

Publications

Oil and Gas Alert: Proposed Legislation to Eliminate Aggregation Exemption for Oil & Gas Industry

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On March 14, 2013, Representative Jared Polis (D-CO) introduced a bill (H.R. 1154) to amend the Clean Air Act (CAA) to eliminate the exemption for aggregation of hazardous air pollutants from oil and gas sources. CAA § 112(n)(4) currently prohibits the aggregation of emissions from "any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station." In addition to eliminating this exemption, H.R. 1154 would require U.S. EPA to issue a final rule adding hydrogen sulfide to the list of hazardous air pollutants under CAA § 112(b) and a separate rule to include oil and gas wells as major sources and area sources of hydrogen sulfide under CAA § 112(c).

Aggregation, a regulatory scheme by which separate sources are treated as a single source for purposes of calculating total emissions, plays a critical role in determining whether a source of emissions is a "major source" and, thus, required to obtain certain pre-construction permits. Under CAA § 112, a source is a major source if it emits or has the potential to emit 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. Should H.R. 1154 be enacted, any proposed new oil or gas well or associated production facility would be subject to an aggregation determination and, depending on the results of that determination, could be subject to major source permitting requirements.

The potential for increased permitting requirements is quite real in this instance, and as such, Vorys and *Vorys Advisors* stand ready to assist our clients in monitoring and lobbying-related efforts surrounding this bill. For more information on such efforts, contact Anthony Giuliani at 614.464.6279 or ajgiuliani@vorys.com.