

## **Air Quality Memorandum of Understanding (MOU) Questions and Answers**

### **Who is participating in this MOU?**

The Signatories to the MOU include the Department of the Interior (DOI), the Department of Agriculture (USDA), and the Environmental Protection Agency (EPA). The DOI has signed on behalf of three of its agencies: the Bureau of Land Management (BLM); the U.S. Fish and Wildlife Service (FWS); and the National Park Service (NPS). The USDA has signed on behalf of the Forest Service (FS).

### **What does this Memorandum of Understanding (MOU) do?**

The MOU establishes a common process for the participating agencies to use when analyzing and addressing adverse air quality and air quality related values (AQRV) impacts related to onshore federal oil and gas activities under the National Environmental Policy Act of 1969 (NEPA).

NEPA mandates that federal agencies take environmental factors into account when considering federal actions. Specifically, NEPA established the national policy requiring federal agencies to consider the environmental and public health impacts of their actions before approving them. It requires agencies to follow a process to identify the potential environmental impacts and options to mitigate those impacts when making decisions about proposed projects. It also requires federal agencies to disclose the information that was used to support those decisions.

One of the MOU's primary goals is to protect the environment while increasing certainty and transparency in the NEPA review process.

### **What situation preceded the MOU?**

Federal land management agencies, the Environmental Protection Agency (EPA), and state, Tribal, and local governments have distinct yet related roles and responsibilities with respect to air quality under NEPA, the Clean Air Act (CAA), the Federal Land Policy and Management Act (FLPMA), and other statutes.

Under FLPMA, the BLM has a multiple-use mandate to manage the public lands in a manner that will protect the quality of air and atmospheric values, among others. When developing land use plans, the BLM must provide for compliance with applicable state and Federal pollution laws.

Likewise, anyone using, occupying, or developing the public lands must also comply with applicable pollution control laws, including the CAA. Major actions on Federally managed lands are often subject to the NEPA Environmental Impact Statement (EIS) requirement.

The EPA is responsible for reviewing and commenting on NEPA documents—particularly EISs. For example, a proposed oil and gas development project on BLM-managed lands would require completion of an EIS that would subsequently be reviewed by the EPA in relation to air quality.

### **Why is the MOU needed?**

Before this MOU, the Federal agencies tasked with land planning and air quality review made decisions based on individual agency protocols and procedures. Agencies operated with different standards in areas including the adequacy of NEPA air quality analyses; the stage in oil and gas activities—planning, leasing, or permitting—when air quality analyses should occur; the appropriate thresholds and resource conditions to use as the starting point for air quality impact analysis, and; the levels at which impacts are considered adverse. These differences often resulted in project delays.

There is evidence that federal oil and gas development activities have contributed to the degradation of air quality in the Rocky Mountain West and other areas. The MOU creates procedures for conducting air quality analyses and establishes a goal that will help ensure that federal oil and gas development actions do not cause or contribute to violations of national air quality standards. The MOU also contains positive commitments from the Signatories that highlight the need for effective pollution reduction measures that will be monitored, as appropriate, to ensure that the air quality is protected.

To alleviate delays, improve interagency coordination, foster collaborative relationships and help achieve air quality improvements, the BLM and EPA decided to pursue an MOU to establish mutually acceptable procedures for air quality analyses and the mitigation of adverse air quality impacts from federal oil and gas development activities. The FWS, NPS, and FS joined the effort.

### **How does the MOU resolve the problems of the past?**

The common process established in the MOU will increase certainty and transparency in the process, benefitting both Federal agencies and industry. With the MOU, the BLM can efficiently authorize oil and gas development while working collaboratively to avoid potential land use conflicts.

The MOU also supports oil and gas planning, leasing, and development decisions with technically sound, legally defensible, and transparent NEPA air quality analyses. The MOU will foster cooperative interagency relationships with respect to air quality across the nation, and in particular, in the inter-mountain region of the West.

The MOU helps to ensure that the national mandates to protect air quality, human health, and the environment under federal law are met and improve the review process for proposed domestic energy production projects.

**What does this MOU mean for the oil and gas industry?**

Permit applicants pursuing oil and gas activities on federal lands will have greater certainty regarding the analysis and criteria to be used in evaluating impacts to air quality under NEPA. Before the MOU, the potential existed for various agencies to ask for different information or approaches when analyzing oil and gas activities for impacts to air quality. This MOU ensures that a common and transparent process is used in evaluating impacts to air quality.

**What type of energy projects does this MOU cover?**

The MOU applies to on-shore federal oil and gas planning, leasing, or field development decisions that are being evaluated under NEPA.

**How will the agencies work together under the MOU?**

The agencies will coordinate through staff-level technical workgroups and direct communications between the agencies. They will discuss issues, concerns, and review schedules; timely exchanges of information, such as requests for review of materials and submissions of review comments; and document the results of reviews and decisions.

**How does the BLM fit into the MOU?**

The BLM, through the Federal Land Policy and Management Act (FLPMA), as amended, is responsible for protecting air quality and atmospheric values, among other resources, in managing the public lands with a “multiple-use” mission. The MOU is consistent with the BLM’s authority under both FLPMA and the Clean Air Act (CAA).

**How do the FWS and the NPS fit into the MOU?**

The 1977 CAA Amendments give FWS an affirmative responsibility to protect certain wilderness areas, parks, international parks and monuments from the adverse impacts of air pollution. Those same amendments give the NPS an affirmative responsibility to protect certain national parks and wilderness areas from the adverse impacts of air pollution. Other justifications come from the National Wildlife Refuge System Improvement Act, the National Park Service Organic Act, the Wilderness Act, and associated management policies.

**How does the FS fit into the MOU?**

The FS is responsible for the surface management of National Forest System lands, portions of which are covered by Federal oil and gas leases that grant exclusive rights for exploration and development. The 1977 CAA Amendments give the FS affirmative responsibilities to protect certain areas from the adverse impacts of air pollution.

### **How does the EPA fit into the MOU?**

The EPA is responsible for reviewing and commenting on NEPA documents, particularly Environmental Impact Statements, (EISs), pursuant to NEPA and EPA's specific authorities under Section 309 of the CAA. The EPA administers the programmatic and regulatory aspects of the CAA.

### **Does the MOU affect the participating agencies' interactions with Tribal, local or state governments?**

No. States, Tribes, and local governments often collaborate with the BLM and other Federal land management agencies. States, Tribes, and local governments have regulatory responsibilities under the CAA. Nothing in the MOU is intended to alter or replace these regulatory authorities or responsibilities or diminish the agencies' interactions with Tribal, local, or state governments. The MOU does not restrict agencies from participating in similar activities or arrangements with other public or private agencies, organizations, or individuals.

### **When will this MOU go into effect and how long will it last?**

The MOU is effective today; it will stay in effect until the signatories determine that it is no longer needed. Additionally, designated senior level managers at each signatory agency will meet annually to discuss the effectiveness of the agreement, and any challenges, concerns, or opportunities for improvement.

How does this MOU relate to EPA's air rules for oil & natural gas production?

Today's MOU focuses on ensuring federal agencies have a common set of guidelines for addressing air quality issues associated with onshore oil and gas development on public lands. Separately, EPA has been reviewing a suite of air quality regulations that apply to oil and natural gas production, processing, transmission and storage nationwide to determine whether those rules need revising. The Agency is under a July 28 consent agreement deadline to issue a proposal.