

Publications

Oil and Gas Alert: Ohio EPA Issues Draft Permit-by-Rule for Horizontal Well Completion Operations

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CLIENT ALERT | 11.14.2014

On November 13, 2014, Ohio EPA issued draft **amendments** to the rules in OAC Chapter 3745-31 governing the Permit-to-Install New Sources and Permit-to-Install and Operate Program, including a new permit-by-rule (PBR) provision for emissions from horizontal well completion operations (**OAC 3745-31-03(C)(2)(m)**). The draft rule will effectively require owners and operators of *any* horizontal well drilled in the Point Pleasant, Utica, or Marcellus formations to comply with U.S. EPA's New Source Performance Standards for well completion operations (40 CFR Part 60, Subpart OOOO) ("Subpart OOOO"), regardless of whether the horizontal well would be subject to those standards under the federal rule.

As an initial matter, a PBR is not an exemption from New Source Review requirements. Rather, a PBR is an exemption from the requirement to obtain a traditional paper permit issued by the Division of Air Pollution Control, though its terms are enforceable like a paper permit. The draft PBR for horizontal well completion operations incorporates the Subpart OOOO requirements for well completions into Ohio EPA's PTI/PTIO Program. Pursuant to OAC 3745-31-03(C)(2)(m), however, the Subpart OOOO requirements will apply to *all* horizontal wells, including horizontal wells that would not be an "affected facility" under Subpart OOOO; traditional wells, which may otherwise be subject to the federal rules, are excluded from the draft PBR.

Beginning January 1, 2015, all horizontal wells that began construction, modification, or reconstruction after August 23, 2011 will be required to eliminate emissions to the atmosphere by capturing, recovering, or using all gas recovered during flowback. If this is infeasible, then the flowback emissions must be captured and directed to a combustion device. The draft PBR will also require compliance with the Subpart OOOO 2-day well completion advance notice, daily completion log, annual reporting, and compliance requirements.

Comments on the draft PBR for horizontal well completion operations must be submitted to Ohio EPA, Division of Air Pollution Control, by December 16, 2014.