ORAL ARGUMENT NOT YET SCHEDULED

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 17-1145

CLEAN AIR COUNCIL, EARTHWORKS, ENVIRONMENTAL DEFENSE FUND, ENVIRONMENTAL INTEGRITY PROJECT, NATURAL RESOURCES DEFENSE COUNCIL, AND SIERRA CLUB,

Petitioners,

v.

SCOTT PRUITT, ADMINISTRATOR, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, AND UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,

Respondents.

REPLY TO RESPONSES IN OPPOSITION TO EMERGENCY MOTION FOR A STAY OR, IN THE ALTERNATIVE, SUMMARY VACATUR

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INTRODUCTION

Flouting clear textual limits on his authority, Administrator Pruitt's principal argument is that he can grant reconsideration, and corresponding stays, whenever he chooses. That is not what the statute says. The statute prescribes a carefully circumscribed scope for a narrow proceeding for "reconsideration" (with authority to impose a limited stay), which the Administrator conflates with EPA's broad rule "revision" authority (without authority to impose a stay). What EPA has done here does not come close to meeting the statutory standards for reconsideration.

Administrator Pruitt laments that without the stay, oil and gas companies may have to comply with a regulation that he contemplates changing. That decision is not his to make. Congress explicitly decided that promulgated air pollution standards should take effect even during judicial review or administrative reconsideration, which "shall not postpone the effectiveness of the rule" notwithstanding the possibility that the rule might be invalidated or changed. 42 U.S.C. § 7607(d)(7)(B); *see id.* § 7607(b)(1). The Act authorizes a single exception—a one-time, three-month stay—only on specific conditions not met here.

While deeply troubled about compliance expenditures by oil and gas companies, Administrator Pruitt issued the stay without even bothering to consider the serious and irreversible harms that befall Petitioners' members and the broader

public every day that the stay continues. This lapse is especially egregious because of his subsequent acknowledgement, in a proposal to extend the stay for *two more years*, that delaying compliance could "have a disproportionate effect on children." 82 Fed. Reg. 27,645, 27,650 (June 16, 2017) (Reply Attach. 7). This Court should vacate the unlawful initial stay at issue here.

ARGUMENT

I. The Challenged Stay Is a Final Agency Action Reviewable by this Court.

The challenged stay is a distinct, reviewable "final action taken[] by the Administrator." 42 U.S.C. § 7607(b)(1). By lifting the air pollution compliance obligations of regulated sources, the stay marks the consummation of EPA's decision-making process and has immediate legal consequences. *See Bennett v. Spear*, 520 U.S. 154, 177-78 (1997). Nor can Petitioners' challenge to the stay be deflected as a collateral attack on the grant of reconsideration. The statute makes a valid reconsideration proceeding a prerequisite for a stay; Petitioners' challenge to the stay turns on EPA's failure to satisfy that statutory requirement. The Administrator and Industry cite no case for the proposition that a final agency action is unreviewable because it was taken in the course of an ongoing proceeding. This Court should reject an interpretation that would render such stays unreviewable despite their final, real-world consequences.

II. The Administrator Conflates the Statutory Terms "Reconsideration" and "Revision," Ignoring Congressional Limits on His Stay Authority.

Administrator Pruitt's argument for broad stay authority (at 9-15) rests on conflating two distinct statutory terms: "revision" and "reconsideration." Section 307(d)(1) uses the term "revision" to describe a rulemaking to change an existing standard. 42 U.S.C. § 7607(d)(1) (identifying the "promulgation or revision" of 19 types of standards). Paragraphs (2) through (6) of subsection 307(d) specify the rulemaking procedures governing "revision" of a standard, and nowhere grant authority for EPA to stay an existing rule during a rulemaking to revise it. *Id.* § 7607(d)(2)-(6).

"Reconsideration," as used in section 307(d)(7)(B), is a much narrower term. It is the term for the exhaustion procedure Congress made available when—and only when—a party demonstrates that it was unable to comment on an issue of central relevance during the normal comment period. Section 307(d)(7)(B)'s authority for a one-time, three-month stay is expressly limited to a "reconsideration" and does not extend to a "revision." Where, as here, the threshold requirements for reconsideration are not present, EPA lacks authority to issue a stay. The Administrator cannot bootstrap his way to stay authority by mischaracterizing a revision as a reconsideration.

The Administrator asserts (at 10-12) that the statute allows for *two kinds* of reconsideration—mandatory when the conditions specified in section 307(d)(7)(B) are met and discretionary whenever EPA wishes—and that the agency may impose a three-month stay "whether or not reconsideration was mandatory." This post-hoc rationalization, which does not appear in the Federal Register notice, cannot be considered, *Sec. & Exch. Comm'n v. Chenery Corp.*, 318 U.S. 80, 94–95 (1943), much less deferred to. Further, this reading would obliterate Congress's distinction between "revision" and "reconsideration." If Congress intended "reconsideration" to swallow up all "revisions," it would not have used separate terms and so carefully delineated the limits on reconsideration. It also would not have expressly tethered the stay authority to "*such* reconsideration," 42 U.S.C. § 7607(d)(7)(B) (emphasis added)—*i.e.*, the specific reconsideration procedure carefully outlined in that provision. EPA's post-hoc statutory interpretations are contrary to the statute's plain meaning and unreasonable.

Petitioners readily concede that EPA may consider changing an existing standard through a "revision" rulemaking under section 307(d)(2)-(6). But that "revision" is not "reconsideration" as that term is used in section 307(d)(7)(B), and that subparagraph's stay authority does not extend to revisions.

III. Petitioners Are Likely to Succeed on the Merits Because the Challenged Stay Exceeded EPA's Narrow Stay Authority.

Administrator Pruitt asserts (at 15-17) that this Court must grant broad deference to EPA, but whether parties had adequate notice to raise their objections during the comment period is not a question within the agency's special expertise.[1] Rather, adequacy-of-notice questions are quintessentially ones that courts decide, giving limited deference to agency views.

EPA is incorrect (at 16) that the statute's requirement that the showings of inadequate notice and central relevance be made "to the Administrator," 42 U.S.C. § 7607(d)(7)(B), entitles the Administrator to broad deference. Where Congress wanted courts to give extra deference to the Administrator's "judgment," it said so

[1] EPA confusingly suggests (at 16 n.7) that "many of Petitioners' cases" address "whether EPA provided adequate notice[]" rather than the "separate issue" of "whether reconsideration was allowable, mandated, or even requested." That is because "reconsideration" is permitted only when parties show lack of notice on a central issue; any other proceeding to change a rule is a "revision." Adequacy of notice is what determines whether an issue was "impracticable to raise" under section 307(d)(7)(B). *See, e.g.*, *Nat'l Ass'n of Clean Water Agencies v. EPA*, 734 F.3d 1115, 1158 (D.C. Cir. 2013) ("Because Sierra Club was on notice that EPA was considering [an issue], we conclude that it was practicable for Sierra Club to comment" on that issue.); *Ne. Md. Waste Disposal Auth. v. EPA*, 358 F.3d 936, 953 (D.C. Cir. 2004) ("As we have concluded that" the final rule was a "logical outgrowth of the proposed rule," "there is no ground for holding that a reconsideration proceeding was required.").

expressly. *E.g.*, *id.* §§ 7409(b); 7521(a)(1).[2] The absence of such language here is significant and supports Petitioners' argument for limited deference.

Limited deference is further evident in this Court's decisions reviewing EPA determinations under section 307(d)(7)(B). In *Portland Cement Association v. EPA*, after extensively examining the facts relevant to notice without a hint of deference to EPA, and despite finding it "a very close question," this Court rejected EPA's conclusion that the party could have reasonably anticipated the final rule. 665 F.3d 177, 185-86 (D.C. Cir. 2011). Likewise, in *Small Refiner Lead Phase-Down Task Force v. EPA*, this Court delved into the details of whether EPA had given adequate notice. 705 F.2d 506, 546-550 (D.C. Cir. 1983). The Court ultimately found that EPA had adequately noticed one requirement but not another, without any indication that EPA's view on the matter was an important factor. *Id.* at 521, 547-50 ("[T]here is less to § 307(d)'s requirements for procedural reversal than meets the eye."); *see also North Carolina v. EPA*, 531 F.3d 896, 926-28 (D.C. Cir. 2008) (similar).

[2] The 1977 House Report explained: "[T]he committee included the words 'in the judgment of the Administrator' or 'in his judgment'" in specific sections "to emphasize the necessarily judgmental element in the task of predicting future health risks … and to confer upon the Administrator the requisite authority to exercise such judgment." H.R. Rep. No. 95-294 at 51 (1977).

Limited deference on these notice questions makes sense. EPA has no greater expertise than this Court in determining whether a certain issue was "impracticable to raise" during the comment period. To the contrary, this Court has a fully-developed body of case law for determining when a final rule is a "logical outgrowth" of the proposal, and thus whether a party had a practicable opportunity to raise concerns.

Low-Production Wells. The Administrator does not attempt to rebut the ample record evidence that EPA solicited and received comments on all aspects of the question of whether to exempt low-production wells from leak detection and repair requirements. Pet'rs Mot. 14-17 ("Mot."). Instead, he offers (at 17-18) a new justification that appears nowhere in the Federal Register notice: a purported "potential inconsistency" between the basis for the inclusion of low-production wells and the definition of a "modification" at a well site. EPA may not rely on this post-hoc rationale. *Chenery Corp.*, 318 U.S. at 94-95.

Moreover, the "potential inconsistency" is illusory. The 2016 Rule acknowledges that a well site modification (*i.e.*, an additional fracking operation at an existing well site) leads to increased emissions due to both the addition of equipment and additional gas production passing through existing leaking components. 81 Fed. Reg. 35,824, 35,881 (June 3, 2016) (Reply Attach. 12). As EPA explained: "it is not uncommon that an increase in production [at a modified

well site] would require *additional equipment and, therefore, additional fugitive emission components*...." *Id*. (emphasis added). Thus, the 2016 Rule treated modified well sites and low-production wells consistently, recognizing that at both, emission leaks are associated with the number of leaky components, not simply production levels.[3]

Even if Administrator Pruitt's claimed inconsistency had merit, he wrongly asserts that it was impracticable to have commented on the issue. The final rule included the same definition of "modification" as the proposal and was based on the same reasoning.[4] The proposal also explicitly sought comment on all issues associated with emissions at low-production wells. 80 Fed. Reg. 56,593, 56,639 (Sept. 18, 2015). Commenters could—and did—comment on the underlying rationales for both aspects of the leak detection requirements in the 2016 Rule.

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[3] Other provisions of the 2016 Rule confirm this consistency. For example, the 2016 Rule *exempts* well sites that consist only of wellheads with no components or equipment, regardless of their production levels. *See* 40 C.F.R. § 60.5365a(i)(2).

[4] The proposed and final rules both explained that modifying wells would increase emissions both because of additional equipment and increased production. *Compare* 80 Fed. Reg. at 56,614 (Reply Attach. 15) ("When a new well is added or a well is fractured or refractured, there is an increase in emissions … because of the addition of … equipment … and increased production….") *with* 81 Fed. Reg. at 35,881 (Reply Attach. 12) ("[T]he addition of a new well or the hydraulically fracturing or refracturing of an existing well will increase emissions" because "production from these wells … generate[s] additional emissions," some of which "will pass through leaking fugitive emission components …. Further, it is not uncommon that an increase in production would require additional equipment.").

E.g., Reply Attach. 44, 46. They could have raised the alleged inconsistency on which the Administrator now hangs his hat, but they did not.

Alternative Compliance. Because no party sought reconsideration of this issue, Mot. 17-18, Administrator Pruitt has no authority to rely on it as a basis for the stay. Contrary to EPA's assertion (at 20), TXOGA did not seek reconsideration on this issue, but rather "adopt[ed] the API petition," which classified alternative compliance as an "other issue," distinct from those on which API sought reconsideration. Mot. 17.

Even if the alternative compliance issue were properly presented, it provides no basis for a stay. EPA sought, and parties submitted, comments on this issue. Mot. 18-20. Indeed, the final rule adopted an approval application process in response to API's comments, which asked EPA for a "streamlined approval process" to demonstrate satisfaction with the criteria for alternative monitoring techniques. Pet. Attach. 193-97.

Further, the complained-of details of the application procedure are not of "central relevance." EPA's standard requiring leak detection and repair (known as the "best system of emission reduction") was fully supported based on an analysis of the costs of control and emissions reductions to be achieved, without relying on the existence or use of the alternative compliance process relieving regulated entities based on equivalent state or voluntary programs. Reply Attach. 21.

Contrary to the Administrator's current assertion (at 21) that this process "determine[s] the universe of affected facilities," the alternative compliance process was merely a voluntary option for facilities subject to the Rule. *See* 40 C.F.R. § 60.5365a(i), (j) (defining affected facilities). Notably, none of the reconsideration petitions sought a stay in connection with this issue.

The Administrator has also failed to establish that any affected facilities are depending on alternative means to comply, or that the current application process (already in place for a year) has deterred them from doing so. As the industry administrative petitioners themselves suggested, EPA could have addressed their issues (*e.g.*, whether one entity may apply for approval on behalf of multiple firms) through guidance rather than further rulemaking, and without staying the entire program. *See* Pet. Attach. 106.

Overbreadth. Administrator Pruitt asserts (at 24-25) that his stay of the leak detection and repair requirements for *all* new and modified oil and gas facilities is "limited in scope to the specific issues to which [EPA] has granted reconsideration." That is not true: the notice identifies the specific issue for reconsideration as "[t]he applicability of the fugitive emissions requirements to low production well sites," 82 Fed. Reg. 25,730, 25,731 (June 5, 2017), yet finalizes a stay of leak detection requirements for *all* affected well sites regardless of production levels, *and* for compressor stations too. *Id.* at 25,732-33.

The Administrator fails to explain why he did not limit the stay to only those wells that would have been covered by the original proposed exemption—wells producing less than 15 barrels of oil equivalent per day, 81 Fed. Reg. at 35,856, as requested by IPAA, Pet. Attach. 138-40. *Cf. Ctr. for Biological Diversity v. EPA,* 722 F.3d 401, 410-11 (D.C. Cir. 2013) (because agency must adopt "the narrowest feasible exemption," broad exemption was arbitrary and capricious where more moderate option was not explored). Similarly, Administrator Pruitt overbroadly stayed leak detection and repair in *all* states, not just states with their own arguably equivalent programs, despite the fact that API's petition only raised concerns with respect to alternative compliance via state programs. *See* Pet. Attach. 105-106.

As EPA concedes (at 25), its stay must be "proportionate" to the issues under reconsideration. A proportionate stay here would have, at a minimum, left the leak detection and repair requirements in effect for wells emitting more than 15 barrels of oil equivalent per day in states without their own leak detection and repair programs.

IV. Petitioners Are Being Irreparably Harmed.

Administrator Pruitt and Industry do not dispute the health and environmental harms from additional emissions of volatile organic compounds ("VOC"), hazardous air pollutants, and methane. *See* Mot. 27-29. Nor do they challenge Petitioners' assessment that the Administrator's 90-day stay will cause

additional, irreversible emissions of smog-forming and hazardous air pollution in areas already overburdened by unhealthy air quality. Pet. Attach. 64, 68-72 (¶¶ 7, 14-15, 18-21). They further do not question that Petitioners have members who live near affected sources, or in nonattainment areas where these sources contribute to poor air quality, and who will be harmed by these emissions during the pendency of the stay. *E.g.*, Pet. Attach. 247-48, 251-52 (¶¶ 3-4, 7, 17), 262 (¶ 12). These unchallenged assertions alone suffice to demonstrate irreparable harm.[5]

Industry's (at 11-12) and the Administrator's (at 27) marginal critiques—that some emissions may occur outside the stay period and that Petitioners should have excluded emissions from Texas wells—do not withstand even minimal scrutiny. More fundamentally, both ignore the many ways Dr. Lyon's analysis conservatively understates the true impacts of EPA's 90-day stay. *E.g.*, Pet. Attach. 39-40 (¶ 13) (dataset does not include all wells drilled or completed during the last several months or any that will be drilled or completed during the stay).

Industry fails to acknowledge that Dr. Lyon provided a conservative lower-bound estimate of emissions *during the 90-day period*. Pet. Attach. 45-47 (¶¶ 19-21 & tbl. 3) (identifying 90-day emission estimates and explaining why these lower values actually understate 90-day emissions). His declaration also includes higher

[5] The emissions from pneumatic pumps due to the stay only increase the harms faced by Petitioners' members. Further, in addition to the judicial stay, Petitioners have requested summary vacatur on all issues.

estimates based on annual emission reductions because field evidence shows that the *first* leak detection survey—the one foregone by the stay—can result in emissions reductions similar to those EPA estimates occur over the course of the year. *Id.*[6] *Both* Dr. Lyon's conservative lower-bound estimate and higher estimate show substantial and irreparable harm during the 90-day stay. These harms will only be worsened by EPA's proposals to extend the stay for more than two additional years. Reply Attach. 2, 23.

Administrator Pruitt's comparison (at 7, 28) of the increased emission from the stay to the massive total emissions of air pollution from the sector is both irrelevant and disingenuous. It is irrelevant because it does not reduce the burden felt by Petitioners' members who live near sources whose emissions would be abated but for the unlawful stay, especially those in nonattainment areas where *any* additional VOC emissions may increase local ozone concentrations. And it is disingenuous because those massive emissions are the result of EPA's own failure to regulate *existing* oil and gas wells.

Industry attempts to further discount these irreparable harms by asserting (at 12) that the Court could block only the remaining "60-70 days" of Administrator Pruitt's stay. Petitioners cannot be faulted for that. Despite informing industry of the impending stay in April, the Administrator did not publish the final stay—

[6] For the same reason, EPA's allegation (at 28 n.9) that Petitioners' brief "*quadruples* the emissions" is meritless.

thereby allowing Petitioners to file suit—until two days *after* the June 3, 2017, compliance deadline. In any event, Industry's effort to slice EPA's intended more-than-two-year stay into smaller parts—each alleged to be too short to worry about—does nothing to allay the irreparable harm that Petitioners members will actually experience.

Administrator Pruitt's claim that Dr. Lyon ignored Texas's supposed requirements fares no better. Like EPA's analysis of the impacts of the 2016 Rule, Dr. Lyon's analysis conservatively excluded emissions from sources subject to comparable state programs. And like EPA, Dr. Lyon did not exclude sources in Texas. Reply Attach. 32 (omitting Texas from list of "states subject to fugitive emissions requirements"); Pet. Attach. 38-39 (¶ 11). Dr. Lyon's treatment of Texas was entirely reasonable because the scope of Texas's "program" is not comparable to EPA's standards: it *does not address methane emissions at all*, makes numerous exemptions absent from the 2016 Rule, and applies only to the very largest production sites. Resp. Attach. 148-54 (requirements apply only to "fugitive components with uncontrolled potential to emit of ≥ 10 [tons per year] VOC"); *see* 30 Tex. Admin. Code. § 116.620(a)(10), (c)(2). It would therefore have been unreasonable for Dr. Lyon to treat Texas sources as though their emissions were already controlled. Administrator Pruitt's newfound voucher (at

27) for the quality of the Texas program is the only thing that suffers from "internal[] inconsisten[cies]."

Finally, Administrator Pruitt suggests (at 28-29) that Dr. Lyon "neglect[ed] to address" protections provided by the National Ambient Air Quality Standards. But those standards do nothing to prevent or mitigate the emissions occurring because of the Administrator's unlawful stay, nor the immediate and irreparable harm Petitioners' members face as a result. The Administrator shows an utter disregard for the Clean Air Act, which provides for *both* the ambient air quality standards *and* new source performance standards, working in tandem, to reduce dangerous air pollution from major industrial sources. 42 U.S.C. §§ 7409, 7411; *see* Reply Attach. 35 (EPA's statement that the 2016 Rule will help attain ambient standards). His reliance on the ambient standards to prevent Petitioners' near-term irreparable injuries is particularly remarkable given his recent decision to delay implementation of *those requirements* too. Reply Attach. 39.

V. The Public Interest Decisively Supports a Judicial Stay of the Challenged Stay.

In addition to Petitioners' members, countless members of the public are similarly situated, face imminent and irreparable harms, and would benefit from Petitioners' requested relief. EPA itself has conceded that delaying these provisions disproportionately harms children. 82 Fed. Reg. at 27,650 ("EPA believes that the environmental health or safety risk addressed by this action may

have a disproportionate effect on children.") (Reply Attach. 7). These and other harms become even more acute during the summer ozone season—the very months when the Administrator's stay will permit additional pollution. Pet. Attach. 64, 68-70 (¶¶ 7, 14-15, 17). The concrete and broad-based negative "public consequences" that will result from allowing the Administrator's stay to remain in place strongly weigh in favor of granting Petitioners' requested relief. *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982).[7]

Respondents offer two competing considerations, neither compelling. Administrator Pruitt notes (at 31) that the industry would face millions of dollars in compliance costs across all affected wells, but he omits the fact that these same wells produce *billions* of dollars of revenue annually. Pet. Attach. 326 (¶ 12). As Petitioners showed, these compliance costs represent just a fraction of a percent of industry revenues and do not outweigh the severe health harms to Petitioners' members and other Americans. Mot. 32.

Administrator Pruitt and Industry further profess concern about the fairness of requiring companies to comply with the 2016 Rule while EPA mulls changing it, and about the fairness of voiding the stay now that some companies have

[7] Both Administrator Pruitt and Industry argue at length that EPA did not need to meet the traditional four-factor test to issue its stay. Even if that is true in a strict sense, Administrator Pruitt's complete disregard for the harms caused by the stay and his failure to assess the public interest in regulatory safeguards render his decision arbitrary and capricious. 42 U.S.C. § 7607(d)(9)(A).

"relied" on it. Industry Br. 14. As already noted (at 1), however, Congress expressly decided that Clean Air Act standards should go into effect even when a party is seeking administrative or judicial review. Further, even though the 2016 Rule provided (at industry's request, Pet. Attach. 240-41) a year's advance notice of the compliance deadline, none of the 2016 Rule's challengers sought a judicial stay or even a schedule for briefing their challenge. And given Industry's prior assertions that it needed a year to come into compliance, companies should have been well on their way by the time they received Administrator Pruitt's April 18 letter. Moreover, the leak detection and repair standards do not require permanent installation of on-site technologies, and, as EPA recognized, Reply Attach. 36-37, third-party companies offer these leak detection services at modest costs—all of which underscores that allowing the standards to take effect as planned would result in minimal disruptions.

The public interest weighs strongly in favor of granting Petitioners' requested relief.

CONCLUSION

The Court should stay or, in the alternative, summarily vacate EPA's unlawful action.

DATED: June 20, 2017

Respectfully submitted,

/s/ *Susannah L. Weaver*

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CERTIFICATE OF COMPLIANCE

I certify that the foregoing reply was printed in a proportionally spaced font of 14 points and that, according to the word-count program in Microsoft Word 2016, it contains 3,897 words.

DATED: June 20, 2017

/s/ *Susannah L. Weaver*
Susannah L. Weaver

REPLY TO RESPONSES IN OPPOSITION TO EMERGENCY MOTION FOR A STAY OR, IN THE ALTERNATIVE, SUMMARY VACATUR

ATTACHMENTS

Attachment 1

U.S. EPA, Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: **Stay of Certain Requirements, Proposed Rule**, 82 Fed. Reg. 27,645 (June 16, 2017)

c. Adding paragraph (b)(13); and

d. Staying paragraphs (c)(15) through (17) from [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] until [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

The revision and addition read as follows:

§ 60.5420a What are my notification, reporting, and recordkeeping requirements?

* * * * *

(b) *Reporting requirements.* You must submit annual reports containing the information specified in paragraphs (b)(1) through (8) and (12) of this section and performance test reports as specified in paragraph (b)(9) or (10) of this section, if applicable, except as provided in paragraph (b)(13) of this section. You must submit annual reports following the procedure specified in paragraph (b)(11) of this section. The initial annual report is due no later than 90 days after the end of the initial compliance period as determined according to § 60.5410a. Subsequent annual reports are due no later than same date each year as the initial annual report. If you own or operate more than one affected facility, you may submit one report for multiple affected facilities provided the report contains all of the information required as specified in paragraphs (b)(1) through (8) of this section, except as provided in paragraph (b)(13) of this section. Annual reports may coincide with title V reports as long as all the required elements of the annual report are included. You may arrange with the Administrator a common schedule on which reports required by this part may be submitted as long as the schedule does not extend the reporting period.

* * * * *

(13) The collection of fugitive emissions components at a well site (as defined in § 60.5430a), the collection of fugitive emissions components at a compressor station (as defined in § 60.5430a), and pneumatic pump affected facilities at a well site (as defined in § 60.5365a(h)(2)) are not subject to the requirements of paragraph (b)(1) of this section from [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] until [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

* * * * *

[FR Doc. 2017–12473 Filed 6–15–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2010–0505; FRL–9963–36–OAR]

RIN 2060–AT59

Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Stay of Certain Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to stay for two years certain requirements that are contained within the Final Rule titled ''Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources,'' published in the **Federal Register** on June 3, 2016 (2016 Rule). On June 5, 2017, the EPA published a notice that it stayed for three months the; fugitive emissions requirements, well site pneumatic pump standards, and the requirements for certification of closed vent systems by a professional engineer in accordance with the Clean Air Act (CAA). The EPA has granted reconsideration based on specific objections to these requirements. The proposed stay discussed in this action, which follows the three-month stay, would provide the EPA sufficient time to propose, take public comment, and issue a final action on the issues concerning the specific requirements on which EPA has granted reconsideration. During this time, the EPA also plans to complete its reconsideration process for all remaining issues raised in these reconsideration petitions regarding fugitive emissions, pneumatic pumps, and certification by professional engineer requirements. The EPA acknowledges that the administrative reconsideration petitions include additional issues regarding these three requirements other than the issues for which we specifically have granted reconsideration. In addition, since the publication of the 2016 Rule, the EPA has received numerous questions relative to the implementation of these three requirements. During the reconsideration proceeding, the EPA intends to look broadly at the entire 2016 Rule. The EPA believes that addressing all of these issues at the same time would provide clarity and certainty for the public and the regulated community with regard to these requirements. The EPA is seeking comment pertaining to this stay and its duration and impact. The EPA is not taking comment at this time on substantive issues concerning these requirements, or on any of the other provisions subject to the reconsideration.

DATES: Comments must be received on or before July 17, 2017. If a hearing is requested on this proposed rule, written comments must be received on or before August 9, 2017.

Public Hearing. A public hearing will be held, if requested by June 21, 2017, to accept oral comments on this proposed action. If a hearing is requested, it will be held at the EPA's Washington, DC campus located at 1201 Constitution Avenue NW., Washington, DC. The hearing, if requested, will begin at 9 a.m. (local time) and will conclude at 4 p.m. (local time) on July 10, 2017. To request a hearing, to register to speak at a hearing, or to inquire if a hearing will be held, please contact Aimee St. Clair at (919) 541–1063 or by email at *stclair.aimee@epa.gov.*

Any updates made to any aspect of the hearing, including whether or not a hearing will be held, will be posted online at *https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/actions-and-notices-about-oil-and-natural-gas#regactions.* In addition, you may contact Aimee St. Clair at (919) 541–1063 or email at *stclair.aimee@epa.gov* with public hearing inquiries. The EPA does not intend to publish a notice in the **Federal Register** announcing any such updates. Please go to *https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/actions-and-notices-about-oil-and-natural-gas#regactions* for more information on the public hearing.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2010–0505, to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment

contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Mr. Peter Tsirigotis, Sector Policies and Programs Division (D205–01), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (888) 627–7764; email address: *airaction@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On June 3, 2016, the EPA published a final rule titled ''Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources; Final Rule,'' at 81 FR 35824 (''2016 Rule''). The 2016 Rule establishes new source performance standards (NSPS) for greenhouse gas emissions and volatile organic compound (VOC) emissions from the oil and natural gas sector. This rule addresses, among other things, fugitive emissions at well sites and compressor stations (''fugitive emissions requirements'') and emissions from pneumatic pumps. In addition, for a number of affected facilities (*i.e.,* centrifugal compressors, reciprocating compressors, pneumatic pumps, and storage vessels), the rule requires certification by a professional engineer of the closed vent system design and capacity, as well as any technical infeasibility determination relative to controlling pneumatic pumps at well sites. For further information on the 2016 Rule, see 81 FR 35824 (June 3, 2016) and associated Docket ID No. EPA–HQ–OAR–2010–0505.

On August 2, 2016, a number of interested parties submitted administrative petitions to the EPA seeking reconsideration of various aspects of the 2016 Rule pursuant to section 307(d)(7)(B) of the CAA (42 U.S.C. 7607(d)(7)(B)).[1] Those petitions include numerous objections relative to the fugitive emissions requirements, well site pneumatic pump standards, and the requirements for certification by professional engineer.

In accordance with section 307(d)(7)(B) of the CAA, the Administrator shall convene a reconsideration proceeding if, in the Administrator's judgment, the petitioner raises an objection to a rule that was impracticable to raise during the comment period or if the grounds for the objection arose after the comment period but within the period for judicial review, and the objection is of central relevance to the outcome of the rule. The Administrator may stay the effectiveness of the rule for up to three months during such reconsideration.

In a letter dated April 18, 2017, based on the criteria in CAA section 307(d)(7)(B), the Administrator convened a proceeding for reconsideration of the following objections relative to the fugitive emissions requirements: (1) The process and criteria for requesting and receiving approval for the use of an alternative means of emission limitations (AMEL) for purposes of compliance with the fugitive emissions requirements in the 2016 Rule and (2) the applicability of the fugitive emissions requirements to low production well sites.[2]

After issuing the April 18, 2017, letter, the EPA identified objections to two other aspects of the 2016 Rule that meet the criteria for reconsideration under section 307(d)(7)(B) of the CAA. These objections relate to (1) the requirements for certification of closed vent system by professional engineer (''PE certification requirement''); and (2) the well site pneumatic pump standards. As part of the administrative reconsideration proceeding, the EPA will prepare a notice of proposed rulemaking that will provide the petitioners and the public an opportunity to comment on the fugitive emissions requirements, well site pneumatic pump standards, and the requirements for certification by professional engineer, and the issues associated with these requirements.

On June 5, 2017, the EPA published a notice that it stayed the fugitive emissions requirements, the well site pneumatic pumps requirements, and the requirements for certification of closed vent system by professional engineer for three months pursuant to section 307(d)(7)(B) of the CAA. This stay is effective from June 2, 2017, to August 31, 2017. When we have issued similar stays in the past, it has often been our practice to also propose a longer stay through a rulemaking process. See, *e.g.,* 74 FR 36427 (July 23, 2009). In this case, for the reasons stated below, we propose to stay these requirements in the 2016 Rule for two years.

II. The Proposed Action

The EPA is proposing to stay the fugitive emissions requirements, the well site pneumatic pump standards, and the requirements for certification of closed vent system by professional engineer in the 2016 Rule until [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER].

As explained above, the EPA has convened a proceeding for reconsideration based on the following two objections to the fugitive emission requirements: (1) The process and criteria for requesting and receiving approval for the use of an AMEL for the fugitive emissions requirements; and (2) the applicability of the fugitive emissions requirements to low production well sites. These issues determine the universe of sources that must implement the fugitive emissions requirements. With respect to the AMEL issue, the EPA recognizes that a number of states have developed programs to control oil and gas emission sources in their own states, and that certain owners or operators may achieve equivalent, or more, emission reduction from their affected source(s) than the required reduction under the 2016 Rule by complying with their state-mandated requirements. 81 FR 35871. During development of the 2016 Rule, the EPA evaluated state fugitive emissions programs in Colorado, Ohio, Pennsylvania, Texas, West Virginia, and Wyoming. Additionally, California has recently proposed regulations to reduce methane emissions from oil and gas activities, including proposing fugitive emissions requirements. These seven states represent a significant portion of the oil and gas activities in the U.S. To encourage states' proactive efforts to reduce emissions from the oil and gas industry, the EPA included AMEL provisions in the final 2016 Rule, which can be used to request and obtain EPA approval of state programs, or other means, as an alternative for complying with the fugitive emissions requirements. *Id.*

While the AMEL provisions apply to work practice standards besides the fugitive emissions requirements, these other standards (*i.e.,* well completions and reciprocating compressors work practice standards) have been implemented since they were first promulgated in 2012[3] (subpart OOOO) to reduce VOC emissions from hydraulically fractured gas well

[1] Copies of these petitions are included in the docket for the 2016 Rule, Docket ID No. EPA–HQ–OAR–2010–0505.

[2] See Docket ID No. EPA–HQ–OAR–2010–0505–7730.

[3] Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews. 77 FR 49490 (August 16, 2012).

completions and reciprocating compressors used in production, and there has not been a demand for AMEL for these standards. In contrast, the newly promulgated fugitive emissions requirements are still in the process of being phased in.[4] In addition, as the EPA observed in the 2016 Rule, fugitive emissions monitoring is a field of emerging technology, and major advances are expected in the near future. 81 FR 35860–1. For the reasons stated above, the AMEL provisions are of particular importance to the fugitive emissions requirements as they directly impact how compliance can be achieved with respect to the fugitive emissions requirements. However, several administrative reconsideration petitions raised issues and questions regarding the AMEL provisions relative to the fugitive emissions requirements (*e.g.,* who can apply for and who can use an approved AMEL).

These inquiries and concerns suggest that the AMEL provisions included in the 2016 Rule, which were finalized without having been proposed for notice and comment, may not be sufficiently clear to facilitate effective application and approval of AMEL, and therefore fail to serve their intended purpose. The ability to apply for and obtain AMEL for fugitive emissions requirements determines whether well sites and compressor stations, in particular those subject to existing state programs or those which have invested in emerging technology, must now redirect or expend additional resources and efforts to implement the 2016 Rule's fugitive emissions requirements, which may negatively impact or otherwise complicate their compliance with applicable state programs and/or their progress in using emerging technology, an endeavor that may potentially be rendered unnecessary should the sources qualify for AMEL. For the reasons stated above, the EPA believes that it is reasonable to stay the fugitive emissions requirements while it completes a review of the current AMEL process via rulemaking.

The low production well site issue concerns the scope of the sources subject to the well site fugitive emissions requirements. The EPA had proposed to exempt low production well sites from the fugitive emissions requirements, believing the lower production associated with these wells would generally result in lower fugitive emissions. 80 FR 56639. However, in the final rule, the EPA required that these well sites comply with the fugitive emissions requirements, based on information and rationale not presented for public comment during the proposal stage. See 81 FR 35856 (''. . . well site fugitive emissions are not correlated with levels of production, but rather based on the number of pieces of equipment and components''). Available information indicated that ''30 percent of natural gas wells are low production wells, and 43 percent of all oil wells are low production wells.'' 81 FR 35856. In light of the sizable percentage of well sites that may be impacted by the outcome of this reconsideration, the EPA believes that it is reasonable to stay the well site fugitive emissions requirements while the EPA reassesses whether an exemption is appropriate and, if so, establishes proper criteria for such exemption.

For closed vent systems used to comply with the emission standards for various equipment used in the oil and natural gas sector, the 2016 Rule requires certification by a professional engineer that a closed vent system design and capacity assessment was conducted under his or her direction or supervision and that the assessment and resulting report were conducted pursuant to the requirements of the 2016 Rule. This certification requirement must be met in order comply with the emissions standards for centrifugal compressors, reciprocating compressors, pneumatic pumps, and storage vessels; as such, this requirement impacts a wide range of sources with respect to their ability to show compliance. With the exception of pneumatic pumps, all of the equipment mentioned above is covered by the oil and gas NSPS, subpart OOOO, that was promulgated in 2012, and have had to demonstrate compliance without this certification requirement. While the EPA has observed instances of inadequate design and capacities of the closed vent system resulting in excess emissions from some storage vessels, 80 FR 56649, it is not clear how pervasive this issue is, in particular with respect to all the other equipment mentioned above. Further, as noted by one petitioner, ''no costs associated with the certification requirement were considered or provided for review during the proposal process.'' [5] Section 111 of the CAA requires that the EPA consider, among other factors, the cost associated with establishing a new source performance standard. See 111(a)(1) of the CAA. The statute is thus clear that cost is an important consideration in determining whether to impose a requirement.

In finalizing the 2016 Rule, the EPA made clear that it viewed the PE certification requirement to be an important aspect of a number of performance standards in the rule. The EPA acknowledges that it had not analyzed the costs associated with the PE certification requirement and evaluated whether the improved environmental performance this requirement may achieve justifies the associated costs and other compliance burden. Because the emission standards for these various equipment (with the exception of the well site pneumatic pump standards as discussed later in this notice) will continue to apply during the proposed stay of this certification requirement, emission reductions from this equipment will continue to be achieved during the stay. For the reasons stated above, the EPA believes that it is reasonable to stay the requirement for closed vent system certification by professional engineer while the EPA evaluates the benefits, as well as the cost and other possible compliance burden, associated with this requirement.

In addition to the closed vent system certification requirement, there are other issues that we are reconsidering that may further complicate a source's ability to comply with the well site pneumatic pump standards. Specifically, the 2016 Rule requires certification by a professional engineer of technical infeasibility in order for a well site pneumatic pump to qualify for an exemption from controlling emissions using an existing control or process. The certification requirement was included in the 2016 Rule without having been previously proposed for notice and comment. Further, the technical infeasibility exemption is not available for a well site that is a ''greenfield'' site, a caveat and term that was also not proposed for notice and comment and, as evident from several reconsideration petitions, has generated a number of questions and issues.

As explained above, certification of closed vent systems by a professional engineer affects how compliance with various emission standards is to be determined. The technical infeasibility exemption and the associated certification by professional engineer requirement, as well as the ''greenfield'' issues described above, dictate whether a source must comply with the emission reduction requirement for well site pneumatic pumps. These requirements and their associated issues directly impact the ability of a wide range of

[4] As mentioned above, the fugitive emissions requirements, including the June 3, 2017, deadline for conducting initial monitoring survey, are currently stayed for three months pursuant to section 307(d)(7)(B).

[5] See Docket ID No. EPA–HQ–OAR–2010–0505–7682, p. 1.

sources, in particular well site pneumatic pumps, to achieve and show compliance with their applicable standards. Therefore, the EPA believes it is reasonable to stay these requirements pending reconsideration.

The EPA is proposing to stay the fugitive emissions requirements, the well site pneumatic pump standards, and the requirements for certification by professional engineer for 2 years. As described above, these three requirements entail a wide range of technically complex issues. For example, the AMEL provisions involve determining equivalency with the fugitive emissions requirements, and the low production well site exemption requires determining the factors that correlate to fugitive emissions. Further, based on the great interest expressed by stakeholders (including states, industry, and manufacturers of emerging monitoring technology), in particular on the AMEL,[6] the EPA anticipates receiving a large amount of information during the reconsideration proceeding. Also, during the reconsideration proceeding the EPA intends to request comment on the cost and other compliance burden, among other relevant information, associated with the requirement for certification by a professional engineer. In light of the above, the EPA believes that two years would provide sufficient time to review available information and propose, take public comment, and issue a final action on the reconsideration of these issues. The administrative reconsideration petitions raise numerous other issues relative to the fugitive emission requirements, well site pneumatic pump standards, and requirements for certification by professional engineer other than those described above. The EPA has also been asked clarifying questions on implementation of these requirements from stakeholders since the 2016 Rule was published. These questions touch on issues such as the timeframe for repair of leaking components, timeframe for closed vent system inspection definitions related to fugitive emissions and pneumatic pump requirements, definitions of the affected facilities, and the temperature waiver for quarterly monitoring. Given the breadth of the issues identified in the petitions for reconsideration of the 2016 Rule, and the additional implementation questions from stakeholders following publication, the EPA believes that it is in the public interest that it address these other related issues at the same time it reconsiders the fugitive emissions requirements, well site pneumatic pumps standards, and the certification by professional engineer requirements, thereby avoiding addressing these requirements in a piecemeal fashion. The EPA believes that staying the specified requirements for two years is necessary to provide sufficient time to complete the actions described above.

Note that we are not taking comment at this time on substantive issues concerning these requirements, or on any of the other provisions subject to the reconsideration. This notice simply proposes to stay the specified requirements for two years. The EPA is seeking comment pertaining to this stay and its duration. A separate **Federal Register** notice published in the near future will specifically solicit comment on substantive issues concerning these requirements.

III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is an economically significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared a Regulatory Impact Analysis (RIA) of the potential costs and benefits associated with the 2016 Rule, which is available at Docket ID No. EPA–HQ–OAR–2010–0505–7630. As this action affects two of the components that were included in the costs and benefits estimations, the fugitive requirements and the pneumatic pump requirements, as well as only affects three years of compliance activity, 2017 through 2019, the cost estimates provided here focus only on those affected provisions and years. It should be noted that these figures only represent the cost reductions associated with these activities. Although there would be foregone benefits as a result of this proposed delay, a quantitative estimate of this effect is not currently available, and therefore the associated foregone benefits are not presented.

This action delays compliance for fugitive requirements from approximately September 2017 until September 2019. In the 2016 rule, fugitive components accumulated as affected sources from September 2015 until June 2017, when all accumulated and new sources moving forward had to be in compliance. The previously published three-month stay delayed compliance until September 2017. This proposed stay further delays compliance so affected components accumulate from September 2015 through September 2019, after which all accumulated sources and new sources moving forward must be in compliance.

This action also extends the stay for pneumatic pump requirements at well sites that was enacted in the three-month stay. Pneumatic pump affected facilities at well sites were required to be in compliance from November 2016 until June 2017 when EPA issued the three-month stay. Newly affected sources accumulate under the initial three-month stay starting in June 2017 to September 2017. This proposed stay delays compliance until September 2019, after which the accumulated affected sources and newly affected sources moving forward must be in compliance.

Costs and benefits for each year after 2019 remain unaffected. Using the estimated source counts as presented in Table 3–2 of the 2016 RIA, the EPA estimated a baseline for the capital costs, annual operating and maintenance costs and value of product recovery between 2017 and 2019 for the two requirements. This baseline accounts for the initial three-month stay. Then, the EPA estimated these costs under this proposed stay. Total costs for both actions were calculated as capital costs plus annual costs minus revenue from product recovery. These undiscounted costs are presented in Table 1, below. The difference between them, cost savings due to this proposed stay, is presented in Table 2. Table 3 presents the total costs, accounting for the value of product recovery, and their differences discounted to 2017 using both a 3 percent and a 7 percent discount rate, the present values of these costs, and their equivalent annualized values. The equivalent annualized values are the annualized present values, or the even flow of the present values, over the three years affected by this proposed action. These costs are presented in 2016 dollars.[7]

[6] See *e.g.,* Oil and Natural Gas Sector: Request for Information, Emerging Technologies. 81 FR 46670 (July 18, 2016), and associated docket EPA–HQ–OAR–2016–0346.

[7] Careful consideration must be made in comparing these costs to those presented in the 2016 RIA. Costs presented in the 2016 RIA are costs in 2020 and 2025 and are presented in 2012 dollars. Costs presented here are for 2017, 2018 and 2019 and presented in 2016 dollars, in accordance with OMB Guidance M–17–21 for EO 13771. In addition, some of the presented capital costs presented in the

TABLE 1—COST ESTIMATES OF THE BASELINE AND THIS PROPOSAL, UNDISCOUNTED

[2016$ millions]

	Baseline				Proposal			
	Capital costs	Annual costs	Revenue from product recovery	Total costs	Capital costs	Annual costs	Revenue from product recovery	Total costs
2017	$43	$61	$11	$92	$3	$0	$0	$3
2018	21	153	28	146	0	0	0	0
2019	21	199	36	184	83	199	36	246

Note: These costs only account for the fugitive emissions and well site pneumatic pumps requirements. We did not include the costs of professional engineer certification because these costs were not accounted for in the 2016 Rule. Values may not sum due to rounding.

TABLE 2—DIFFERENCE OF THE COST ESTIMATES OF THE BASELINE AND THIS PROPOSAL, UNDISCOUNTED

[2016$ millions]

	Difference			
	Capital costs	Annual costs	Revenue from product recovery	Total costs
2017	−$40	−$61	−$11	−$89
2018	−21	−153	−28	−146
2019	61	0	0	61

TABLE 3—TOTAL COST ESTIMATES OF THE BASELINE AND THIS PROPOSAL, DISCOUNTED TO 2017

[2016$ millions]

	Baseline		Proposal		Difference	
	3%	7%	3%	7%	3%	7%
2017	$92	$92	$3	$3	−$89	−$89
2018	142	136	0	0	−142	−136
2019	174	161	231	214	58	53
Present Value	408	390	234	217	−173	−172
Equivalent Annualized Value	140	139	80	77	−60	−61

Note: These costs only account for the fugitive emissions and well site pneumatic pumps requirements. We did not include the costs of professional engineer certification because these costs were not accounted for in the 2016 Rule. These total costs account for the value of product recovery.

The total costs presented here reflect the total capital costs estimated for all affected sources in each year, as well as the accumulated annual operating and maintenance costs and associated product recovery values. The difference in estimated costs between the baseline and this proposed action are largely due to the annual operating and maintenance that would be incurred in 2017 and 2018 by affected components under the baseline that are not incurred under the stay. The small cost of this proposal in 2017 is due to the cost of compliance for affected pneumatic pumps at well sites before the three-month stay began. The difference in costs in 2019 is due to the capital costs borne by new sources constructed prior to 2019 whose compliance was delayed until 2019 under this proposal.

As can be seen in Table 2, the cost savings of this proposal in 2017 and 2018, mainly due to forgone annual operating and maintenance costs, are slightly offset by the higher costs in 2019, due to the larger number of sources that would be incurring capital and annual operating and maintenance costs in that year under this proposal. The larger costs savings in the early years leads to net cost savings from this action. As can be seen in Table 3, the estimated total present value of cost savings associated with this proposal are $173 million when using a 3 percent discount rate and $172 million when using a 7 percent discount rate. The equivalent annualized values of the cost savings are $60 million per year when using a 3 percent discount rate and $61 million per year using a 7 percent discount rate.

The estimates presented here are made under a few assumptions, including:

- The EPA is assuming that no affected entities with compliance dates after June 2017 have begun performing compliance activities. If some affected entities have already begun performing compliance activities, there are associated sunk costs and ongoing operating and maintenance costs that should be accounted for in the estimates of costs of this proposal; this would reduce the cost savings associated with this proposal.
- Affected entities may decide not to delay compliance by the full two years because earlier compliance may allow for coordination of regulatory and non-regulatory capital work, thus minimizing operational downtime. Earlier compliance leads to earlier

2016 RIA are annualized values, as are the presented total costs; capital costs, and therefore total costs, are not annualized in the analysis presented here.

incurrence of annual costs and benefits, which would reduce the cost savings associated with this proposed action.

- However, this may also reduce capital costs for those entities electing to comply earlier under this proposal—for instance, if overtime payments and rush charges can be avoided. This may increase the cost savings associated with the proposal.
- The cost of the PE certification was not taken into account in the 2016 RIA and therefore the costs of this provision under the 2016 rule cannot be compared to the costs under this proposal. The inclusion of the costs of this certification would likely increase the cost savings under this proposal, as costs related to the certifications that would otherwise take place between September 2017 and September 2019 would no longer be incurred.
- The costs presented here assumes pneumatic pumps become affected evenly throughout the year. If more sources become affected in the earlier (later) months than is assumed, the associated sunk costs will be higher (lower) than presented and cost savings associated with this proposal will decrease (increase).

Given data limitations, the cost estimates related to this action have not been adjusted to reflect these analytic considerations. The cost estimates also do not reflect any changes in baseline conditions, with the exception of the initial three-month stay, since the analysis for the 2016 rule was conducted (*e.g.,* new developments in state level fugitive emissions programs, technological change, or other factors affecting the cost of compliance activities).

Although the potential existence of sunk costs, voluntary early compliance, and changes in baseline assumptions would likely reduce the effects of this proposed action to less than the difference shown in Table 1, the impact in at least one year is still almost certainly greater than $100 million, thus rendering this action economically significant under Executive Order 12866.

The analysis accompanying the 2016 Rule includes estimates of the 2016 Rule's emission reduction benefits. It should be noted that, just as the annual operating and maintenance costs and value of product recovery in 2017 and 2018 are not incurred by affected sources under the proposal, neither are the associated climate and human health benefits. Although there would be foregone benefits as a result of this proposed delay, a quantitative estimate of this effect is not currently available.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing 40 CFR part 60, subpart OOOO and has assigned OMB control number 2060–0673. The information collection requirements in the final 40 CFR 60, subpart OOOOa have been submitted for approval to the OMB under the PRA. The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR 2523.01. This action does not result in changes to the approved ICR for subpart OOOO or the submitted ICR for subpart OOOOa, so the information collection estimates of project cost and hour burdens have not been revised.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This action proposes a limited stay for certain requirements. This proposed stay will decrease the burden on small entities subject to this rule. The EPA prepared a final RFA analysis for the 2016 Rule, which is available as part of the Regulatory Impact Analysis in the docket at Docket ID No. EPA–HQ–OAR–2010–0505–7630. We have therefore concluded that this action will have a net negative regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is subject to Executive Order 13045 because it is an economically significant regulatory action as defined by Executive Order 12866, and the EPA believes that the environmental health or safety risk addressed by this action may have a disproportionate effect on children. The basis for this determination can be found in the 2016 Rule (81 FR 35893). However, because this action merely proposes to delay the 2016 Rule, this action will not change any impacts of the 2016 Rule after the stay. Any impacts on children's health caused by the delay in the rule will be limited, because the length of the proposed stay is limited. The agency therefore believes it is more appropriate to consider the impact on children's health in the context of any substantive changes proposed as part of reconsideration.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. The basis for this determination can be found in the 2016 Rule (81 FR 35894).

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Because this action merely proposes to delay action and does not change the requirements of the final rule, this action will not change any impacts of the rule when it is fully implemented. Any impacts on minority populations and low-income populations caused by

the delay in the rule will be limited, because the length of the proposed stay is limited. The agency therefore believes it is more appropriate to consider the impact on minority populations and low-income populations in the context of any substantive changes proposed as part of reconsideration.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping.

Dated: June 12, 2017.

E. Scott Pruitt,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart OOOOa—[AMENDED]

■ 2. Section 60.5393a is amended by:

■ a. Staying paragraphs (b) and (c) until [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**]; and

■ b. Adding paragraph (f).

The addition reads as follows:

§ 60.5393a What GHG and VOC standards apply to pneumatic pump affected facilities?

* * * * *

(f) Pneumatic pumps at a well site are not subject to the requirements of paragraphs (d) and (e) of this section until [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**].

§ 60.5397a [AMENDED]

■ 3. Section 60.5397a is stayed until [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**].

■ 4. Section 60.5410a is amended by:

■ a. Staying paragraphs (e)(2) through (5) until [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**];

■ b. Adding paragraph (e)(8); and

■ c. Staying paragraph (j) until [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**].

The addition reads as follows:

§ 60.5410a How do I demonstrate initial compliance with the standards for my well, centrifugal compressor, reciprocating compressor, pneumatic controller, pneumatic pump, storage vessel, collection of fugitive emissions components at a well site, collection of fugitive emissions components at a compressor station, and equipment leaks and sweetening unit affected facilities at onshore natural gas processing plants?

* * * * *

(e) * * *

(8) Pneumatic pump affected facilities at a well are not subject to the requirements of paragraphs (e)(6) and (7) of this section until [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**].

* * * * *

■ 5. Section 60.5411a is amended by:

■ a. Revising the introductory text;

■ b. Staying paragraph (d) until [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**]; and

■ c. Adding paragraph (e).

The revision and addition read as follows:

§ 60.5411a What additional requirements must I meet to determine initial compliance for my covers and closed vent systems routing emissions from centrifugal compressor wet seal fluid degassing systems, reciprocating compressors, pneumatic pumps and storage vessels?

You must meet the applicable requirements of this section for each cover and closed vent system used to comply with the emission standards for your centrifugal compressor wet seal degassing systems, reciprocating compressors, pneumatic pumps and storage vessels except as provided in paragraph (e) of this section.

* * * * *

(e) Pneumatic pump affected facilities at a well site are not subject to the requirements of paragraph (a) of this section until [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**].

■ 6. Section 60.5415a is amended by:

■ a. Revising paragraph (b) introductory text and adding paragraph (b)(4); and

■ b. Staying paragraph (h) until [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**].

The revision and addition read as follows:

§ 60.5415a How do I demonstrate continuous compliance with the standards for my well, centrifugal compressor, reciprocating compressor, pneumatic controller, pneumatic pump, storage vessel, collection of fugitive emissions components at a well site, and collection of fugitive emissions components at a compressor station affected facilities, and affected facilities at onshore natural gas processing plants?

* * * * *

(b) For each centrifugal compressor affected facility and each pneumatic pump affected facility, you must demonstrate continuous compliance according to paragraph (b)(3) of this section except as provided in paragraph (b)(4) of this section. For each centrifugal compressor affected facility, you also must demonstrate continuous compliance according to paragraphs (b)(1) and (2) of this section.

* * * * *

(4) Pneumatic pump affected facilities at a well site are not subject to the requirements of paragraph (b)(3) of this section until [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**].

* * * * *

■ 7. Section 60.5416a is amended by revising the introductory text and adding paragraph (d) to read as follows:

§ 60.5416a What are the initial and continuous cover and closed vent system inspection and monitoring requirements for my centrifugal compressor, reciprocating compressor, pneumatic pump, and storage vessel affected facilities?

For each closed vent system or cover at your storage vessel, centrifugal compressor, reciprocating compressor and pneumatic pump affected facilities, you must comply with the applicable requirements of paragraphs (a) through (c) of this section, except as provided in paragraph (d) of this section.

* * * * *

(d) Pneumatic pump affected facilities at a well site are not subject to the requirements of paragraphs (a) and (b) of this section until [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**].

■ 8. Section 60.5420a is amended by:

■ a. Revising paragraph (b) introductory text;

■ b. Staying paragraphs (b)(7), (8), and (12) until [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**];

■ c. Adding paragraph (b)(13); and

■ d. Staying paragraphs (c)(15) through (17) until [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**].

The revision and addition read as follows:

§ 60.5420a What are my notification, reporting, and recordkeeping requirements?

* * * * *

(b) *Reporting requirements.* You must submit annual reports containing the information specified in paragraphs (b)(1) through (8) and (12) of this section and performance test reports as specified in paragraph (b)(9) or (10) of this section, if applicable, except as provided in paragraph (b)(13) of this section. You must submit annual reports following the procedure specified in paragraph (b)(11) of this section. The initial annual report is due no later than 90 days after the end of the initial compliance period as determined according to § 60.5410a. Subsequent annual reports are due no later than same date each year as the initial annual report. If you own or operate more than one affected facility, you may submit one report for multiple affected facilities provided the report contains all of the information required as specified in paragraphs (b)(1) through (8) of this section, except as provided in paragraph (b)(13) of this section. Annual reports may coincide with title V reports as long as all the required elements of the annual report are included. You may arrange with the Administrator a common schedule on which reports required by this part may be submitted as long as the schedule does not extend the reporting period.

* * * * *

(13) The collection of fugitive emissions components at a well site (as defined in § 60.5430a), the collection of fugitive emissions components at a compressor station (as defined in § 60.5430a), and pneumatic pump affected facilities at a well site (as defined in § 60.5365a(h)(2)) are not subject to the requirements of paragraph (b)(1) of this section until [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**].

* * * * *

[FR Doc. 2017–12698 Filed 6–15–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 25

[IB Docket No. 17–95; FCC 17–56]

Amends Rules Related to Satellite Earth Stations Mounted on Vessels, Vehicles and Aircraft

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) proposes to streamline, consolidate, and harmonize rules governing earth stations in motion (ESIMs) used to provide satellite-based services on ships, airplanes and vehicles communicating with geostationary-satellite orbit (GSO), fixed-satellite service (FSS) satellite systems.

DATES: Comments are due on or before July 31, 2017. Reply comments are due on or before August 30, 2017.

ADDRESSES: You may submit comments, identified by IB Docket No. 17–95, by any of the following methods:

- *Federal Communications Commission's Web site: http://apps.fcc.gov/ecfs.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Cindy Spiers, 202–418–1593.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), FCC 17–56, adopted May 18, 2016, and released May 19, 2017. The full text of the NPRM is available at *https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-56A1.pdf.* The NPRM is also available for inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities, send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Comment Filing Requirements

Interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section above. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

- *Electronic Filers.* Comments may be filed electronically using the Internet by accessing the ECFS, *http://apps.fcc.gov/ecfs.*
- *Paper Filers.* Parties who file by paper must include an original and four copies of each filing.

Filings may be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.
- *Persons With Disabilities.* To request materials in accessible formats for persons with disabilities (Braille, large print, electronic files, audio format), or to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.), send an email to *fcc504@fcc.gov* or call 202–418–0530 (voice) or 202–418–0432 (TTY).

Ex Parte Presentations

We will treat this proceeding as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph

Attachment 2

U.S. EPA, Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources, **Final Rule**,
81 Fed. Reg. 35,824 (June 3, 2016) (excerpts)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2010–0505; FRL–9944–75–OAR]

RIN 2060–AS30

Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes amendments to the current new source performance standards (NSPS) and establishes new standards. Amendments to the current standards will improve implementation of the current NSPS. The new standards for the oil and natural gas source category set standards for both greenhouse gases (GHGs) and volatile organic compounds (VOC). Except for the implementation improvements, and the new standards for GHGs, these requirements do not change the requirements for operations covered by the current standards.

DATES: This final rule is effective on August 2, 2016.

The incorporation by reference (IBR) of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 2, 2016.

ADDRESSES: The Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2010–0505. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For further information concerning this action, contact Ms. Amy Hambrick, Sector Policies and Programs Division (E143–05), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–0964; facsimile number: (919) 541–3470; email address: *hambrick.amy@epa.gov* or Ms. Lisa Thompson, Sector Policies and Programs Division (E143–05), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–9775; facsimile number: (919) 541–3470; email address: *thompson.lisa@epa.gov.* For other information concerning the EPA's Oil and Natural Gas Sector regulatory program, contact Mr. Bruce Moore, Sector Policies and Programs Division (E143–05), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–5460; facsimile number: (919) 541–3470; email address: *moore.bruce@epa.gov.*

SUPPLEMENTARY INFORMATION: *Outline.* The information presented in this preamble is presented as follows:

infeasibility exemption in the rule is vague and could detract significantly from the overall value of this standard if not narrowly limited in application. The commenter notes that because of the swiftly increasing production of oil (along with associated natural gas) in the United States which produces very high initial rates of oil and associated gas, it is vital that the rule's requirements apply rigorously.

Response: The EPA agrees that REC should be preferred over combustion due to the secondary environmental impact from combustion. The final rule reflects such preference by requiring REC unless it is technically infeasible, in which event the recovered gas is to be routed to a completion combustion device. Further, to ensure that the exemption from REC due to technical infeasibility is limited to those situations where the operator can demonstrate that each of the options to capture and use gas beneficially is not feasible and why, we have expanded recordkeeping requirements in the final rule to include: (1) Detailed documentation of the reasons for the claim of technical infeasibility with respect to all four options provided in § 60.5375a(a)(1)(ii), including but not limited to, names and locations of the nearest gathering line; capture, re-injection, and reuse technologies considered; aspects of gas or equipment prohibiting use of recovered gas as a fuel onsite; and (2) technical considerations prohibiting any other beneficial use of recovered gas on site.

We believe these additional provisions will support a more diligent and transparent application of the intent of the technical infeasibility exemption from the REC requirement in the final rule. This information must be included in the annual report made available to the public 30 days after submission through CEDRI and WebFIRE, allowing for public review of best practices and periodic auditing to ensure flaring is limited and emissions are minimized.

G. Major Comments Concerning Fugitive Emissions From Well Sites and Compressor Stations

1. Modification Definitions for Well Sites

Comment: Several commenters assert that the definition of ''modification'' of a well site under the proposed rule in § 60.5365a(i) is overly broad because it would bring many existing well sites under the Rule's requirements. The commenters believe that drilling a new well or hydraulically fracturing an existing well does not increase the probability of a leak from an individual component and no new components result from these activities, thus the potential emissions rate does not change and should not be consider a modification.

Response: The EPA believes the addition of a new well or the hydraulically fracturing or refracturing of an existing well will increase emissions from the well site for the following reasons. These events are followed by production from these wells which generate additional emissions at the well sites. Some of these additional emissions will pass through leaking fugitive emission components at the well sites (in addition to the emissions already leaking from those components). Further, it is not uncommon that an increase in production would require additional equipment and, therefore, additional fugitive emission components at the well sites. We also believe that defining ''modification'' to include these two events, rather than requiring complex case-by-case analysis to determine whether there is emission increase in each event, will ease implementation burden for owners and operators. For the reasons stated above, EPA is finalizing the definition of ''modification'' of a well site, as proposed.

2. Monitoring Plan

Comment: Commenters expressed concerns about the elements of the proposed monitoring plans and encouraged the EPA to consult with the oil and gas industry and states to adopt requirements that would meet their specific needs. Commenters suggested that an area-wide monitoring plan should be allowed instead of a corporate-wide or site specific plan. The area plan would allow owners to write a plan that covers various areas for each specific region since operators may rely on contractors in one area due to location while company-owned monitoring equipment may be used within another area.

Response: The EPA participated in numerous meetings with industry, environmental and state stakeholders to discuss the proposed rule. During these meetings industry stakeholders further explained why a corporate-wide monitoring plan would be difficult to develop due to their corporate structures, well site locations, basin characteristics and many other factors. They also indicated that a site-specific plan would be redundant since many well sites within a district or field office are similar and would utilize the same personnel, contractors or monitoring equipment. The industry stakeholders provided input on specific elements of the monitoring plan, such as the walking path requirement. Based on the comments that we received and subsequent stakeholder meetings, we have made changes to the monitoring plan and have further explained our intent for the walking path. We have also modified the digital photograph recordkeeping requirements for sources of fugitive emissions. See section VI.f.1.h of this preamble for further discussion.

H. Major Comments Concerning Final Standards Reflecting Next Generation Compliance and Rule Effectiveness Strategies

1. Electronic Reporting

Comment: While some commenters express support, several commenters oppose electronic reporting of compliance-related records. Some of the commenters state that they have an obligation under the rule to maintain these records and make them available to the regulatory agency upon request, and this should be sufficient. Providing all the records requested under the proposed rule would likely cause a backlog of correspondence between the regulatory agency and the industry. Other commenters expressed concern that sensitive company information could be present in the records, and other parties could use a FOIA request to obtain the records.

Additional commenters pointed out that the EPA should not require electronic reporting until CEDRI is modified to accommodate the unique nature of the oil and natural gas production industry. As the commenters understand the operational characteristics of CEDRI, the system links reports for each affected facility to the site at which they are located. Under subparts OOOO and OOOOa, there is no unique site identifier. This would result in owners and operators having to deconstruct the annual report in order to obtain the affected facility level data needed for CEDRI. The EPA did not account for this burden and cost. The commenters request that should electronic reporting be required, that CEDRI be revised to accept the annual reports as currently specified in the proposed rule as a pdf file or hardcopy until these issues can be resolved. Commenters also request that CEDRI be modified to accept area-wide reports rather than site-level reports. Additionally, commenters noted that the definition of ''certifying official'' under CEDRI is different than in the proposed rule.

Finally, since the EPA did not propose regulatory language for these

Attachment 3

U.S. EPA, Oil and Natural Gas Sector: Emission Standards for New and Modified Sources, **Proposed Rule**, 80 Fed. Reg. 56,593 (Sept. 18, 2015) (excerpts)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2010–0505; FRL–9929–75–OAR]

RIN 2060–AS30

Oil and Natural Gas Sector: Emission Standards for New and Modified Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes to amend the new source performance standards (NSPS) for the oil and natural gas source category by setting standards for both methane and volatile organic compounds (VOC) for certain equipment, processes and activities across this source category. The Environmental Protection Agency (EPA) is including requirements for methane emissions in this proposal because methane is a greenhouse gas (GHG), and the oil and natural gas category is currently one of the country's largest emitters of methane. In 2009, the EPA found that by causing or contributing to climate change, GHGs endanger both the public health and the public welfare of current and future generations. The EPA is proposing both methane and VOC standards for several emission sources not currently covered by the NSPS and proposing methane standards for certain emission sources that are currently regulated for VOC. The proposed amendents also extend the current VOC standards to the remaining unregulated equipment across the source category and additionally establish methane standards for this equipment. Lastly, amendments to improve implementation of the current NSPS are being proposed which result from reconsideration of certain issues raised in petitions for reconsideration that were received by the Administrator on the August 16, 2012, final NSPS for the oil and natural gas sector and related amendments. Except for the implementation improvements and the setting of standards for methane, these amendments do not change the requirements for operations already covered by the current standards.

DATES: Comments. Comments must be received on or before November 17, 2015. Under the Paperwork Reduction Act(PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before November 17, 2015. The EPA will hold public hearings on the proposal. Details will be announced in a separate announcement.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–HQ–OAR–2010–0505, to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Instructions: All submissions must include agency name and respective docket number or Regulatory Information Number (RIN) for this rulemaking. Direct your comments to Docket ID Number EPA–HQ–OAR–2010–0505. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. (See section III.B below for instructions on submitting information claimed as CBI.) The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you submit an electronic comment through *www.regulations.gov,* the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. Electronic files should avoid the use of special characters, any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at: *www.epa.gov/epahome/dockets.htm.*

Docket: The EPA has established a docket for this rulemaking under Docket ID Number EPA–HQ–OAR–2010–0505. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the EPA Docket Center, EPA WJC West Building, Room Number 3334, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For information concerning this action, or for other information concerning the EPA's Oil and Natural Gas Sector regulatory program, contact Mr. Bruce Moore, Sector Policies and Programs Division (E143–05), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–5460; facsimile number: (919) 541–3470; email address: *moore.bruce@epa.gov.*

SUPPLEMENTARY INFORMATION: *Outline.* The information presented in this preamble is organized as follows:

specific numbers of components rather than percentages of components for triggering change in survey frequency discussed in this action. We also solicit comment on whether a performance-based frequency or a fixed frequency is more appropriate.

As discussed in more detail in section VIII.G below and the TSD for this action available in the docket, we have identified OGI technology as the BSER for detecting fugitive emissions from new and modified compressor stations.

The proposed standards apply to new and modified compressor stations throughout the oil and natural gas source category. As explained in section VII.G.3 below, compressor stations are considered modified for the purposes of these fugitive emission standards when one or more compressors is added to the station after [effective date of final rule].

3. Modification of the Collection of Fugitive Emissions Components at Well Sites and Compressor Stations

For the purposes of the fugitive emission standards at well sites and compressor stations, we are proposing definitions of ''modification'' for those facilities that are specific to these provisions and for this purpose only. As provided in section 60.14(f), such provisions in the specific subparts would supersede any conflicting provisions in § 60.14 of the General Provisions. This definition does not affect other standards under this subpart for wells, other equipment at well sites or compressors.

For purposes of the proposed fugitive emissions standards at well sites, we propose that a modification to a well site occurs only when a new well is added to a well site (regardless of whether the well is fractured) or an existing well on a well site is fractured or refractured. When a new well is added or a well is fractured or refractured, there is an increase in emissions to the fugitive emissions components because of the addition of piping and ancillary equipment to support the well, along with potentially greater pressures and increased production brought about by the new or fractured well. Other than these events, we are not aware of any other physical change to a well site that would result in an increase in emissions from the collection of fugitive components at such well site. To clarify and ease implementation, we propose to define ''modification'' to include only these two events for purposes of the fugitive emissions provisions at well sites. We note that under § 60.5365a(a)(1) a well that is refractured, and for which the well completion operation is conducted according to the requirements of § 60.5375a(a)(1) through(4), is not considered a modified well and therefore does not become an affected facility under the NSPS. We would like to clarify that such an exclusion of a ''well'' from applicability under the NSPS would have no effect on the affected facility status of the ''well site'' for purposes of the proposed fugitive emissions standards. Accordingly, a well at an existing well site that is refractured constitutes a modification of the well site, which then would be an affected facility for purposes of the fugitive emission standards at § 60.5397a, regardless of whether the well itself is an affected facility.

In the 2012 NSPS, we provided that completion requirements do not apply to refracturing of an existing well that is completed responsibly (*i.e.* green completions). Building on the 2012 NSPS, the EPA intends to continue to encourage corporate-wide voluntary efforts to achieve emission reductions through responsible, transparent and verifiable actions that would obviate the need to meet obligations associated with NSPS applicability, as well as avoid creating disruption for operators following advanced responsible corporate practices. To encourage companies to continue such good corporate policies and encourage advancement in the technology and practices, we solicit comment on criteria we can use to determine whether and under what conditions well sites operating under corporate fugitive monitoring programs can be deemed to be meeting the equivalent of the NSPS standards for well site fugitive emissions such that we can define those regimes as constituting alternative methods of compliance or otherwise provide appropriate regulatory streamlining. We also solicit comment on how to address enforceability of such alternative approaches (*i.e.,* how to assure that these well sites are achieving, and will continue to achieve, equal or better emission reduction than our proposed standards).

For the reasons stated above, we are also soliciting comments on criteria we can use to determine whether and under what conditions all new or modified well sites or compressor stations operating under corporate fugitive monitoring programs can be deemed to be meeting the equivalent of the NSPS standards for well sites or compressor stations fugitive emissions such that we can define those regimes as constituting alternative methods of compliance or otherwise provide appropriate regulatory streamlining. We also solicit comment on how to address enforceability of such alternative approaches (*i.e.*, how to assure that these well sites and compressor stations are achieving, and will continue to achieve, equal or better emission reduction than our proposed standards).

For purposes of the proposed standards for fugitive emission at compressor stations, we propose that a modification occurs only when a compressor is added to the compressor station or when physical change is made to an existing compressor at a compressor station that increases the compression capacity of the compressor station. Since fugitive emissions at compressor stations are from compressors and their associated piping, connections and other ancillary equipment, expansion of compression capacity at a compressor station, either through addition of a compressor or physical change to the an existing compressor, would result in an increase in emissions to the fugitive emissions components. Other than these events, we are not aware of any other physical change to a compressor station that would result in an increase in emissions from the collection of fugitive components at such compressor station. To clarify and ease implementation, we define ''modification'' as the addition of a compressor for purposes of the fugitive emissions provisions at compressor stations.

H. Equipment Leaks at Natural Gas Processing Plants

We are proposing standards to control methane and VOC emissions from equipment leaks at natural gas processing plants. These requirements are the same as the VOC equipment leak requirements in the 2012 NSPS and would require NSPS part 60, subpart VVa level of control, including a detection level of 500 ppm as in the 2012 NSPS. As discussed further in section VIII.H, we propose that the subpart VVa level of control applied plant-wide is the BSER for controlling methane emissions from equipment leaks at onshore natural gas processing plants. We believe it provides the greatest emission reductions of the options we considered in our analysis in Section VIII.H, and that the costs are reasonable.

I. Liquids Unloading Operations

For the reasons discussed in section VIII.I, at this time the EPA does not have sufficient information to propose a standard for liquids unloading. However, we are requesting comment on nationally applicable technologies and techniques that reduce methane and VOC emissions from these events.

emissions.[87] In addition, these control technologies are the same as those required in the 2012 NSPS to control completion emissions from hydraulically fractured gas well completions.

The EPA is aware that oil wells cannot perform a REC if there is not sufficient well pressure or gas content during the well completion to operate the surface equipment required for a REC. In the 2012 NSPS the EPA did not require low pressure gas wells to perform REC, but operators were required to control those well completions using combustion.[88] We solicit comment on the types of oil wells that will not be capable of performing a REC or combusting completion emissions due to technical considerations such as low pressure or low gas content, or other physical characteristics such as location, well depth, length of hydraulic fracturing, or drilling direction (e.g., horizontal, vertical, directional).[89] Additionally, we solicit comment on all aspects of our proposal to regulate methane and VOC emissions from hydraulically fractured oil well completions.

As shown in the analyses presented above, the BSER for hydraulically fractured oil wells is the same as that for gas wells. Accordingly, we are proposing to apply the current requirements for hydraulically fractured gas well completions to hydraulically fractured oil well completions. It is logical that the BSER analyses would result in the same BSER determinations for hydraulically fractured gas and oil wells, because the available options for controlling emissions and their current use in the field are the same. Several public and peer reviewer comments on the white paper noted that the control technologies used for controlling emissions from hydraulically fractured oil well completions are the same as those used for completions of hydraulically fractured gas wells. The commenters further noted that in many cases it is difficult to distinguish gas wells from oil wells, because many wells produce both gas and oil. Consistent standards for completions of hydraulically fractured gas wells and completions of hydraulically fractured oil wells will remove the need for operators to distinguish a gas well completion from an oil well completion for the purposes of complying with subpart OOOO. This change will improve the implementation of the standards by providing greater certainty as to which well completions must comply with the standards.

We are requesting comment on excluding low production wells (i.e., those with an average daily production of 15 barrel equivalents or less)[90] from the standards for well completions. It is our understanding that low production wells have inherently low emissions from well completions and many are owned and operated by small businesses. We are concerned about the burden of the well completion requirement on small businesses, in particular where there is little emission reduction to be achieved. We recognize that identification of these wells prior to completion events is difficult. We believe that drilling of a low production well may be unintentional and may be infrequent, but production may nevertheless proceed due to economic reasons. We solicit comment and information on emissions associated with low production wells, characteristics of these wells and supporting information that would help owners/operators and enforcement personnel identify these wells prior to completion. In addition, we understand that a daily average of 15 barrel equivalents is representative of low production wells for some purposes, we solicit comment on the appropriateness of this threshold for applying the standards for well completions.

Further, we are proposing that wells with a gas-to-oil ratio (GOR) of less than 300 scf of gas per barrel of oil produced would not be affected facilities subject to the well completion provisions of the NSPS.[91] We solicit comment on whether a GOR of 300 is the appropriate applicability threshold, and if the GOR of nearby wells would be a reliable indicator in determining the GOR of a new or modified well. The reason for the proposed threshold GOR of 300 is that separators typically do not operate at a GOR less than 300, which is based on industry experience rather than a vetted technical specification for separator performance. Though, in theory, any amount of free gas could be separated from the liquid, the reality is that this is not practical given the design and operating parameters of separation units operating in the field.

We believe that having no threshold may create a significant burden for operators to control emissions for these wells with just a trace of gas. EIA data show that the number of ''oil only'' wells drilled from 2007–2012 was less than 20 percent.[92] The potential emission characteristic of oils with a GOR of 300 is relevant when deciding whether this is a reasonable threshold. Primarily, the concern is volatility. The threshold must be low enough that the oil produced is considered non-volatile. Non-volatile ''black oils'' (oil likely to not have gases or light hydrocarbons associated with it) are generally defined as having GOR values in the range of 200 to 900.[93] Therefore, oil wells with GORs less than 300 are at the lower end of this range, and will not likely have enough gas associated that it can be separated. Therefore, the EPA is proposing that the NSPS requirements for well completions do not apply to completions wells with hydraulic fracturing that have a GOR of less than 300 scf/barrel.

We are soliciting comment on whether the well completion provisions of the proposed rule can be implemented on the effective date of the rule in the event of potential shortage of REC equipment and, if not, how a phase in could be structured. We believe that there will be a sufficient supply of REC equipment available by the time the NSPS becomes effective. However, we request comment on whether sufficient supply of this equipment and personnel to operate it will be available to accommodate the increased number of RECs by the effective date of the NSPS. We also request specific estimates of how much time would be required to get enough equipment in operation to accommodate the full number of RECs performed annually. In the event that public comments indicate that available equipment would likely be insufficient to accommodate the increase in number of REC performed, we are considering phasing in requirements for well completions in the final rule. Such a phased in approach could be structured

[87] The EPA received six peer review comments and several submissions of technical information and data on this paper, available for review at *http://www.epa.gov/airquality/oilandgas/whitepapers.html*.

[88] Following publication of the 2012 NSPS, EPA received a joint petition for administrative reconsideration of the rule. The petitioners questioned the technical merits of the low pressure well definition and asserted that the public had not had an opportunity to comment on the definition. EPA re-proposed the definition of ''low pressure gas well,'' on March 23, 2015 (80 FR 15180), and took comment on IPAA's alternative definition. EPA has finalized this definition in a separate action.

[89] Many of these data are available in the DrillingInfo database. More information is available at: *http://info.drillinginfo.com*.

[90] For the purposes of this discussion, we define 'low production well' as a well with an average daily production of 15 barrel equivalents or less. This reflects the definition of a stripper well property in IRC 613A(c)(6)(E).

[91] On February 24, 2015, API submitted a comment to EPA stating that oil wells with GOR values less than 300 do not have sufficient gas to operate a separator. *http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2014-0831-0137*.

[92] *http://www.eia.gov/todayinenergy/detail.cfm?id=13571#*.

[93] *http://petrowiki.org/Oil_fluid_characteristics*.

begin conducting fugitive emissions monitoring.

We received new information indicating that some companies could experience logistical challenges with the availability of OGI instrumentation and qualified OGI technicians and operators to perform monitoring surveys and in some instances repairs. We solicit comment on both the availability of OGI instruments and the availability of qualified OGI technicians and operators to perform surveys and repairs.

We are proposing to exclude low production well sites (i.e., a low production site is defined by the average combined oil and natural gas production for the wells at the site being less than 15 barrels of oil equivalent (boe) per day averaged over the first 30 days of production) [106] from the standards for fugitives emissions from well sites. We believe the lower production associated with these wells would generally result in lower fugitive emissions. It is our understanding that fugitive emissions at low production well sites are inherently low and that such well sites are mostly owned and operated by small businesses. We are concerned about the burden of the fugitive emission requirement on small businesses, in particular where there is little emission reduction to be achieved. To more fully evaluate the exclusion, we solicit comment on the air emissions associated with low production wells, and the relationship between production and fugitive emissions. Specifically, we solicit comment on the relationship between production and fugitive emissions over time. While we have learned that a daily average of 15 barrel per day is representative of low production wells, we solicit comment on the appropriateness of this threshold for applying the standards for fugitive emission at well sites. Further, we solicit comment on whether EPA should include low production well sites for fugitive emissions and if these types of well sites are not excluded, should they have a less frequent monitoring requirement.

We are also requesting comment on whether there are well sites that have inherently low fugitive emissions, even when a new well is drilled or a well site is fractured or refractured and, if so, descriptions of such type(s) of well sites. The proposed standards are not intended to cover well sites with no fugitive emissions of methane or VOC. We are aware that some sites may have inherently low fugitive emissions due to the characteristics of the site, such as the gas to oil ratio of the wells or the specific types of equipment located on the well site. We solicit comment on these characteristics and data that would demonstrate that these sites have low methane and VOC fugitive emissions.

We are requesting comment on whether there are other fugitive emission detection technologies for fugitive emissions monitoring, since this is a field of emerging technology and major advances are expected in the near future. We are aware of several types of technologies that may be appropriate for fugitive emissions monitoring such as Geospatial Measurement of Air Pollutants using OTM–33 approaches (*e.g.,* Picarro Surveyor), passive sorbent tubes using EPA Methods 325A and B, active sensors, gas cloud imaging (*e.g.,* Rebellion photonics), and Airborne Differential Absorption Lidar (DIAL). Therefore, we are specifically requesting comments on details related to these and other technologies such as the detection capability; an equivalent fugitive emission repair threshold to what is required in the proposed rule for OGI; the frequency at which the fugitive emissions monitoring surveys should be performed and how this frequency ensures appropriate levels of fugitive emissions detection; whether the technology can be used as a stand-alone technique or whether it must be used in conjunction with a less frequent (and how frequent) OGI monitoring survey; the type of restrictions necessary for optimal use; and the information that is important for inclusion in a monitoring plan for these technologies.

2. Fugitive Emissions From Compressor Stations

Fugitive emissions at compressor stations in the oil and natural gas source category may occur for many reasons (*e.g.,* when connection points are not fitted properly, or when seals and gaskets start to deteriorate). Changes in pressure and mechanical stresses can also cause fugitive emissions. Potential sources of fugitive emissions include agitator seals, distance pieces, crank case vents, blowdown vents, connectors, pump seals or diaphragms, flanges, instruments, meters, open-ended lines, pressure relief devices, valves, open thief hatches or holes in storage vessels, and similar items on glycol dehydrators (*e.g.,* pumps, valves, and pressure relief devices). Equipment that vents as part of normal operations, such as gas driven pneumatic controllers, gas driven pneumatic pumps or the normal operation of blowdown vents are not considered to be sources of fugitive emissions.

Based on our review of the public and peer review comments on the white paper and the Colorado and Wyoming state rules, we believe that there are two options for reducing methane and VOC fugitive emissions at compressor stations: (1) A fugitive emissions monitoring program based on individual component monitoring using EPA Method 21 for detection combined with repairs, or (2) a fugitive emissions monitoring program based on the use of OGI detection combined with repairs. Several public and peer reviewer comments on the white paper noted that these technologies are currently used by industry to reduce fugitive emissions from the production segment in the oil and natural gas industry.

Each of these control options are evaluated below based on varying the frequency of conducting the monitoring survey and fugitive emissions repair threshold (*e.g.,* the specified concentration when using Method 21 or visible identification of methane or VOC when an OGI instrument is used). For our analysis, we considered quarterly, semiannual and annual monitoring frequencies. For Method 21, we considered 10,000 ppm, 2,500 ppm and 500 ppm fugitive repair thresholds. The leak definitions for other NSPS referencing Method 21 range from 500–10,000 ppm. Therefore, we selected 500 ppm, 2,500 ppm and 10,000 ppm. For OGI, we considered visible emissions as the fugitive repair threshold (*i.e.,* emissions that can be seen using OGI). EPA's recent work with OGI indicate that fugitive emissions at a concentration of 10,000 ppm are generally detectable using OGI instrumentation, provided that the right operating conditions (*e.g.,* wind speed and background temperature) are present. Work is ongoing to determine the lowest concentration that can be reliably detected using OGI.[107]

In order to estimate fugitive emissions from compressor stations, we used component counts from the GRI/EPA report [108] for each of the compressor station segments. Fugitive emission factors from AP–42 [109] were used to estimate emissions from gathering and boosting stations in the production

[106] For the purposes of this discussion, we define 'low production well' as a well with an average daily production of 15 barrel equivalents or less. This reflects the definition of a stripper well property in IRC 613A(c)(6)(E).

[107] Draft Technical Support Document Appendices, Optical Gas Imaging Protocol (40 CFR part 60, Appendix K), August 11, 2015.

[108] Gas Research Institute/U.S. Environmental Protection Agency, Research and Development, Methane Emission Factors from the Natural Gas Industry, Volume 8, Equipment Leaks, June 1996 (EPA–600/R–96–080h).

[109] Environmental Protection Agency, Protocol for Equipment Leak Emission Estimates, Table 2–4, November 1995 (EPA–453/R–95–017).

Attachment 4

U.S. EPA, Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources, **Background Technical Support Document** for the Final New Source Performance Standards (May 2016) (excerpts)

Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources

Background Technical Support Document for the

Final New Source Performance Standards

40 CFR Part 60, subpart OOOOa

May, 2016

Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources

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1.0 INTRODUCTION

This background technical support document (TSD) provides information relevant to the development of the final rule Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources. The final rule establishes GHG standards, in the form of limitations on methane, for certain sources that are currently regulated for VOC but not GHG. It also establishes both VOC and GHG standards certain sources that are currently unregulated for either emissions.

Chapter 2 presents an overview of the oil and natural gas sector and source category. This chapter is intended to provide introductory material on the oil and natural gas source category, as listed under section 111(b)(1)(A).

The remainder of the TSD is presented in two volumes; Volume 1 provides the unit-level analysis supporting the determination of the best system of emission reduction (BSER); and Volume 2 presents the national impacts of the regulatory decisions for the final rule.

1.1 Volume 1 - Unit-Level BSER Analysis

Chapters 3 through Chapter 7 present detailed information and analyses pertaining to each emissions source that was considered in this regulatory action. They include emission data and discussions of available control options and their costs that are considered in the development of standards reflecting the BSER for these emission sources.

1.2 Volume 2 - National Level Impacts

Chapters 8 through Chapter 15 present the estimates of national level impacts needed to inform the Preamble of the final rule and the Regulatory Impact Analysis (RIA) for the rule, as required under Executive Order 12866. Specifically, each chapter summarizes the national baseline, nationwide emission reductions and cost impacts for use in the Preamble and RIA. It is important to note that that national impacts estimates incorporate in to the baseline the fact that some states already have requirements of emissions sources addressed by this final rule. Further, this analysis is separate and apart from the analyses required to identify the BSER based on which standards are to be established under section 111(b) of the CAA. Chapter 13 summarizes the natural gas savings from the application of emissions controls.

Finally, the Appendix to the TSD provides technical information on the background and development of the low pressure well equation.

Attachment 5

U.S. EPA, Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: **Three Month Stay of Certain Requirements, Proposed Rule**, 82 Fed. Reg. 27,641 (June 16, 2017)

morning or afternoon, or before 11 a.m. or after 3 p.m.). We will attempt to accommodate each speaker's preference, but, if we are unable to do so, we will make the determination on a first-come first-served basis, based on the time and date the email was received. It is likely that each participant will be limited to five minutes. The Department will notify registrants of the location and time slot reserved for them. An individual may make only one presentation at the public hearings. If we receive more registrations than we are able to accommodate, the Department reserves the right to reject the registration of an entity or individual that is affiliated with an entity or individual that is already scheduled to present comments, and to select among registrants to ensure that a broad range of entities and individuals is allowed to present. We will accept walk-in registrations for any remaining time slots on a first-come first-served basis, beginning at 8:30 a.m. on the day of the public hearing at the Department's on-site registration table. Registration is not required to observe the public hearings; however, space may be limited.

The Department will post transcripts of the hearings to *www2.ed.gov/policy/highered/reg/hearulemaking/2017/index.html.* Although the Department will not be videoing the hearings, as this is a public meeting, speakers should be aware that they may be filmed or recorded by members of the public.

Speakers may submit written comments at the public hearings. In addition, the Department will accept written comments via the Federal eRulemaking portal, and by postal mail, commercial delivery, or hand delivery, through July 12, 2017. (See the **ADDRESSES** section of this document for submission information.)

Schedule for Negotiations

We anticipate that any committees established after the public hearings will begin negotiations in November or December of 2017, with the committees meeting for up to three sessions of three to four days each at roughly five- to eight-week intervals. The committees will meet in the Washington, DC area. The dates and locations of these meetings will be published in a subsequent notice in the **Federal Register**, and will be posted on the Department's Web site at: *www2.ed.gov/policy/highered/reg/hearulemaking/2017/index.html.*

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Program Authority: 20 U.S.C. 1098a.

Dated: June 13, 2017.

Kathleen A. Smith,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 2017–12555 Filed 6–14–17; 11:15 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2017–0346; FRL–9963–82–OAR]

RIN 2060–AT65

Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Three Month Stay of Certain Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to stay for three months certain requirements that are contained within the Final Rule titled ''Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources,'' published in the **Federal Register** on June 3, 2016 (2016 Rule). On June 5, 2017, the EPA published a notice that, in accordance with the Clean Air Act (CAA), the EPA stayed for three initial months the fugitive emissions requirements, well site pneumatic pump standards, and requirements for certification of closed vent systems by a professional engineer. The EPA granted reconsideration after considering specific objections to these requirements. In a separate notice published today, the EPA is proposing a stay for two years, providing the EPA sufficient time to propose, take public comment, and issue a final action on the issues concerning the specific requirements on which EPA has granted reconsideration. The two-year proposed stay published today, if finalized as proposed, would likely be determined to be a major rule under the Congressional Review Act and therefore will not take effect until sixty days after publication or after Congress receives the rule report, whichever is later. Therefore, while the EPA intends to complete that rulemaking and take final action before the initial three-month stay expires, there may potentially be a gap between the two stays due to the sixty-day delay in effectiveness of that action. To avoid such a potential gap, and the resulting confusion, in this action the EPA is proposing a three-month stay which would not qualify as a major rule and could become effective upon publication. The EPA prepared an Economic Impact Analysis for this proposal, which is available in Docket ID EPA–HQ–OAR–2017–0346. The EPA is seeking comment pertaining to this stay and its duration. The EPA is also seeking comment on if a four-month stay may be more appropriate to ensure continuity of the stay. The EPA is not taking comment at this time on substantive issues concerning these requirements, or on any of the other provisions subject to the reconsideration.

DATES: Comments must be received on or before July 17, 2017. If a hearing is requested on this proposed rule, written comments must be received on or before August 9, 2017.

Public Hearing. A public hearing will be held, if requested by June 21, 2017, to accept oral comments on this proposed action. If a hearing is requested, it will be held at the EPA's Washington, DC campus located at 1201 Constitution Avenue NW., Washington, DC. The hearing, if requested, will begin at 9 a.m. (local time) and will conclude at 4 p.m. (local time) on July 10, 2017. To request a hearing, to register to speak at a hearing, or to inquire if a hearing will be held, please contact Aimee St. Clair at (919) 541–1063 or by email at *stclair.aimee@epa.gov.*

Any updates made to any aspect of the hearing, including whether or not a hearing will be held, will be posted

online at *https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/actions-and-notices-about-oil-and-natural-gas#regactions.* In addition, you may contact Aimee St. Clair at (919) 541–1063 or email at *stclair.aimee@epa.gov* with public hearing inquiries. The EPA does not intend to publish a notice in the **Federal Register** announcing any such updates. Please go to *https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/actions-and-notices-about-oil-and-natural-gas#regactions* for more information on the public hearing.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2017–0346, to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Mr. Peter Tsirigotis, Sector Policies and Programs Division (D205–01), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (888) 627–7764; email address: *airaction@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On June 3, 2016, the EPA published a final rule titled ''Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources; Final Rule,'' at 81 FR 35824 (''2016 Rule''). The 2016 Rule establishes new source performance standards (NSPS) for greenhouse gas emissions and volatile organic compound (VOC) emissions from the oil and natural gas sector. This rule addresses, among other things, fugitive emissions at well sites and compressor stations (''fugitive emissions requirements'') and emissions from pneumatic pumps. In addition, for a number of affected facilities (*i.e.,* centrifugal compressors, reciprocating compressors, pneumatic pumps, and storage vessels), the rule requires certification by a professional engineer of the closed vent system design and capacity, as well as any technical infeasibility determination relative to controlling pneumatic pumps at well sites. For further information on the 2016 Rule, see 81 FR 35824 (June 3, 2016) and associated Docket ID No. EPA–HQ–OAR–2010–0505.

On August 2, 2016, a number of interested parties submitted administrative petitions to the EPA seeking reconsideration of various aspects of the 2016 Rule pursuant to section 307(d)(7)(B) of the CAA (42 U.S.C. 7607(d)(7)(B)).[1] Those petitions include numerous objections relative to the fugitive emissions requirements, well site pneumatic pump standards, and the requirements for certification by professional engineer.

In accordance with section 307(d)(7)(B) of the CAA, the Administrator shall convene a reconsideration proceeding if, in the Administrator's judgment, the petitioner raises an objection to a rule that was impracticable to raise during the comment period or if the grounds for the objection arose after the comment period but within the period for judicial review, and the objection is of central relevance to the outcome of the rule. The Administrator may stay the effectiveness of the rule for up to three months during such reconsideration.

In a letter dated April 18, 2017, based on the criteria in CAA section 307(d)(7)(B), the Administrator convened a proceeding for reconsideration of the following objections relative to the fugitive emissions requirements: (1) The process and criteria for requesting and receiving approval for the use of an alternative means of emission limitations (AMEL) for purposes of compliance with the fugitive emissions requirements in the 2016 Rule; and (2) the applicability of the fugitive emissions requirements to low production well sites.[2]

After issuing the April 18, 2017, letter, in a notice published June 5, 2017, the EPA identified objections to two other aspects of the 2016 Rule that meet the criteria for reconsideration under section 307(d)(7)(B) of the CAA. These objections relate to (1) the requirements for certification of closed vent system by professional engineer (''PE certification requirement''); and (2) the well site pneumatic pump standards. As part of the administrative reconsideration proceeding, the EPA will prepare a notice of proposed rulemaking that will provide the petitioners and the public an opportunity to comment on the fugitive emissions requirements, well site pneumatic pump standards, and the requirements for certification by professional engineer, and the issues associated with these requirements.

In the notice published June 5, 2017, the EPA stayed the fugitive emissions requirements, the well site pneumatic pumps requirements, and the requirements for certification of closed vent system by professional engineer for three months pursuant to section 307(d)(7)(B) of the CAA. That initial stay is effective from June 2, 2017, to August 31, 2017. When we have issued similar stays in the past, it has often been our practice to also propose a longer stay through a rulemaking process. See, *e.g.,* 74 FR 36427 (July 23, 2009).

In a separate action published today, the EPA is proposing to stay these requirements for two years. This proposed two-year stay will provide the EPA with sufficient time to propose, take public comment, and issue a final action on the issues concerning the specific requirements on which EPA has granted reconsideration. During the two year proposed stay, the EPA also plans to complete its reconsideration process for all remaining issues raised in these reconsideration petitions regarding fugitive emissions, pneumatic pumps, and certification by professional engineer requirements. For the reasons stated below, in this document the EPA is issuing a proposal to stay these requirements for three months. This stay would take effect upon the date of publication of the final rule in the **Federal Register**.

II. The Proposed Action

The two-year proposed stay published today, if finalized as proposed, would likely be determined to be a major rule under the Congressional Review Act and therefore under section 801 of that Act may not take effect until sixty days after publication or after Congress receives the rule report, whichever is later.

[1] Copies of these petitions are included in the docket for the 2016 Rule, Docket ID No. EPA–HQ–OAR–2010–0505.

[2] See Docket ID No. EPA–HQ–OAR–2010–0505–7730.

Therefore, while the EPA intends take final action on that rulemaking before the initial three-month stay of these requirements expires, there could potentially be a gap in the stay due to the sixty-day delay in the effectiveness of that action. Such a gap would create unnecessary burden and confusion as to what regulatory requirements are in effect and what regulated entities must do during the reconsideration proceeding. Therefore, to avoid such a potential gap, in this document the EPA is proposing a three-month stay, which is not a major rule under the CRA and could become effective upon publication. The EPA intends to publish the final rule on or before the expiration of the initial three-month stay.

Note that we are not taking comment at this time on substantive issues concerning these requirements, or on any of the other provisions subject to the reconsideration. This notice simply proposes to stay the specified requirements for three months. The EPA is seeking comment pertaining to this stay and its duration. Given the importance of not introducing a gap in the stay, the EPA is also requesting comment on whether a four-month stay may be appropriate. A separate **Federal Register** notice published in the near future will specifically solicit comment on substantive issues concerning these requirements.

III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review because it raises novel legal or policy issues. Any changes made in response to OMB recommendations have been documented in the docket.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing 40 CFR part 60, subpart OOOO and has assigned OMB control number 2060–0673. The information collection requirements in the final 40 CFR 60, subpart OOOOa have been submitted for approval to the OMB under the PRA. The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR 2523.01. This action does not result in changes to the approved ICR for subpart OOOO or the submitted ICR for subpart OOOOa, so the information collection estimates of project cost and hour burdens have not been revised.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This action proposes a limited stay for certain requirements. This proposed stay will not increase the burden on small entities subject to this rule. The EPA prepared a final RFA analysis for the 2016 Rule, which is available as part of the Regulatory Impact Analysis in the docket at Docket ID No. EPA–HQ–OAR–2010–0505–7630. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is subject to Executive Order 13045 because it is a significant regulatory action as defined by Executive Order 12866, and the EPA believes that the environmental health or safety risk addressed by this action may have a disproportionate effect on children. Because this action merely proposes to delay action and does not change the requirements of the final rule, this action will not change any impacts of the rule when it is fully implemented. Any impacts on children's health caused by the delay in the rule will be limited, because the length of the proposed stay is limited. The agency therefore believes it is more appropriate to consider the impact on children's health in the context of any substantive changes proposed as part of reconsideration.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. The basis for this determination can be found in the 2016 Rule (81 FR 35894).

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Because this action merely proposes to delay action and does not change the requirements of the final rule, this action will not change any impacts of the rule when it is fully implemented. Any impacts on minority populations and low-income populations caused by the delay in the rule will be limited, because the length of the proposed stay is limited. The agency therefore believes it is more appropriate to consider the impact on minority populations and low-income populations in the context of any substantive changes proposed as part of reconsideration.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping.

Dated: June 12, 2017.

E. Scott Pruitt,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart OOOOa—[AMENDED]

■ 2. Section 60.5393a is amended by:

■ a. Staying paragraphs (b) and (c) from [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] until [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**]; and

b. Adding paragraph (f).

The addition reads as follows:

§ 60.5393a What GHG and VOC standards apply to pneumatic pump affected facilities?

* * * * *

(f) Pneumatic pumps at a well site are not subject to the requirements of paragraphs (d) and (e) of this section from [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] until [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

§ 60.5397a [AMENDED]

3. Section 60.5397a is stayed from [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] until [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

4. Section 60.5410a is amended by:

a. Staying paragraphs (e)(2) through (5) from [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] until [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**];

b. Adding paragraph (e)(8); and

c. Staying paragraph (j) from [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] until [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

The addition reads as follows:

§ 60.5410a How do I demonstrate initial compliance with the standards for my well, centrifugal compressor, reciprocating compressor, pneumatic controller, pneumatic pump, storage vessel, collection of fugitive emissions components at a well site, collection of fugitive emissions components at a compressor station, and equipment leaks and sweetening unit affected facilities at onshore natural gas processing plants?

* * * * *

(e) * * *

(8) Pneumatic pump affected facilities at a well are not subject to the requirements of paragraphs (e)(6) and (7) of this section from [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] until [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

* * * * *

■ 5. Section 60.5411a is amended by:

■ a. Revising the introductory text;

■ b. Staying paragraph (d) from [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] until [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**]; and

■ c. Adding paragraph (e).

The revision and addition read as follows:

§ 60.5411a What additional requirements must I meet to determine initial compliance for my covers and closed vent systems routing emissions from centrifugal compressor wet seal fluid degassing systems, reciprocating compressors, pneumatic pumps and storage vessels?

You must meet the applicable requirements of this section for each cover and closed vent system used to comply with the emission standards for your centrifugal compressor wet seal degassing systems, reciprocating compressors, pneumatic pumps and storage vessels except as provided in paragraph (e) of this section.

* * * * *

(e) Pneumatic pump affected facilities at a well site are not subject to the requirements of paragraph (a) of this section from [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] until [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

6. Section 60.5415a is amended by:

a. Revising paragraph (b) introductory text and adding paragraph (b)(4); and

b. Staying paragraph (h) from [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] until [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

The revision and addition read as follows:

§ 60.5415a How do I demonstrate continuous compliance with the standards for my well, centrifugal compressor, reciprocating compressor, pneumatic controller, pneumatic pump, storage vessel, collection of fugitive emissions components at a well site, and collection of fugitive emissions components at a compressor station affected facilities, and affected facilities at onshore natural gas processing plants?

* * * * *

(b) For each centrifugal compressor affected facility and each pneumatic pump affected facility, you must demonstrate continuous compliance according to paragraph (b)(3) of this section except as provided in paragraph (b)(4) of this section. For each centrifugal compressor affected facility, you also must demonstrate continuous compliance according to paragraphs (b)(1) and (2) of this section.

* * * * *

(4) Pneumatic pump affected facilities at a well site are not subject to the requirements of paragraph (b)(3) of this section from [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] until [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

* * * * *

7. Section 60.5416a is amended by revising the introductory text and adding paragraph (d) to read as follows:

§ 60.5416a What are the initial and continuous cover and closed vent system inspection and monitoring requirements for my centrifugal compressor, reciprocating compressor, pneumatic pump, and storage vessel affected facilities?

For each closed vent system or cover at your storage vessel, centrifugal compressor, reciprocating compressor and pneumatic pump affected facilities, you must comply with the applicable requirements of paragraphs (a) through (c) of this section, except as provided in paragraph (d) of this section.

* * * * *

(d) Pneumatic pump affected facilities at a well site are not subject to the requirements of paragraphs (a) and (b) of this section from [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] until [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

8. Section 60.5420a is amended by:

a. Revising paragraph (b) introductory text;

b. Staying paragraphs (b)(7), (8), and (12) from [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] until [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**];

c. Adding paragraph (b)(13); and

d. Staying paragraphs (c)(15) through (17) from [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] until [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

The revision and addition read as follows:

§ 60.5420a What are my notification, reporting, and recordkeeping requirements?

* * * * *

(b) *Reporting requirements.* You must submit annual reports containing the information specified in paragraphs (b)(1) through (8) and (12) of this section and performance test reports as specified in paragraph (b)(9) or (10) of this section, if applicable, except as provided in paragraph (b)(13) of this section. You must submit annual reports following the procedure specified in paragraph (b)(11) of this section. The initial annual report is due no later than 90 days after the end of the initial compliance period as determined according to § 60.5410a. Subsequent annual reports are due no later than same date each year as the initial annual report. If you own or operate more than one affected facility, you may submit one report for multiple affected facilities provided the report contains all of the information required as specified in paragraphs (b)(1) through (8) of this section, except as provided in paragraph (b)(13) of this section. Annual reports may coincide with title V reports as long as all the required elements of the annual report are included. You may arrange with the Administrator a common schedule on which reports required by this part may be submitted as long as the schedule does not extend the reporting period.

* * * * *

(13) The collection of fugitive emissions components at a well site (as defined in § 60.5430a), the collection of fugitive emissions components at a compressor station (as defined in § 60.5430a), and pneumatic pump affected facilities at a well site (as defined in § 60.5365a(h)(2)) are not subject to the requirements of paragraph (b)(1) of this section from [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] until [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

* * * * *

[FR Doc. 2017–12473 Filed 6–15–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2010–0505; FRL–9963–36–OAR]

RIN 2060–AT59

Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Stay of Certain Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to stay for two years certain requirements that are contained within the Final Rule titled ''Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources,'' published in the **Federal Register** on June 3, 2016 (2016 Rule). On June 5, 2017, the EPA published a notice that it stayed for three months the; fugitive emissions requirements, well site pneumatic pump standards, and the requirements for certification of closed vent systems by a professional engineer in accordance with the Clean Air Act (CAA). The EPA has granted reconsideration based on specific objections to these requirements. The proposed stay discussed in this action, which follows the three-month stay, would provide the EPA sufficient time to propose, take public comment, and issue a final action on the issues concerning the specific requirements on which EPA has granted reconsideration. During this time, the EPA also plans to complete its reconsideration process for all remaining issues raised in these reconsideration petitions regarding fugitive emissions, pneumatic pumps, and certification by professional engineer requirements. The EPA acknowledges that the administrative reconsideration petitions include additional issues regarding these three requirements other than the issues for which we specifically have granted reconsideration. In addition, since the publication of the 2016 Rule, the EPA has received numerous questions relative to the implementation of these three requirements. During the reconsideration proceeding, the EPA intends to look broadly at the entire 2016 Rule. The EPA believes that addressing all of these issues at the same time would provide clarity and certainty for the public and the regulated community with regard to these requirements. The EPA is seeking comment pertaining to this stay and its duration and impact. The EPA is not taking comment at this time on substantive issues concerning these requirements, or on any of the other provisions subject to the reconsideration.

DATES: Comments must be received on or before July 17, 2017. If a hearing is requested on this proposed rule, written comments must be received on or before August 9, 2017.

Public Hearing. A public hearing will be held, if requested by June 21, 2017, to accept oral comments on this proposed action. If a hearing is requested, it will be held at the EPA's Washington, DC campus located at 1201 Constitution Avenue NW., Washington, DC. The hearing, if requested, will begin at 9 a.m. (local time) and will conclude at 4 p.m. (local time) on July 10, 2017. To request a hearing, to register to speak at a hearing, or to inquire if a hearing will be held, please contact Aimee St. Clair at (919) 541–1063 or by email at *stclair.aimee@epa.gov.*

Any updates made to any aspect of the hearing, including whether or not a hearing will be held, will be posted online at *https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/actions-and-notices-about-oil-and-natural-gas#regactions.* In addition, you may contact Aimee St. Clair at (919) 541–1063 or email at *stclair.aimee@epa.gov* with public hearing inquiries. The EPA does not intend to publish a notice in the **Federal Register** announcing any such updates. Please go to *https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/actions-and-notices-about-oil-and-natural-gas#regactions* for more information on the public hearing.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2010–0505, to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment

Attachment 6

U.S. EPA, **Regulatory Impact Analysis** of the Final Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources (May 2016) (excerpts)

Regulatory Impact Analysis of the Final Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources

programs be performed annually at the affected newly drilled or refractured oil and natural gas well sites, and semiannually at new or modified gathering and boosting stations and new or modified transmission and storage compressor stations. Fewer surveys being performed leads to lower costs and emissions reductions than under the selected Option 2. Finally, the more stringent Option 3 requires quarterly monitoring for all sites under the fugitive emissions program. More frequent surveys result in higher costs and higher emissions reductions than Option 2.

3.4.2 Projection of Incrementally Affected Facilities

The second step in estimating national costs and emissions impacts of the final rule is projecting the number of incrementally affected facilities. Incrementally affected facilities are facilities that would be expected to change their emissions control activities as a result of the NSPS. Facilities in states with similar state-level requirements and facilities with only recordkeeping requirements are not included within incrementally affected facilities.

The years of analysis are 2020, to represent the near-term impacts of the rule, and 2025, to represent impacts of the rule over a longer period. Therefore, the emissions reductions, benefits, and costs by 2020 and 2025 (i.e., including all emissions reductions, costs, and benefits in all years from 2016 to 2025) would be potentially significantly greater than the estimated emissions reductions, benefits, and costs provided within this rule. Affected facilities are facilities that are new or modified since the proposal in September 2015. In 2020, affected facilities are those that are newly established or modified in 2020, as well as those that have accumulated between 2016 and 2019. Over time, more facilities are newly established or modified in each year, and to the extent the facilities remain in operation in future years, the total number of facilities subject to the NSPS accumulates. In 2025, affected facilities include facilities newly established or modified in 2025, and also facilities which were newly established or modified from 2016 through 2024 and are still operating in 2025. The analysis has assumed that all new equipment and facilities established from 2016 through 2024 are still in operation in 2025. This approach differs from the way affected facilities were estimated in the proposal RIA. At proposal, 2020 was assumed to represent a single year of potential impacts, and 2025 included newly established or modified facilities from 2020 through 2024. This methodological

change results in a higher estimate of the number of affected facilities than at proposal and better represents the impacts of the rule.

The EPA has projected affected facilities using a combination of historical data from the U.S. GHG Inventory, and projected activity levels taken from the Energy Information Administration (EIA) Annual Energy Outlook (AEO). The EPA derived typical counts for new compressors, pneumatic controllers, and pneumatic pumps by averaging the year-to-year changes over the past ten years in the GHG Inventory. New and modified hydraulically fractured oil well completions and wellsites are based on projections and growth rates consistent with the drilling activity in the Annual Energy Outlook. For the final RIA, the projections have been updated to reflect the projections in the 2015 Annual Energy Outlook. In addition, while the projections used in the proposal RIA were based on the long-term growth trajectory from 2012 to 2025, the current analysis is based on the full times series in the 2015 AEO reference scenario.

The 2015 Annual Energy Outlook was the most recent projection available at the time the analysis underlying this RIA was being prepared. The 2015 AEO includes the growth in U.S. crude oil production over the last two years, along with the late-2014 drop in global crude oil prices, and reflects how these factors have altered the economics of the oil market. In comparison to the 2014 AEO reference case, the 2015 AEO reference case shows higher crude oil production (18 percent higher for 2025 in the 2015 AEO), slightly lower natural gas production (about 4 percent lower for 2025 in the 2015 AEO), lower Brent spot and West Texas Intermediate crude oil prices, and lower total wells drilled in the lower 48 states (about 20 percent lower for 2025 in the 2015 AEO).

While it is desirable to analyze impacts beyond 2025 in this RIA, the EPA has chosen not to largely because of the limited information available on the turnover rate of emissions sources and controls. For this RIA, we have used the U.S. EIA's National Energy Modelling System (NEMS) to generate a limited set of future year projections to inform impact estimates for subset of affected sources. We also used the model to estimate key market impacts of the rules, based upon EPA's parameterization of regulatory costs and natural gas capture in the model. While NEMS produces highly regarded projections of production and well drilling, and is useful to estimate market impacts of the NSPS, it is not a compliance model and does not directly model

affected units. In addition, in a dynamic industry like oil and natural gas, technological progress in control technology is also likely to be dynamic. These factors make it reasonable to use 2025 as the latest year of analysis as extending the analysis beyond 2025 would introduce substantial and increasing uncertainties in projected impacts of the NSPS.

We also reviewed state regulations and permitting requirements which require mitigation measures for many emission sources in the oil and natural gas sector. State regulations in Colorado and Wyoming both require RECs for hydraulically fractured oil and gas wells, and North Dakota requires combustion of completion emissions. Sources in Colorado, Wyoming, Utah, and Ohio are subject to fugitive emissions requirements. Applicable facilities in these states are not included in the estimates of incrementally affected facilities presented in the RIA, as sources in those states are already subject to similar requirements to the federal standards. This means that any additional costs and benefits incurred by facilities in these states to comply with the federal standards beyond the state requirements (e.g., to comply with the on-site separator requirement) are not reflected in this RIA. A more detailed discussion on the derivation of the baseline for this rule is presented for each emissions source in the TSD. In section 4.3.1 of the TSD, Table 4-3 provides a detailed breakout of affected oil well completions.

Table 3-2 Incrementally Affected Sources under Final NSPS, 2016 to 2025 on an Annual Basis

	Incrementally Affected Sources[1]									
Emissions Sources	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**
Oil Well Completions and Recompletions	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	14,000	14,000
Fugitive Emissions	19,000	19,000	19,000	19,000	19,000	19,000	19,000	20,000	20,000	21,000
Pneumatic Pumps	790	790	790	790	790	790	790	790	790	790
Compressors	33	33	33	33	33	33	33	33	33	33
Pneumatic Controllers	96	96	96	96	96	96	96	96	96	96
Total	32,000	32,000	33,000	33,000	33,000	33,000	33,000	34,000	35,000	35,000

[1] Incrementally affected sources includes sources that have to change their control activity as a result of the rule. The table does not include estimate counts of a) affected facilities in states with similar state-level requirements to the NSPS, b) facilities with only recordkeeping requirements, or c) replacement or modification of existing sources except in the case of oil well completions and fugitive emissions at wellsites.

Table 3-2 presents the number of affected sources for each year of analysis after generally accounting for state regulations. In addition to the caveats regarding facilities affected by state regulations described above, facilities with only recordkeeping requirements are also not

included within incrementally affected facilities (e.g., wells with low GOR are not included in the estimate of facilities affected by the oil well completion requirements).

Table 3-3 Total Number of Affected Sources for the NSPS in 2020 and 2025

	Affected Sources[1]	
Emissions Sources	**2020**	**2025**
Hydraulically Fractured and Re-fractured Oil Well Completions	13,000[3]	14,000[3]
Fugitive Emissions	94,000	190,000
Pneumatic Pumps	3,900	7,900
Compressors	170	330
Pneumatic Controllers	480	960
Total[2]	110,000	220,000

[1] In addition to newly affected sources in 2020, total affected sources in 2020 include sources that become affected in the 2016-2019 period and are assumed to be in continued operation in 2020. Similarly, affected sources in 2025 reflect sources newly constructed or modified from 2016 to 2025, assumed to still be in operation in 2025. The table does not include estimate counts of: a) affected facilities in states already regulating those sources, b) facilities with only recordkeeping requirements, or c) replacement or modification of existing sources except for oil well completions and fugitive emissions at wellsites. Estimates are rounded to two significant digits.
[2] Totals may not sum due to independent rounding.
[3] Affected oil well completions include a mix of RECs and flaring based on subcategory and technical infeasibility criteria. Exploratory and delineation wells are required to combust emissions. Of development oil well completions, 50% are estimated to be feasible to perform a REC; the remainder would combust emissions (either because they are unable to implement a REC due to low pressure or other technical infeasibility reasons). See section 4.3.1 of the TSD for a detailed breakout of affected oil well completions

Table 3-3 presents estimates of the total number of affected sources for this final rule. Note that hydraulically fractured and re-fractured oil well completions do not grow significantly from 2020 to 2025, while other sources do. This is a result of completions being a one-time activity in a given year, while other sources are affected and remain affected as they continue to operate, thus these sources accumulate over time. The estimates for hydraulically fractured and re-fractured oil well completions and fugitive emissions at wellsites (a large fraction of the incrementally affected sources under the fugitive emissions provisions) include both new and modified sources.

The estimates for other sources are based upon projections of new sources alone, and do not include replacement or modification of existing sources. While some of these sources are unlikely to be modified, particularly pneumatic pumps and controllers, the impact estimates may be under-estimated due to the focus on new sources. In the proposal, the EPA solicited comments on these projection methods as well as solicits information that would improve our

estimate of the turnover rates or rates of modification of relevant sources, as well as the number of wells on wellsites. While the EPA received comments on the projection methods used in the proposal RIA, we did not receive comments with sufficient information to further incorporate modification and turnover in the projection methodologies. The EPA has modified its methodology for using historical inventory information to estimate new sources reflecting comments received, resulting in lower estimates of the number of new compressor stations, pumps, compressors, and pneumatic controllers constructed each year. Newly constructed affected facilities are estimated based on averaging the year-to-year changes in the past 10 years of activity data in the Greenhouse Gas Inventory for compressor stations, pneumatic pumps, compressors, and pneumatic controllers. At proposal, this was done by averaging the increasing years only. The approach was modified to average the number of newly constructed units in all years. In years when the total count of equipment decreased, there were assumed to be no newly constructed units.

3.4.3 Emissions Reductions

Table 3-4 summarizes the national emissions reductions for the evaluated NSPS emissions sources and points for 2020 and 2025. These reductions are estimated by multiplying the unit-level emissions reductions associated with each applicable control and facility type by the number of incrementally affected sources. The detailed description of emissions controls is provided in the TSD. Please note that all results have been rounded to two significant digits.

4.2 Emission Reductions from the Final NSPS

As described in Section 2 of this RIA, oil and natural gas operations in the U.S. include a variety of emission points for methane, VOC, and HAP, including wells, wellsites, processing plants, compressor stations, storage equipment, and transmission and distribution lines. These emission points are located throughout much of the country with significant concentrations in particular regions. For example, wells and processing plants are largely concentrated in the South Central, Midwest, and Southern California regions of the U.S., whereas gas compression stations are located all over the country. Distribution lines to customers are frequently located within areas of high population density.

In implementing this rule, emission controls may lead to reductions in ambient $PM_{2.5}$ and ozone below the National Ambient Air Quality Standards (NAAQS) in some areas and assist other areas with attaining the NAAQS. Due to the high degree of variability in the responsiveness of ozone and $PM_{2.5}$ formation to VOC emission reductions, we are unable to determine how this rule might affect attainment status without air quality modeling data.[24] Because the NAAQS RIAs also calculate ozone and PM benefits, there are important differences worth noting in the design and analytical objectives of each RIA. The NAAQS RIAs illustrate the potential costs and benefits of attaining a new air quality standard nationwide based on an array of emission control strategies for different sources.[25] By contrast, the emission reductions for implementation rules, including this rule, are generally from a specific class of well-characterized sources. In general, the EPA is more confident in the magnitude and location of the emission reductions for implementation rules rather than illustrative NAAQS analyses. Emission reductions achieved under these and other promulgated rules will ultimately be reflected in the baseline of future NAAQS analyses, which would reduce the incremental costs and benefits associated with attaining future NAAQS.

[24] The responsiveness of ozone and $PM_{2.5}$ formation is discussed in greater detail in sections 4.4.1 and 4.5.1 of this RIA.

[25] NAAQS RIAs hypothesize, but do not predict, the control strategies States may choose to enact when implementing a NAAQS. The setting of a NAAQS does not directly result in costs or benefits, and as such, the NAAQS RIAs are merely illustrative and are not intended to be added to the costs and benefits of other regulations that result in specific costs of control and emission reductions. However, some costs and benefits estimated in this RIA may account for the same air quality improvements as estimated in an illustrative NAAQS RIA.

Table 6-13 Estimates of Labor Required to Comply with NSPS for Hydraulically Fractured Oil Well Completions, 2020 and 2025

Emissions Source/Control	Projected No. of Incrementally Affected Units (2020)	Per Unit One-time Labor Estimate (hours)	Per Unit Annual Labor Estimate (hours)	Total One-Time Labor Estimate (hours)	Total Annual Labor Estimate (hours)	One-time FTE	Annual FTE
2020							
Hydraulically Fractured Oil Well Completions and Recompletions							
Completions where REC and completion combustion is required	7,500	0	93	0	700,000	0	340
Completions where completion combustion is required	5,600	0	9	0	53,000	0	25
Total	**13,000**	**N/A**	**N/A**	**0**	**760,000**	**0**	**360**
2025							
Hydraulically Fractured Oil Well Completions and Recompletions							
Completions where REC and completion combustion is required	8,000	0	93	0	750,000	0	360
Completions where completion combustion is required	6,000	0	9	0	57,000	0	27
Total	**14,000**	**N/A**	**N/A**	**0**	**800,000**	**0**	**390**

Note: Full-time equivalents (FTE) are estimated by first multiplying the projected number of affected units by the per-unit labor requirements and then multiplying by 2,080 (40 hours multiplied by 52 weeks). Totals may not sum due to independent rounding.

Table 6-14 presents estimates of labor requirements for fugitive emissions. Consistent with the cost estimates for fugitive emissions presented in Section 5 of the TSD, we estimate labor associated with company-level activities and activities at field sites. Company-level activities include one-time activities such as planning the company's fugitive emissions program and annual requirements such as reporting and recordkeeping. Field-level activities include semiannual inspection and repair of leaks. It is important to note, however, that the compliance costs estimates for leak inspection were based upon an estimate of the costs to hire a contractor to provide the inspection service, but the source providing this information does not have a breakdown of the labor component of the rental cost. As a result, the labor requirements for the fugitives program remain uncertain.

Table 6-14 Estimates of Labor Required to Comply with NSPS for Fugitive Emissions, 2020 and 2025

Emissions Source	Emissions Control	Projected No. of Incrementally Affected Units (2020)	Per Unit One-time Labor Estimate (hours)	Per Unit Annual Labor Estimate (hours)	Total One-Time Labor Estimate (hours)	Total Annual Labor Estimate (hours)	One-time FTE	Annual FTE
				2020				
Well Sites								
Company-level	Planning	4,300	120	0.0	500,000	0	240	0
Site-level	Monitoring and Maintenance	94,000	0.0	14	0	1,300,000	0	640
Gathering and Boosting Stations								
Company-level	Planning	480	120	0.0	57,000	0	27	0
Site-level	Monitoring and Maintenance	480	0.0	110	0	52,000	0	25
Transmission Compressor Stations								
Company-level	Planning	20	120	0.0	2,400	0	1	0
Site-level	Monitoring and Maintenance	20	0.0	110	0	2,100	0	1
Storage Compressor Stations								
Company-level	Planning	25	120	0.0	3,000	0	1	0
Site-level	Monitoring and Maintenance	25	0.0	210	0	5,300	0	3
Total		**94,000**	**N/A**	**N/A**	**560,000**	**1,400,000**	**270**	**660**
				2025				
Well Sites								
Company-level	Planning	4,300	120	0.0	500,000	0	240	0
Site-level	Monitoring and Maintenance	190,000	5.4	14	0	2,700,000	0	1,300
Gathering and Boosting Stations								
Company-level	Planning	480	120	0.0	57,000	0	27	0
Site-level	Monitoring and Maintenance	960	0.0	110	0	100,000	0	50
Transmission Compressor Stations								
Company-level	Planning	20	120	0.0	2,400	0	1	0
Site-level	Monitoring and Maintenance	40	0.0	110	0	4,300	0	2
Storage Compressor Stations								
Company-level	Planning	25	120	0.0	3,000	0	1	0
Site-level	Monitoring and Maintenance	50	0.0	210	0	11,000	0	5
Total		**190,000**	**N/A**	**N/A**	**560,000**	**2,800,000**	**270**	**1,400**

Note: Full-time equivalents (FTE) are estimated by first multiplying the projected number of affected units by theper unit labor requirements and then multiplying by 2,080 (40 hours multiplied by 52 weeks). Totals may not sum due to independent rounding.

Attachment 7

Letter from E. Scott Pruitt, Administrator, U.S. EPA,
to Doug Ducey, Governor, Arizona (June 6, 2017)

E. SCOTT PRUITT
ADMINISTRATOR

June 6, 2017

The Honorable Doug Ducey
Governor of Arizona
State Capitol
1700 W. Washington Street
Phoenix, AZ 85007

Dear Governor Ducey:

I am writing to update you on the status of the U.S. Environmental Protection Agency's efforts related to the National Ambient Air Quality Standards (NAAQS) for ozone promulgated in October 2015. Pursuant to section 107(d)(1)(B) of the Clean Air Act (CAA), I am extending the deadline for promulgating initial area designations for the 2015 ozone NAAQS by one year. I have determined that there is insufficient information, and taking additional time is appropriate in order to consider completely all designation recommendations provided by state governors pursuant to CAA section 107(d)(1)(A) and to rely fully on the most recent air quality data. This additional time will also provide the Agency time to complete its review of the 2015 ozone NAAQS, prior to taking this initial implementation step.

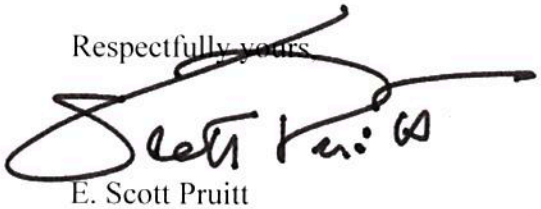
Although the new ozone standard was set on October 1, 2015, there remains a host of complex issues that could undermine associated compliance efforts by states, localities and regulated entities. As part of the review process, the Agency is evaluating these issues primarily focusing on: fully understanding the role of background ozone levels; appropriately accounting for international transport; and, timely consideration of exceptional events demonstrations. Additionally, pursuant to language in the recently-enacted FY 2017 omnibus bill, I have established an Ozone Cooperative Compliance Task Force to develop additional flexibilities for states to comply with the ozone standard.

States have made tremendous progress and significant investment cleaning up the air. Since 1980, total emissions of the six principal air pollutants have dropped by 63 percent and ozone levels have declined by 33 percent. Despite the continued improvement of air quality, costs associated with compliance of the ozone NAAQS have significantly increased. I am committed to working with you and your local officials to effectively implement the ozone standard in a manner that is supportive of your air quality improvement efforts, without interfering with local decisions or impeding economic growth.

1200 PENNSYLVANIA AVE. NW • MAIL CODE 1101A • WASHINGTON, DC 20460 • (202) 564-4700 • FAX: (202) 501-1450

I appreciate the information you and your staff have shared with EPA already as part of this process. I am confident this progress will continue as we work together towards our shared goal of clean air, a robust economy and stronger, healthier communities. If you have questions or concerns, please contact me or your staff may contact Troy Lyons, Associate Administrator for the Office of Congressional and Intergovernmental Relations, at lyons.troy@epa.gov or (202) 564-4987.

Respectfully yours,



E. Scott Pruitt

Attachment 8

API, Comments on the Proposed Rulemaking – Standards of Performance for New Stationary Sources: Oil and Natural Gas Production and Natural Gas Transmission and Distribution (Dec. 4, 2015) (excerpts)

Howard J. Feldman

Senior Director, Regulatory and Scientific Affairs

1220 L Street, NW
Washington, DC 20005-4070 USA

202-682-8340
Feldman@api.org
www.api.org

December 4, 2015

The Honorable Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Attention: Docket ID Number EPA-OAR-2010-0505
Submitted to the Federal eRulemaking Portal (www.regulations.gov)

Re: Environmental Protection Agency's (EPA's) "Oil and Natural Gas Sector: Emission Standards for New and Modified Sources" at 80 FR 56593 (September 18, 2015)

Dear Administrator McCarthy:

American Petroleum Institute (API) respectfully submits the attached comments on the Environmental Protection Agency's (EPA's) "Oil and Natural Gas Sector: Emission Standards for New and Modified Sources" at 80 FR 56593 (September 18, 2015).

API represents over 625 oil and natural gas companies, leaders of a technology-driven industry that supplies most of America's energy, supports more than 9.8 million jobs and 8 percent of the U.S. economy, and, since 2000, has invested nearly $2 trillion in U.S. capital projects to advance all forms of energy, including alternatives. Collectively, they provide most of the nation's energy and many will be directly impacted by the proposed regulations.

The proposed rule is part of the President's "Methane Strategy," which includes multiple regulations and programs from several different agencies, intended to further reduce greenhouse gas emissions from oil and natural gas operations. However, it's important to take into account the recent methane emission trends associated with our industry. Even as U.S. oil and natural gas production has surged, methane emissions have declined significantly. For example, EPA's GHG inventory shows methane emissions from hydraulically-fractured natural gas wells have fallen nearly 79 percent since 2005 and total methane emissions from natural gas systems are down 11 percent over the same period. According to the Energy Information Agency, these reductions have occurred during a time when total U.S. gas production has increased 44% and, as a result of the increased use of natural gas, CO2 emissions from the energy sector are now near 20-year lows. These trends are indicative of what our industry, when given the freedom to innovate, can achieve to improve the environment as we bolster our nation's energy security.

Each of the proposals (Control Techniques Guidelines, Source Determination, Minor Source Tribal NSR), including this one, has potentially significant impacts on our industry's operations and, collectively, they have the potential to hinder our ability to continue providing the energy our nation demands. These cumulative impacts must be considered in conjunction with the impacts of the lowered ozone standards and the pending Bureau of Land Management (BLM) methane rule, which has not yet been proposed and will likely require costly methane controls for some of the very same emission sources. Our organizations have collaborated well in the past and API remains committed to working with EPA and the Administration to identify emission control opportunities that are both cost-effective and, when implemented, don't impact safety or hinder our ability to provide the energy our nation will continue to demand for many years to come. Attached are our comments on the "Oil and Natural Gas Sector: Emission Standards for New and Modified Sources" as well as an executive summary.

As we noted in our comment extension request, we again request that EPA officially re-open the docket for all three rulemakings when the proposed BLM methane rule is published in the Federal Register, to allow additional time for public comment once its interrelationship with the EPA proposed regulations can be fully analyzed. Also, given the limited comment period and minimal extension for these complex proposals, API will continue its review and, if warranted, provide supplemental comments to the agency that we request be included in the appropriate docket to protect the record and considered before finalizing the rules.

We look forward to working with you and your staff as these rules are developed. If you have any questions regarding the content of these comments, please contact Matthew Todd (toddm@api.org, 202-682-8319).

Sincerely,

Howard J. Feldman

Howard J. Feldman

Cc: Janet McCabe, EPA
Joe Goffman, EPA
Peter Tsirigotis, EPA
David Cozzie, EPA
Bruce Moore, EPA
Cheryl Vetter, EPA
Chris Stoneman, EPA
Charlene Spells, EPA

Attachment

equivalent (boe) per day averaged over the first 30 days of production, is not an affected facility under this subpart." In the preamble, EPA solicited comment on the air emissions associated with low production wells, and the relationship between production and fugitive emissions, specifically on the relationship between production and fugitive emissions over time. EPA also solicited comment on the appropriateness of this threshold for applying the standards for fugitive emission at well sites, in addition to whether EPA should include low production well sites for fugitive emissions and if these types of well sites are not excluded, should they have a less frequent monitoring requirement.

Fugitive emissions do not correlate to production. A production rate gives no indication of the type or number of equipment that are located at the site. In addition, this exemption is irrelevant for new well sites which would not be economical to produce at 15 BOE/day. As stated in our comment above (see 27.2.3), this exemption should also be considered as an off-ramp to §60.5397a applicability or exemption in the rare event of a modification to a stripper well. However, API believes it more appropriate and would prefer that the rule be based on the process equipment located at the site rather than a low production rate since fugitive emissions are based simply on the number of components associated with the process equipment. As indicated in sections 27.2.6 and 0, API believes that sites with equipment configurations or component counts less than the model plants should be exempt from the LDAR requirements, as based on EPA's analysis, LDAR is not cost effective at sites with fewer equipment/components.

27.2.5 The Definition Of Well Site In §60.5430a Is Problematic And A New Definition For "Central Production Site" Is Needed

The proposed definition of "well site" includes both a well pad and other sites with process equipment that receives produced fluids from wells. The definition is problematic in that it can be interpreted to mean that all well pads connected to a tank battery or other centralized station can be aggregated as part of a single well site. This is unprecedented and appears to be an attempt to aggregate sites that are not otherwise contiguous or adjacent but instead functionally interrelated. This could lead to conflict with the Source Determination rule leading to potential permitting questions subject to variable interpretations. In Source Determination, courts have ruled against functional interrelatedness. In effect, EPA is applying Option 2 from the Source Determination proposal to define a source in NSPS. **It is inappropriate to aggregate sites.**

This erroneous definition change is being made to support the misconception that hydraulic fracturing increases fugitive emissions and constitutes a modification. The modification issue is discussed in more detail below in Section 0. The practical result of this error is that EPA's proposed definition of "well site" dissociates from the common sense and generally accepted and practically understood use of the term within industry. As well, tank batteries may or may not be tank batteries because of a false regulatory construct based on the activity at a distinctly separate surface site that has one or more wells. Additionally, the wellhead only exemption in paragraph (2) is rendered meaningless since aggregating separate surface sites into one means there will be no wellhead only well sites since wellhead only sites can produce to centralized tank batteries which would now be considered part of the wellhead only well site. EPA should instead consider a well site to be a distinct and separate surface site from a central processing site with no wellheads. The proposed definition change needs to be scrapped and either make no change to the original definition in Subpart OOOO or alternatively modify the definition as API recommends below in Section 27.2.12.

Another outfall of trying to define a well site other than in its generally accepted and common sense definition is that EPA assumes that any wellsite such as a wellhead only site produces to a central tank battery. This is not always true, there are other possibilities. A well could produce to a tank battery, a compressor station, or a tank battery combined with a compressor station, any of which may also happen to have one or more wells on the same surface site, making them well sites. Consequently, the collection of well sites that go to a central tank battery with no wells make the battery and the collection of well sites

an aggregated single well site. But, if the central tank battery happens to include an onsite well, it is a separate well site, not an aggregated well site. These various operating scenarios complicate determinations of well site as proposed when a definition includes sites with no wells. This argues for each separate surface site to be evaluated independently for modifications without attempted aggregation.

As described in the previous paragraph, there are multiple centralized site configurations which complicate the applicability requirements in paragraphs §60.5365a(i) and (j). While the previous paragraphs discussed the issues with the definition of a "well site", a new definition is needed to more accurately account for centralized sites. For paragraph (j) API recommends the term "central production site" and "transmission compressor station" replace the use of the single term "compressor station". A central production site properly defined encompasses central gathering and boosting compressor stations, tank batteries, and combination tank batteries and compressor stations that have no wellheads located on the same surface site. Central production sites are located between a well site and natural gas processing plant or transmission pipeline. The recommended definition is found below at the end of in Section 27.2.12.

27.2.6 EPA Must Exclude Co-Located Midstream Assets From Well Sites

In the final rule, EPA must clearly exclude co-located midstream assets from the fugitive emission monitoring program for well sites. As proposed, EPA's broad definition of "well site" and "fugitive emission component" could be interpreted to subject midstream assets to fugitive emission monitoring requirements simply because they are located in geographic proximity to a production facility. Such an approach is inconsistent both with the way that the oil and natural gas sector operates and with the CAA. Upstream natural gas production and midstream gas gathering and processing are fully distinct and sequential portions of the natural gas sector supply chain. Appropriate clarifications and changes to the proposed rule need to be addressed so that co-located midstream assets are not inadvertently included in fugitive emission monitoring requirements designed for well sites.

Including co-located midstream assets in the fugitive emissions monitoring program for well sites is inappropriate for a number of reasons. First, equipment owned, operated, or leased by midstream operators is legally distinct from equipment owned, operated, or leased by upstream producers. Given their separate and distinct legal status EPA must establish separate requirements for upstream and midstream equipment. It is arbitrary and capricious to include some midstream assets in the fugitive emissions monitoring program simply because they are co-located within the footprint of a well pad site while excluding other midstream equipment that is located on a separate parcel of land.

API believes that the recommended definition changes discussed above in section 27.2.5 will partially help alleviate this problem. However, API recommends that EPA should also limit well site requirements to the equipment owned or operator by the well operator. API notes that more detail on this issue is provided in comments submitted by the Gas Processors Association (GPA), along with recommended regulatory text.

27.2.7 Only Sites With Major Equipment (Such As Separator, Heater, or Glycol Dehydrator) Should Be Subject. The Proposed Requirement To Exempt Sites With Only Wellheads Is Not Adequate

§60.5365a(i)(2) exempts well sites that only contain one or more wellheads. "*(2) A well site that only contains one or more wellheads is not an affected facility under this subpart.*" API agrees that a well site consisting only of wellheads should be exempt due to the small number of fugitive components. It would be overly burdensome with little gain in emission reductions to broadly require LDAR programs at sites without process equipment located at the well site.

Similarly, API believes that additional exemptions should apply. EPA's Model Plants used in the TSD are based on the following assumed equipment and component counts.

Hydrocarbons are removed from the water prior to arriving at the injection well facility to avoid loss of revenue.

There is little to no environmental benefit in subjecting these injection well facilities to LDAR requirements and requiring additional resources which could be used for a better purpose. If EPA had considered the cost effectiveness of LDAR on injection well facilities, the results would show a net negative benefit. Therefore, injection well facilities should be excluded from the LDAR requirements. The recommended regulatory change for this exemption is provided in Section 27.2.12.

27.2.10 The Definition Of Modification For Leak Detection Under §60.5365a(i)(3) Is Flawed For Both Well Sites And Compressor Stations.

Well Site Modification

EPA has defined a modification for well site fugitives as follows in §60.5365a(i)(3)

> *"For purposes of §60.5397a, a "modification" to a well site occurs when:*
>
> *i. a new well is drilled at an existing well site;*
>
> *ii. a well at an existing well site is hydraulically fractured; or*
>
> *iii. a well at an existing well site is hydraulically refractured."*

Increasing production by drilling a new well or hydraulically fracturing an existing well does not increase the probability of a leak from an individual component and no new components result from these activities, thus the potential emissions rate does not change. EPA appears to agree, as there is no demonstration in this proposal, the TSD, or RIA that shows increased fugitive emissions from higher pressures. EPA's estimate of emissions simply uses the accepted method of component count × AP-42 factor.

The increased emissions from hydraulic fracturing are accounted for in the requirements for control devices and closed vent systems for storage vessels. Potential changes in pressure from hydraulic fracturing would only be on the components for the well head because components from the well choke or separator help to regulate the line pressure to that of the gathering system. Furthermore, for safety reasons, the components at the well head and down the line are rated for higher pressures beyond what wells and gathering systems will operate, and an increase in the pressure alone would not inherently impact the emissions from those components.

Compressor Station Modification

EPA has defined "modification: for compressor stations in §60.5365a(j):

> *For purposes of § 60.5397a, a ''modification'' to a compressor station occurs when:*
> *(1) A new compressor is constructed at an existing compressor station; or*
> *(2) A physical change is made to an existing compressor at a compressor station that increases the compression capacity of the compressor station.*

Here, EPA presumes that the addition of a new compressor at an existing compressor station would automatically increase the compressor station's emission rate and meet the definition of "modification". This is very often not the case – an operator may install a new compressor at an existing site to replace one or more existing compressors, which may even reduce emissions. In addition, an increase in

compression capacity does not necessarily include a commensurate throughput and potential fugitive emission rate increase, it may simply be added for redundancy to increase operating reliability of the station. Throughput increases can also occur without increasing the number of compressors, if increases remain below the capacity of currently installed compressors.

Complicating matters, "new" means construction commenced after the proposal date. In this case construction refers to manufactured date. Since "new" compressors aren't new because of when they are installed but rather when they are manufactured, "new" compressors may be relocated to other sites when no longer needed at current sites to save incurring capital costs of purchasing a newly manufactured compressor. This may also be a "new" or existing rental compressor if not expected to be on location long enough to justify a purchase of a new or existing compressor. Consequently, if a capital expenditure occurs, it will generally only be when the "new" compressor is initially installed. Relocating a "new" compressor from one site to another is often an expense, but not a capital expenditure. Paragraph 60.5397a(j)(1) is then based on a flawed premise to presume that a site modification has occurred. The "new" compressor may already be subject to Subpart OOOOa requirements, but was installed without incurring a capital expenditure. Coupled with situations for adding compression that do not incur an emissions increase as described in the previous paragraph, no modification occurs, and it is inappropriate to presume otherwise.

Similarly, presuming a physical change that increases compression capacity increases emissions is also flawed. Increasing capacity doesn't necessarily mean an increase in throughput or an emissions increase in fugitive emissions. Capacity of one compressor may be increased so that another compressor can be permanently shutdown or relocated as part of a site optimization project which generally results in emissions decreases. In this case, a disincentive is presented in Subpart OOOOa by requiring a leak detection program for a project designed to decrease emissions, not increase.

Use of Modification in Other Rules

As with NSPS OOOO and NSPS KKK, it has historically been and should continue to be EPA's intent that triggering NSPS through "modification" is in fact a difficult threshold to meet, not an easy one. Here, however, EPA's proposed definition is overly inclusive and inappropriately relaxes the definition of modification.

The Clean Air Act Section 111(a)(4) defines a modification as follows - "The term ''modification'' means any physical change in, or change in the method of operation of, a stationary source which **increases the amount of any air pollutant emitted** by such source or which **results in the emission of any air pollutant not previously emitted**." [emphasis added]

Also §60.2 defines modification as: "Modification means any physical change in, or change in the method of operation of an existing facility which increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility or which results in the emission of any air pollutant (to which a standard applies) into the atmosphere not previously emitted."

The original definition of modification in §60.14 includes an increase in hourly emission rates. Upon modification, an existing facility shall become an affected facility for each pollutant to which a standard applies and for which there is an increase in the emission rate to the atmosphere."

§60.14 require three important elements before an event qualifies as a "modification":

(1) a physical or operation change to an existing affected facility,
(2) that results in an increase in the emission rate to the atmosphere of any pollutant to which a standard applies, and
(3) for which a capital expenditure is required.

These elements establish the very high threshold necessary to demonstrate a modification has occurred, whereas EPA's proposal undermines these long-standing principles.

§60.14(e)(2) states that "*an increase in production rate of an existing facility, if that increase can be accomplished without a capital expenditure on that facility*" is not a modification. EPA has defined in this rule the affected facility as a "well site" and the definition of a "well site" does not include the well bore or reservoir that is being fractured. "*Well site means one or more areas that are directly disturbed during the drilling and subsequent operation of, or affected by, production facilities directly associated with any oil well, natural gas well, or injection well and its associated well pad. For the purposes of the fugitive emissions standards at §60.5397a, well site also includes tank batteries collecting crude oil, condensate, intermediate hydrocarbon liquids, or produced water from wells not located at the well site (e.g., centralized tank batteries).*"

Hydraulic fracturing is not a capital expenditure for the well site as it does not involve physical changes or changes to the operation of existing surface equipment. It is the process of "fracturing" the reservoir. A new well bore is subsurface and not part of the "well site" which is a surface site. Therefore, EPA should not consider the addition of a new well or hydraulically fracturing an existing well a modification for a facility for the purposes of LDAR.

Furthermore, other NSPS for fugitives (e.g., VVa and GGGa) define the affected facility by the process unit and requires a capital expenditure to be a modification to the process unit. VVa defines the affected facility as "*the group of all equipment within a process unit*" (§60.480a(a)). Equipment is defined as "*each pump, compressor, pressure relief device, sampling connection system, open-ended valve or line, valve, and flange or other connector in VOC service and any devices or systems required by this subpart (§60.481a).*" VVa also states that "*Addition or replacement of equipment for the purpose of process improvement which is accomplished without a capital expenditure shall not by itself be considered a modification under this subpart.*" VVa defines capital expenditure differently too giving a much higher B value of 12.5 vs. 4.5.

GGGa defines the affected facility as (§60.590a(a)):

(1) The provisions of this subpart apply to affected facilities in petroleum refineries.

(2) A compressor is an affected facility.

(3) The group of all the equipment (defined in §60.591a) within a process unit is an affected facility.

Under GGGa, equipment is defined as "Equipment means each valve, pump, pressure relief device, sampling connection system, open-ended valve or line, and flange or other connector in VOC service. For the purposes of recordkeeping and reporting only, compressors are considered equipment." (§60.591a) Process Unit is defined as "the components assembled and connected by pipes or ducts to process raw materials and to produce intermediate or final products from petroleum, unfinished petroleum derivatives, or other intermediates. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product. For the purpose of this subpart, process unit includes any feed, intermediate and final product storage vessels (except as specified in §60.482-1a(g)), product transfer racks, and connected ducts and piping. A process unit includes all equipment as defined in this subpart." (§60.591a) It states that "Addition or replacement of equipment (defined in §60.591a) for the purpose of process improvement which is accomplished without a capital expenditure shall not by itself be considered a modification under this subpart."

Recommendation

EPA's cost analysis was based on a model plant with certain component counts (554 for gas wells and 135 for oil wells). API recommends that the definition of modification be based on the addition of certain large equipment such as a separator, heater, or dehydrator, as used for the model plant count basis, to be consistent with the basis of the cost analysis and other fugitive rules. Furthermore, replacement of

existing equipment should not be considered a modification to the facility since it would not increase the component count which is what the cost estimate is based on.

27.2.11 Components at Enhanced Oil Recovery Fields Must Be Exempted from the Fugitive Emissions Standards in Subpart OOOOa

Background on Enhanced Oil Recovery

Crude oil development and production in U.S. oil reservoirs can include up to three distinct phases of recovery: primary, secondary, and tertiary recovery. During primary recovery, the natural pressure of the reservoir or gravity drive oil into the wellbore, combined with artificial lift techniques (such as pumps) which bring the oil to the surface. Secondary and tertiary recovery techniques, which are often referred to as Enhanced Oil Recovery, or EOR, extend a field's productive life generally by injecting water, gas, heat, or chemicals to displace oil and drive it to a production wellbore.

Examples of secondary EOR techniques includes water floods, and tertiary EOR techniques includes thermal recovery floods (e.g., steam), and gas injection floods (e.g., CO_2). These EOR oil recovery techniques are used in oil fields to improve oil recovery after reservoir gas has been produced, and reservoir pressure and primary oil production are very low (e.g., no reservoir energy). In addition, the reservoir gas is artificially or mechanically changed with inert gases. Inert gases include nitrogen, hydrogen sulfide (H_2S), and carbon dioxide (CO_2). These inert gases may be required to be gathered and processed through specialty gas plants prior to sale. EOR is commonly found in older oil fields.

Water flooding is used to increase oil production by injecting a substantial amount of water into the oil reservoir rock voidage and increasing reservoir pressure. The injected water displaces the oil and carries the fluids to production wells. Water to oil ratios can be greater than 90%. In some EOR water floods, H_2S and other inert gases are generated in the reservoir. As a result, surface production equipment (i.e., plant) must be designed to handle high volumes of water and 3-phase fluids, and contain the potential "sour" and inert/contaminated gases for personnel safety reasons.

Thermal flooding is used to improve heavy oil recovery by injecting steam into the oil reservoir. Heavy oil has low viscosity, gas to oil ratio (GOR), and typically an API Gravity <18. The steam increases the heavy oil temperature reducing the viscosity allowing the oil to be produced from the well via artificial lift. The thermal surface equipment is designed to manage high volumes of water, heat the water, inject the steam, produce the hot oil, generally 2-phase separation of the fluids, and contain the low volumes of potential "sour" and contaminated gases for personnel safety reasons. Steam floods can generate substantial concentrations of hydrogen sulfide.

Gas injection (CO_2) flooding is used to improve oil recovery by injecting a miscible gas and water into the oil reservoir. The miscible gas, water, and increased reservoir pressure improves oil recovery and fluid sweep. Gas and water are injected into wells and the oil, water, and contaminated inert gas is recovered from production wells. The surface equipment is designed to manage high volumes of water, high pressure gas (e.g., CO_2 as a liquid), injection system, production/gathering system for the multi-phase liquids, high and low pressure separation of the fluids, and greater than 30% inert and potential "sour" gases. Due to the displacement characteristics of CO_2 and Immediately Dangerous to Life or Health (IDLH) for H_2S, the surface equipment is designed for personnel and public safety reasons.

EOR Gas Gathering Systems and Plants are designed to transport and process the volumes and EOR recovered gases that include CO_2, N_2 and H_2S.

EPA Did Not Consider EOR Operations in Their Rulemaking

Oil production fields that utilize EOR have very different gas stream compositions and characteristics from the types of operations that EPA evaluated in the development of the proposed NSPS subpart OOOOa (and the CTG). These differences have a significant impact on the VOC and methane emissions. EPA's model plants and representative gas compositions used to evaluate the impacts that drove the

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of June, 2017, I have served the foregoing Reply to Responses in Opposition to Emergency Motion for a Stay or, in the Alternative, Summary Vacatur, and Attachments on all parties through the Court's electronic filing (ECF) system.

DATED: June 20, 2017

/s/ *Susannah L. Weaver*
Susannah L. Weaver