and may assert that notice to Ohio EPA is required.

The NSPS requirements and more information from the USEPA can be found at <http://www.epa.gov/airquality/oilandgas/implement.html>.