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A Quarterly Publication of POWER Engineers Environmental **SPRING 2019**



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SPRING 2019

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LEADERSHIP INSIGHTS



Every Breath You Take

Jennifer Sharp Seinfeld,

Air Quality Department Manager and Senior Project Manager

Poverty, illnesses, violence—everything is getting worse, right? Or is it?

In his book *Factfulness*, author Hans Rosling provides data showing that around the globe people's lives are getting better.

Worldwide, the proportion of people living in extreme poverty has almost been cut in half during the past 20 years, and life expectancy has more than doubled in the past 200 hundred years. In the United States, the violent crime rate has been falling since 1990.

Is there also a success story regarding environmental improvements, air quality in particular?

Since the federal Clean Air Act (CAA) was adopted almost 50 years ago, the U.S. economy has grown tremendously. The gross domestic product, one of the primary indicators of economic health, has increased more than 250%. The U.S. Environmental Protection Agency (EPA) also reports the following air quality improvements:

- » Since 1970, total mass emissions from industrial and mobile sources of six regulated air pollutants have dropped by more than 70%.
- » Since 1990, total mass emissions of toxic air pollutants have declined about 68%.

- » Since 1990, concentrations of individual pollutants have decreased significantly: sulfur dioxide by 88%, fine particles by 40%, and nitrogen dioxide by 56%.

These improvements have resulted in fewer premature deaths and pollution-related illnesses. Other benefits include less damage to trees, crops and materials, and reduced ecosystem damage from acid rain. Over broad regions, including many national parks, the air is clearer.

But at what cost? Numerous economic studies have shown that overall the public health benefits of the CAA have been greater than the costs of achieving them. While new environmental regulations can have negative impacts on employment in different sectors, those negative effects are minor or passing when compared to other factors, such as overall economic growth, business cycles and changes in technology.

Despite the improvements made by the U.S. and other countries, air quality challenges remain. High air pollutant concentrations still pose a pressing health issue in many parts of the world. According to the World Health Organization, people living in many urban areas are exposed to high levels of air pollution. Most of these cities are in the Middle East and Asia.

In the U.S., relatively high levels of air pollution traveling from other states or countries, as well as natural sources of

pollutants, affect the ability of several cities to reach current clean air standards.

Called an unprecedented global environmental challenge, climate change has strong links to greenhouse gas (GHG) levels in the atmosphere. The programs that achieved massive reductions in pollutants under the 1970 CAA were not intended to directly affect the continued growth in carbon dioxide, a GHG created primarily from fossil fuel combustion.

In 2007, the U.S. Supreme Court determined that GHGs are regulated pollutants under the CAA. Since then, EPA issued regulations for emissions from mobile sources and power plants.

However, current domestic policies and regulations alone will not be nearly enough to affect worldwide levels of GHGs. Comprehensive scientific analyses and international cooperation are both critical to understand the linkages between climate change and GHG emissions. We can hope that the lessons learned over the past 50 years by government and industry will provide a strong foundation to develop effective mitigation programs.

The work of studying and improving air quality on a global scale is not finished by any means. It is encouraging to acknowledge the significant improvements in air quality that the U.S. has made, positively impacting millions of lives. You are a beneficiary of this success—with every breath you take. 🌱

Managing Our Past— The National Historic Preservation Act

Glenn P. Darrington, Ph.D., RPA

Cultural Resources Department Manager and Project Manager

As a society, we take great pride in our history, culture and heritage. And we view the loss of highly valued artifacts and resources as diminishing our society today and for future generations.

It was in this spirit that the National Historic Preservation Act (NHPA) was passed in 1966. It requires federal agencies to inventory those important cultural resources under their management, including prehistoric or historic districts, sites, buildings, structures or objects.

Agencies must also identify those resources that could be damaged by federal actions and take steps to avoid, minimize or mitigate that damage. These damaging actions or undertakings can include federally funded housing or road projects, issuance of a federal permit, or granting of a right-of-way across federal land.

Under the NHPA, federal projects—or those using federal funds—are subject to

something called Section 106¹, a formal review process that helps inventory these important cultural resources and avoid or minimize harm.

Overseen by the President's Advisory Council on Historic Preservation (ACHP), Section 106 gives the ACHP, interested parties, and the public the opportunity to learn more about the project and to voice their concerns before a final decision is made.

But along with the many steps involved in the Section 106 review process, there are a number of other factors that come into play when deciding the future of historic properties in a community.

Compliance Complexities

Over the last five decades, the level of effort to comply with this legislation has steadily increased.

For example, consultation with Native American tribes needs to be undertaken on a formal "government-to-government"

What is a Programmatic Agreement and how can it help streamline your project? Find out at www.powereng.com/PA

¹ In 2014, the codified law for the NHPA moved from Title 16 to Title 54. Although various provisions were re-ordered and text changes were made, the preservation community and industry continue to use the original Section names (106 and 110) when referring to key provisions of the original Act.



Uncovering historic properties. A key component of the Section 106 process is field investigations to identify archaeological sites and assess their potential to contain important information about the past.

basis. The identification of historic properties not only includes pedestrian field inspections, but also the completion of inventories of cultural landscapes and traditional cultural places. Assessing indirect visual effects to historic properties is now common on large energy projects. Finally, the use of data recovery (archaeological excavation) to mitigate adverse effects has become more problematic and costly given the rising costs of labor, equipment, artifact analysis, and curation.

For many large-scale projects, the documentation required to complete the Section 106 process—consultation letters, inventory reports, Historic Property Treatment Plans (HPTs), Unanticipated Discovery Plans, Memorandum of Agreements (MOAs) and final mitigation reports—can be the largest component of a project record.

To streamline the process, federal agencies can implement program alternatives such as Programmatic Agreements in place of the normal Section 106 process, which saves time and money.

Rising Role of the SHPO

The role of the State Historic Preservation Office (SHPO) and ACHP in the process has also evolved over the last 50 years. The SHPO advises and assists federal agencies with carrying out their Section 106 obligations, including identifying historic properties, assessing and resolving adverse effects, and reviewing project design plans.

However, since a disagreement between a federal agency and SHPO requires additional consultations with the ACHP and the head of the federal agency involved, there is a very strong incentive for federal agencies at the state or local level to fully agree with and accommodate SHPO comments and requests.

This has resulted in SHPOs across the country not just fulfilling a consultation role but being empowered to direct how a project should proceed. This has raised the bar considerably in a number of areas including: expanding areas of inventory, broadening the range and types of sites that are determined eligible for listing on the NRHP, increasing the scope of Native American consultations, and requiring federal agencies to provide proof

that they have consulted with members of the public and have adequately considered any requests made.

More Expansive

When the NHPA was originally passed, the primary intent was to help preserve historic buildings and structures that were being demolished because of intense urban renewal projects of the 1960s. The protection of archaeological sites was a secondary concern.

Today, the range of cultural resources that needs to be assessed is much more diverse and expansive, including locations of traditional and/or religious use that may or may not have any physical manifestations.

This expansion has occurred with no corresponding update to the law itself. Among Native American groups, the NHPA's inability to adequately protect some types of cultural resources has generated a high level of dissatisfaction.

It is important to note that the NHPA does not require the preservation of any historic property that will be adversely affected,

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Engaging the Public with GIS Stations at Open Houses

Sarah Doering | GIS Analyst

Our clients often host public meetings or open house events to inform the public about planned projects in the area.

These meetings are a key component for engaging people in the project planning and siting process and it also helps us understand the public's primary concerns about the project. In turn, a public open house can help landowners understand the need for the proposed project and facilitate dialogue and involvement in the planning and siting process.

Using a Geographic Information System (GIS) as a tool at public meetings is a great way to provide the public with a deeper understanding of how the project could affect them.

As a member of POWER's Mapping and Analysis team, I have the opportunity to show people where a proposed project

might cross their land using stand-alone GIS stations equipped with best available aerial imagery and relevant project layers.

Oftentimes, there are several route alternatives to a project. At the station, we can

Using a Geographic Information System (GIS) as a tool at public meetings is a great way to provide the public with a deeper understanding of how the project could affect them.

pan around so the owner can see how the project might affect specific areas of their property. We can measure distances and

turn on different layers. As a result, the landowner is able to comment on which alternative they prefer or offer a different way to cross their land to minimize the impacts important to them, such as farming practices, views from their back porch or a planned outbuilding.

Entering the data directly into the public commenter application reduces the need for interpreting handwriting and organizes all of the comments into a single database. Additionally, we give each person that visits our GIS station a printed map that shows their mapped concerns and a copy of their comments. It has proven to be a reliable, open and transparent method of gathering and sharing information, and it informs the decision-making process. It can help our clients decide which project alternative to select, reveal possible micro-siting opportunities or locate avoidance areas.

What I love most about working the GIS stations at these forums is that it gives me a chance to interact with real people whose lives could be affected by the project I am working on. The landowners are no longer just a parcel ID number on a map, and I'm no longer a faceless person behind a computer running transmission lines through someone's backyard.

I get to listen to their concerns and answer questions about the project. Many times, landowners come in to the meeting looking worried or upset with the attitude that they have no say in the process. I have often heard angry landowners say things



A deeper understanding. Along with the ability to visually represent data in a mapped format, GIS stations provide a reliable and transparent method for collecting public comments into a single database.



Open communication. Senior GIS Analyst Aaron Ames utilizes a GIS station to help communicate the project details and develop a mutual understanding of concerns with local landowners.

like, “I don’t even know why we are here, they are just going to put the line wherever they want.”

Once the landowner sits down to discuss the project, they can voice their concerns and view the imagery of their home and land relative to the different project alternatives. Then they begin to understand that their concerns will be heard and that they have the potential to work collaboratively with the utility or developer in how the project will be sited.

Recently, a landowner I met with was concerned that the line would be crossing a wetland on her property. After examining the aerial imagery, zooming in and turning on the wetland layer, she was very relieved to see that the proposed line was over 1000 feet from the wetland area. We

ended up chatting about her grandfather’s farm, and she was quite happy to give us recommendations for local restaurants.

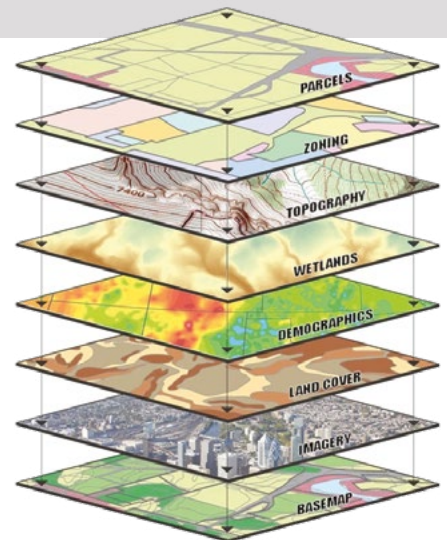
While it is not always the case that landowners walk away from our GIS station with smiles on their faces, most of the time people do leave feeling like they know more about the location of the project in relation to their home and land. They feel more engaged in the process. They see that they do have a voice and that their concerns will be considered in the process of finding the best route.

Using POWER GIS stations as a method of recording public comments is a tremendous benefit to both the public and to our clients, resulting in better communication, transparency, reliability and, ultimately, better decision making. 🐼



Layers of Interest

- » Depending on the unique properties on the project, different data types can be integrated into the GIS and displayed as a map layer on the screen.
- » When these layers are drawn together on one map, previously undetected relationships and patterns may emerge.
- » Map layers often used for POWER projects include topography, wetlands, aerial imagery, sensitive species, parcels and cultural datasets.



NEWS BRIEFS

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NATIONAL NEWS

EPA Issues Revisions to NPDES Program

The Environmental Protection Agency (EPA) finalized certain revisions to the comprehensive National Pollutant Discharge Elimination System (NPDES) permitting regulations codified in 40 CFR Part 122 as proposed in May 2016. Not all modifications proposed in 2016 were adopted during this revision. Updates enacted are intended to provide clarity for certain regulatory definitions, streamline expectations within permit applications and update public notice requirements to conform with modern requirements. Entities potentially affected by the revisions include new NPDES permit applicants, pesticide applicators, permitting authorities and entities that perform routine water quality monitoring as a condition of an existing permit. The revisions to the final rule were published on February 12 and become effective on June 12, 2019.

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EPA Retains Primary Ambient Standard for Sulfur Dioxide

In February 2019, EPA announced that

it will not revise the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO₂), leaving the primary 1-hour NAAQS as is. Primary NAAQS are intended to protect human health; the 1-hour NAAQS was established to provide protection from respiratory effects associated with short-term exposures to SO₂. According to EPA, its decision was based on currently available health effects evidence, quantitative risk and exposure information, advice from the Clean Air Act Scientific Advisory Committee and public comments. NAAQS are required by the Clean Air Act to be periodically reviewed and, if needed, revised by EPA. The SO₂ NAAQS were last revised in 2010.

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PHMSA Issues Enhanced Safety Provisions for Lithium Batteries Transported by Aircraft

On March 6, the Pipeline and Hazardous Materials Safety Administration (PHMSA) issued an interim final rule to revise its Hazardous Materials Regulations for lithium cells and batteries transported via aircraft. These revisions will prohibit the transport of lithium ion cells and batteries as cargo on passenger aircraft, require all lithium ion cells and batteries to be shipped at not more than a 30% state of charge on cargo-only aircraft and limit the use of alternative provisions for small lithium cell or battery to one package per consignment. These amendments will predominately affect air carriers (both passenger and cargo-only) and shippers offering lithium ion cells and batteries for transport as cargo by aircraft. The amendments will not restrict air transportation of lithium ion cells or batteries when packed with or contained in equipment. These rule revisions, or an updated version thereof, are anticipated to be adopted by the end of 2020.

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EPA Proposes Changes to Greenhouse Emission Standards for New and Modified Electric Generating Units

On December 6, 2018, EPA proposed changes to the New Source Performance Standards for greenhouse gas emissions from new, modified and reconstructed electric utility generating units. With the proposed changes, new steam generating units will no longer be based on partial carbon capture and storage, but will instead be based on the most efficient demonstrated steam cycle (e.g., supercritical steam conditions for large units and subcritical steam conditions for small units) in combination with best operating practices. The rule proposes standards for reconstructed units that are consistent with revised standards for newly constructed units and adds coal refuse fired units as a third subcategory with their own standards. With the changes, standards for modified units will continue to be based on historical annual carbon dioxide emission rates; however, the most stringent standards for modified units will be equivalent to standards for new and reconstructed units. The proposed rule did not reopen performance standards for stationary combustion turbines. The public comment period for the proposal closed on February 19, 2019.

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EPA Proposes to Lift Stay of Gas-Fired MACT Requirements

On April 12, EPA proposed amendments to the March 2004 National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Combustion Turbines in 40 CFR 63 Subpart Yyyy (CT MACT). Besides concluding that the residual risk of the CT category is acceptable and there are no new cost-effective controls, EPA proposes to remove their August 18, 2004 stay of the effectiveness of the CT MACT for “new” gas-fired CTs. If promulgated as proposed, all “new” gas-fired CTs (greater than 1 MW) at major HAP sources would need

to comply with the CT MACT emission limit of 91 parts per billion by volume @ 15% O₂ of formaldehyde. “New” in the CT MACT means commenced construction after January 14, 2003, thus lifting this stay would retroactively impact existing CTs constructed up to 16 years ago. The proposed rule states that these existing “new” gas-fired units must comply with the MACT standard upon final rule promulgation and demonstrate compliance through an initial test within 180 days of promulgation.

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EPA Releases New Portal for Oil and Natural Gas Extraction Industry

On April 9, EPA, in collaboration with the National Center for Manufacturing Sciences and the State Review of Oil and Natural Gas Environmental Regulations, released a new Compliance Assistance Center specifically for owners and operators in the energy extraction industry. The online portal provides a variety of information that is intended to help companies of all sizes in the industry comply with applicable environmental regulations related to exploration and development, extraction, production and processing of on-shore crude oil and natural gas. The information is organized by geographic area (states and Indian country), statute, and technical topics with additional resources and links to external organizations as well as a listing of recent regulatory developments and industry news. www.eciee.org

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OSHA Rescinds Requirement for Large Employers to Electronically Submit OSHA Forms 300 and 301

On January 25, the Occupational Safety and Health Administration (OSHA) eliminated the requirement for employers with 250 or more employees to electronically submit information from their

OSHA Forms 300 and 301. This was done to protect worker privacy. However, employers in certain designated industries will continue submitting information from their annual summary (Form 300A) electronically, as will employers with 20 to 249 employees. The rule also requires all employers who are required to electronically submit Form 300A to include their Employer Identification Number (EIN). The rule did not change any employer's obligation to complete and retain injury and illness records for recording and reporting occupational injuries and illnesses. The final rule also did not add to or change the recording criteria or definitions for these records.

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EPA Publishes Action Plan for Per- and Polyfluoroalkyl Substances

On February 14, EPA released an Action Plan to address a family of chemicals known as Per- and Polyfluoroalkyl Substances (PFAS). PFAS is a diverse group of chemicals that include PFOA, PFOS, PFNA, PFBS, GenX Chemicals, and potentially thousands of others. PFAS are almost ubiquitous having been used in numerous consumer and commercial products (e.g., water and stain resistant coatings, firefighting foams, nonstick cookware, food packaging) and industrial manufacturing (e.g., automotive, aerospace, semiconductor, electronics). The Plan outlines initial steps toward: expanding research and evaluating the toxicity of PFAS; implementing a nationwide drinking water monitoring program for PFAS; strengthening cleanup strategies and enforcement actions concerning PFAS contamination; and moving forward with the process to possibly develop a drinking water standard for PFOA and PFOS, two of the most prevalent PFAS compounds. The EPA Action Plan is an initial step toward providing federal guidance and regulation for this family of chemicals and the EPA is expected to provide multiple opportunities for public comment as it implements

specific items within the Plan.

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EPA Proposes Modifications to Fuel Regulations

On March 12, EPA published a notice of proposed rulemaking that would extend a waiver currently allowed for E10 fuel (gasoline blended with 10% ethanol) to E15 fuel (gasoline blended with 15% ethanol). Specifically, the waiver would allow E15 to be sold year-round without additional vapor pressure controls, instead of just eight months of the year. In this same proposed rulemaking, EPA is including changes to certain elements of the renewable identification number (RIN) compliance system under the Renewable Fuel Standard (RFS) program, which they expect will bring greater transparency to the market to help prevent price manipulation.

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STATE NEWS

Maryland Legislators Approve 50% Renewable Energy Target for 2030

On April 8, the Maryland General Assembly passed the “Clean Energy Jobs” bill, which would require the state to generate 50% of its electricity from renewable energy by 2030. The 50% renewable portfolio standard (RPS) is based on a doubling of the offshore wind power target (by adding 1,200 megawatts of generation) and significantly increasing the contribution from solar power. The bill also would require the state to study the costs and benefits of increasing the RPS to 100% by 2040. Although Governor Hogan could still veto the bill, the General Assembly has enough votes to override any such veto.

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New TCEQ NSR Application Procedures

Beginning on June 1, the Texas Commission on Environmental Quality (TCEQ) will

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require all New Source Review (NSR) permit applications, except State of Texas Environmental Electronic Reporting System (STEERS) submittals (PBR and Standard Permit registrations), use both the newly developed New Source Review Workbook (NSRWB) and Electronic Modeling Evaluation Workbook (EMEW). The NSRWB will provide applicants a common format to input emission point numbers (EPNs) and emission rates. All sources authorized by the permit, including sources already in the TCEQ's database (or electronic MAERTs) but unchanged if amending the permit, are required to be included in the workbook. The EMEW will be required for all projects utilizing modeling for impacts analysis. The workbook will collect modeling data at the time a permit application is submitted rather than post submittal during the technical review process.

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TCEQ Renews General Permit for Phase II MS4s

The TCEQ has renewed the stormwater General Permit for Municipal Separate Storm Sewer System (MS4) operators (TXR040000). Permit applicability is based on 2010 census data, so no new MS4s will be added to the permit universe during this renewal cycle. As of January 24, 2019, permittees have 180 days to submit a Notice of Intent (NOI) and an updated Stormwater Management Plan (SWMP), or a "waiver" application, if applicable. The permit renewal features changes for consistency with other TPDES general permits, changes required due to federal rules, and an overall shift towards permit language that is clear, specific and measurable.

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CDPHE Renews General Permit for Stormwater Discharges Associated with Construction Activities

On October 31, 2018, the Colorado

Department of Public Health and Environment (CDPHE) renewed and issued Colorado's General Permit for Stormwater Discharges Associated with Construction Activities: COR400000. The renewed permit's requirements took effect on April 1, 2019, and apply to applicants proposing construction activities from which stormwater runoff would flow to waters of the State of Colorado. Every 5 years, the CDPHE is required to issue updates to renew the General Permit but had not renewed the permit since 2007. The renewed permit better defines key terms that were not clearly defined in the 2007 permit, requires the site owner and site operator to be co-permittees, allows for 7-day or 14-day site inspections, and requires that applicants use the CDPHE's new Colorado Environmental Online Services electronic platform to apply for permit coverage.

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Pennsylvania Enacts More Stringent Storage Tank Compliance Requirements

Revisions to Pennsylvania's Storage Tank Program regulations went into effect for 2019, strengthening many operation and maintenance requirements for underground storage tank (UST) systems. The types of releases that must be reported to the Pennsylvania Department of Environmental Protection (PADEP) also significantly increased. The new regulations emphasize properly operating and maintaining spill prevention, overflow prevention and release detection equipment through increased inspection and testing. In addition, the updated regulations also create a new, intermediate certification level for tank installers.

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Maryland Poised to Become First State to Ban Foam Food Packaging

In March 2019, the Maryland General Assembly passed HB109 to ban

disposable polystyrene foam food packaging, setting the stage for Maryland to become first in the nation with a statewide ban. The ban applies to food containers, egg cartons, cups, trays, and plates at restaurants, grocery stores, schools, and other food-service businesses. Beginning July 1, 2020, the bill prohibits 1) the sale of foam food containers and 2) food service businesses and schools from selling and providing food in such containers. The bill awaits Governor Hogan's signature who could still veto the bill. The General Assembly, however, has enough votes to override any such veto.

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PADEP Proposes New and Increased Air Permit Fees

On April 13, PADEP published proposed Air Quality Fee Schedule Amendments in the Pennsylvania Bulletin. According to PADEP, the proposed new and increased fees are needed to cover PADEP's costs related to implementing the plan approval and operating permit program. Both the Title V account and non-Title V account expenditures have exceeded revenue during the last several years, and the current fee schedules were last revised in 1994, with staged fee increases occurring up to 2005. For Title V facilities, PADEP is proposing to leave the Title V emission fee structure unchanged, and in addition, collect an annual operating permit maintenance fee of \$10,000. For synthetic minor and natural minor facilities, an annual operating permit maintenance fee of \$2,500 and \$2,000, respectively, is proposed. Significant increases in plan approval fees for new/modified sources are also proposed, along with new fees for Request for Determination (RFD) submittals. The proposed fee schedule amendments would take effect in 2021. The public comment period closes on June 17, 2019.

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Executive, Legislative and Judicial Powers Impact NSPS Subparts for Oil and Gas Industry

Jeffrey W. Schwarz | Carver Schwarz McNab Kamper & Forbes, LLC

The review, modification or repeal of Obama era Clean Air Act (CAA) rules were a focus of the Republican-controlled 115th Congress, and the executive and judicial branches in 2017 and 2018. With the House of Representatives now being controlled by the Democrats, the focus of the 116th Congress on the regulation of greenhouse gas (GHG) emissions from the oil and gas sector is likely to intensify as the parties seek to differentiate their climate change policy positions in advance of the 2020 elections.

Reducing GHG emissions to address climate change was a major Obama Administration goal, yet Congress passed no comprehensive legislation to address that goal. As a consequence, Federal CAA rulemakings intensified to advance GHG emissions reductions targets in Obama's June 2013 Climate Action Plan and March 2014 Strategy to Reduce Methane Emissions. While these actions have been upheld by the courts, they were, and continue to be, divisive.

On June 3, 2016, EPA promulgated a New Source Performance Standard (NSPS) under Section 111 of the CAA, known as "Subpart OOOOa," that controls, for the first time, methane emissions from onshore oil and gas production and natural gas transmission and storage sources. The 2012 NSPS Subpart OOOO is the foundation for Subpart OOOOa and was, itself, a modernization of the nearly 30-year-old NSPS Subpart KKK, which took effect on January 20, 1984. Subpart OOOOa, however, extends methane and VOC

emissions control requirements beyond the scope of Subparts OOOO/KKK to also include new or modified hydraulically fractured oil wells, pneumatic pumps, compressor stations, and leak detection and repair at well sites, gathering and boosting stations, and processing plants.

The EPA estimated that Subpart OOOOa would reduce methane emissions by 510,000 tons by 2025 (equating to 11 million metric tons of CO₂ equivalent). The

The EPA estimated that Subpart OOOOa would reduce methane emissions by 510,000 tons by 2025.

rule cost-benefit analysis estimated costs of \$530 million and climate benefits of \$690 million. The Obama Administration viewed Subpart OOOOa as critical to its Climate Action Plan/Strategy to Reduce Methane Emissions, which sought to reduce methane emissions from the oil and gas sector by 40–45% from 2012 levels by 2025, and to reduce all domestic greenhouse gas emissions by 26–28% from 2005 levels by 2025.

North Dakota, Texas, a coalition of 13 states, and industry associations filed petitions for judicial review of Subparts OOOO and OOOOa. Eleven states, the City of Chicago, and environmental groups intervened on behalf of EPA to support the final rule(s). All petitions were consolidated with the

lead case, North Dakota v. EPA. In May 2017, the court granted EPA's request to hold the case in abeyance while the agency reviews and acts on the reconsideration petitions.

Additionally, President Trump signed Executive Order (EO) 13783 on March 28, 2017, which requires the review of regulations and policies that burden the development or use of domestically produced energy. The EO directed EPA to review rules like Subparts OOOO and OOOOa for consistency with policies that the EO enumerates and, as soon as practicable, to "suspend, revise, or rescind the guidance, or publish for notice and comment proposed rules suspending, revising, or rescinding those rules."

In March 2018, EPA revised Subpart OOOOa to remove the requirement that leaking components be repaired during unplanned or emergency shutdowns and to provide separate monitoring requirements for well sites located on the Alaskan North Slope. EPA proposed another set of Subpart OOOOa revisions on October 15, 2018, to:

- » decrease the frequency for monitoring fugitive emissions at well sites and compressor stations;
- » expand the technical infeasibility provision for pneumatic pumps to all well sites; and
- » allow in-house engineers to make professional engineer certifications.

EPA states in the proposal that it "continues to consider broad policy issues in the 2016

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Managing Our Past >>> continued from page 3

only that consultation, inventory, and assessment occurs, and that consultation to resolve adverse effects is conducted. For example, if a federal agency decides that mitigation is the preferred option, the result could include the destruction of the historic property itself.

The Next 50 Years

It is hard to predict what the future will hold for the NHPA and the Section 106 process and how it will evolve to meet the needs of an ever-changing society. Given the current

political climate, there is concern amongst the preservation community that changes will be made to weaken or undermine the legislation, but this seems unlikely given the public outcry that would result. There are attempts by many federal agencies to expedite the process, but this is a difficult task when public and tribal consultations are involved, especially on controversial projects. If the past is any indicator of what the future may hold, the good news is that we have in place a process that will help us preserve and protect our history and heritage for future generations. 

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rule [Subpart 0000a], including the regulation of greenhouse gases in the oil and natural gas sector,” and that “these issues will be addressed in a separate proposal at a later date.”

How Subpart 0000a and 0000 weather the next two years will depend on how EO 13783 is implemented, EPA's ongoing response to

petitions for reconsideration, and the courts' response to the pending challenges to the rules. In the meantime, Subpart 0000a and 0000 are in effect and will provide a focal point for how the political parties will differentiate their respective views on GHG emissions reductions and climate change as the 2020 election approaches. 