

## EPA Adopts New Policy for Defining Sources in O&G Sector for Purposes of NSR and Title V

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**PRACTICES** Energy, Power and Natural Resources, Environmental

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On June 3rd, EPA adopted new rules for defining what constitutes a source within the oil and natural gas sector for purposes of determining whether the source will be subject to new source review ("**NSR**") or operating permit requirements under the Clean Air Act. In particular, the new rule, known as a "source determination," defines what would constitute "adjacent" sources such that they would have to be considered a single source for purposes of NSR and operating permitting purposes. This determination is significant because combining adjacent sources, such as emissions units, as a single source can trigger more onerous permitting requirements.

The question of what constitutes an adjacent source has been particularly tricky in the oil and natural gas sector given the unique characteristics of sources within that industry. For instance, wells that are a significant distance apart could share certain common facilities, raising the question of whether they should be treated collectively as a single source. EPA's final rule uses a combination of parameters, such as common ownership, distance, and the standard industrial classification SIC code designation, to determine whether two or more emissions units are adjacent and thus must be considered part of the same stationary source.

Under the source determination:

- All "emitting equipment" that is located at a "single onshore surface site" is considered adjacent and thus part of a single station source if the equipment is under the control of one person (or persons, if under common control) and belongs to the two-digit SIC code 13. A "surface site" is defined as "any combination of one or more graded pad sites, gravel pad sites, foundations, platforms or the immediate physical location upon which equipment is physically affixed." 81 Fed. Reg. 35622, 35623 (June 3, 2016).
- Equipment on separate surfaces sites *that are more than ¼ mile* apart is not considered adjacent, and therefore is not part of the same stationary source.
- Equipment on separate surfaces sites *that are within ¼ mile* of each other, meanwhile, is considered adjacent if the sites have the same SIC code, are under common control and "include[s] shared equipment necessary to process or store oil or natural gas." 81 Fed. Reg. at 35624.

In a related matter, EPA on June 3rd also published its final new source performance standards regulating methane emissions from the oil and gas sector. 81 *Fed. Reg.* 35824.

[EPA's final source determination rule for the O&G sector](#)

[EPA's final methane regulation](#)

For more information, contact any of the lawyers in the [Haynes Boone Environmental Practice Group](#).