



December 8, 2017

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

RE: Oil and Natural Gas Sector; Emission Standards for New, Reconstructed, and Modified Sources: Two Year Stay of Certain Requirements, Docket ID No. EPA-HQ-OAR-2010-0505

Dear Administrator Pruitt:

Western Energy Alliance supports EPA's proposed two-year stay of the effective dates of several provisions of the 2016 New Source Performance Standards Subpart OOOOa rule. Staying the provisions identified in the federal register notice by two years while EPA begins reviewing and revising or potentially rescinding the 2016 New Source Performance Standards Subpart OOOOa rule will prevent oil and natural gas companies from having to divert investment away from job creation and economic growth in order to comply with regulations that will in all likelihood be substantially revised.

Western Energy Alliance represents over 300 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas in the West. Alliance members are independents, the majority of which are small businesses with an average of fifteen employees.

Many elements of the OOOOa rule identified by EPA in the Notice of Data Availability (NODA) represent significant burdens for industry, which may not be cost effective. Western Energy Alliance endorses the American Petroleum Institute's (API) comments on this NODA, which address the burdens of the rule. We also reiterate our original [comments](#) on the draft OOOOa rule, which identified rule provisions that are infeasible, overly prescriptive, or not economically viable. In the final rule, many of our concerns were not addressed. In fact, the final rule imposed several new requirements like fugitive emissions monitoring for low production sites and closed vent system PE certifications that were not formally included in the proposed rule.

Although we have broad concerns with many elements of the OOOOa rule, our comments focus on the issues within NODA identified by EPA. The fugitive emissions monitoring, recordkeeping, and professional engineer (PE) certification of closed vent systems requirements pose significant compliance challenges for our members. We believe it is appropriate for EPA to postpone compliance dates while it re-evaluates the costs and

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benefits of the rule, particularly with respect to these provisions. In the West, these provisions pose their own unique challenges that will be felt acutely, particularly by small businesses.

We are supportive of the phase-in approach suggested by EPA insofar as it uses that time to review and revise the final rule. Delaying compliance dates for rule provisions that are not cost effective without later providing meaningful regulatory relief would merely delay the inevitable. Western Energy Alliance did not support semi-annual fugitive emissions monitoring, PE certifications, pneumatic pump control requirements, and many other provisions during the initial rulemaking. Our position remains that these requirements suffer from significant technical and economic flaws.

With respect to the fugitive emissions monitoring, the remote locations of production facilities in the West, combined with lack of surface road access can be particularly challenging to navigate. For example, in Wyoming's Powder River Basin, road access is quite limited due to BLM restrictions on surface disturbance. Surface stipulations due to raptor nesting can remain in effect from February 1st through July 31st in many places. There may be additional requirements for other species like sage grouse, big game, etc. As a result, Alliance members report routinely traveling 30 minutes or more between facilities to conduct fugitive emissions inspections. Once on location, fugitive emissions monitoring in the West is complicated by long, harsh winters in places often with high winds that impact the ability of optical gas imaging technology. We the underestimated operational constraints of fugitive emissions monitoring skewed the agency's final cost-benefit analysis.

The fugitive emissions monitoring requirements also suffer from technical flaws, including the possibility that fugitive emissions monitoring requirements apply to third-party midstream equipment like meter stations co-located at wellsites. The requirement to survey all fugitive emissions components at a wellsite clearly should not apply to equipment that companies do not own or operate. From legal, safety, and cost efficiency standpoints, upstream operators cannot be reasonably expected to monitor another party's equipment and ensure that repairs happen within the prescribed period in the rule.

The requirement to obtain PE certifications for closed vent systems is redundant and offers no environmental benefit. Both NSPS OOOO and OOOOa require proper closed vent system design, which means that proper design is already a regulatory requirement. Any system that is not sufficiently capable of capturing and collecting vapors already fails to meet the rule requirements. There is no reason for EPA to require PE certification, which offers no further emission controls. Instead, the PE certification requirement merely exists as an additional paperwork exercise since any under-designed system will fail to meet the regulatory requirements, regardless of certification. The difficulty of obtaining PE certifications is compounded by the requirement that each engineer be certified in the state where a facility is constructed. Companies operating in Montana, North Dakota, and other sparsely populated western states often locate their central or regional offices in

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Texas, Colorado, or Oklahoma. For small operators, they may need to hire engineers certified in multiple states, which could unnecessarily restrict the hiring pool for potential candidates. PE certifications represent an administrative burden with no demonstrable environmental benefit.

The Alternative Means of Emission Limitations (AMEL) are also problematic in the final rule and therefore worthy of delaying implementation. Currently, the AMEL provisions are not sufficiently clear to allow operators to take advantage of them. Since many of these operators have implemented state-mandated programs in Colorado, Wyoming, North Dakota, and Utah for fugitive emissions and other controls, it would be highly beneficial to some companies to use AMEL. Without the clear ability to get approvals for AMEL, we're concerned that duplicative regulation becomes an issue. Additionally, the lack of clarity on the AMEL process has the potential to stifle adoption and deployment of innovative new technology.

The flaws with AMEL requirements are emblematic of systemic problems with the OOOOa rule itself. The rule was premised on flawed data, both in terms of control costs and estimated benefits. From that flawed data, it developed requirements that are impractical to meet in the case of the PE certifications, or needlessly burdensome and costly as in the case of LDAR recordkeeping requirements.

We appreciate the opportunity to provide comment to EPA on the NODA. We believe that the OOOOa rule suffers from a host of economic, legal, and technical challenges to implementation. We believe that delayed implementation is warranted, but only as an interim step. Without permanent corrective action through a new rulemaking to revise the rule, EPA would merely delay the inevitable. We support the delay, followed by quick action to address the substantial deficiencies in the OOOOa rule.

Sincerely,



Ryan Streams
Manager of Regulatory Affairs