

Administrator Scott Pruitt

United States Environmental Protection Agency

Docket ID No. EPA-HQ-OAR-2010-0505 & EPA-HQ-OAR-2017-0346

SENT VIA EMAIL TO a-and-r-Docket@epa.gov

Dear Administrator Pruitt:

As 150+ organizations from across the United States who care about public health and the fate of our planet, we write to oppose the Environmental Protection Agency's attempt to stay certain requirements of the Emission Standards for New, Reconstructed, and Modified Sources for the Oil and Natural Gas Sector, 40 C.F.R. section 60 subpart OOOOa. EPA's attempt to circumvent the law and stay provisions of these lawfully promulgated standards is unauthorized, unwarranted, and will adversely impact those people who live near new oil and gas development. These important pollution controls are needed to protect communities from oil and gas industry air pollution, as well as help stave off catastrophic climate change.

Communities living near oil and gas development bear the brunt of the dangerous air pollution from fracking-enabled oil and gas extraction, and deserve to be able to breathe cleaner air. Without these important safeguards in place, methane and other harmful substances, ranging from smog precursors to toxics like benzene, will leak, unchecked, from wells and compressors stations.

EPA's proposed stays of these common sense protections will cause imminent and irreparable harm to the public, particularly to children. EPA's own analysis finds that "the environmental health or safety risk addressed by this action may have a disproportionate effect on children." 82 Fed. Reg. 27,645, 27,650 (June 16, 2017). This air pollution has real impacts on the ground -- more than 203,000 Americans, including more than 51,000 children, live within a ½ mile of the more than 18,000 oil and gas well sites that would be affected by the proposed stays. Nationally, there are more than 750,000 summertime asthma attacks in children under the age of 18 due to ozone--the primary component of smog-- resulting from oil and gas pollution. See Clean Air Task Force, "Gasping for Breath: An analysis of health effects from ozone pollution from the oil and gas industry." (August 2016)

These harms are especially disturbing because EPA's proposed stays are entirely unwarranted. Several oil and gas producing states already have protections in place like those EPA now seeks to stay, which demonstrate the feasibility and effectiveness of these standards. As shown during the public comment period for the original rule, requiring operators to find and repair

leaking equipment on a regular basis is reasonable, with modest costs in the hundreds of dollars per survey. And these and other provisions that EPA proposes to stay would save gas that would otherwise be wasted but for those provisions. Furthermore, although EPA has identified in its proposal a number of technical issues in the rule that it plans to reconsider (such as the process by which the agency approves alternative methods of complying with the leak detection and repair requirements), implementing and enforcing the rule's leak detection requirements according to schedule would neither inhibit nor nullify its reconsideration process of those matters.

More to the point, the law requires EPA to implement and enforce the methane standards in their entirety according to the terms of the final rule, unless and until it formally and lawfully amends that rule. The fact that reconsideration is merely pending does not affect this requirement. See *Am. Fed'n of Gov't Employees, AFL-CIO, Local 3090 v. Fed. Labor Relations Auth.*, 777 F.2d 751, 759 (D.C. Cir. 1985) (“[U]nless and until it amends or repeals a valid legislative rule or regulation, an agency is bound by such a rule or regulation.”).

The Clean Air Act allows only a single, 90-day stay during a mandatory “reconsideration” proceeding, which is only allowed when a party demonstrates that it was impracticable to comment on an issue during the comment period and that such issue is of central relevance to the outcome of the rule. 42 U.S.C. § 7607(d)(7)(B). The United State Court of Appeals for the D.C. Circuit has already held that the issues that EPA is attempting to “reconsider,” 82 Fed. Reg. 27,645, 27646-47 (June 16, 2017), do not meet these threshold requirements. *Clean Air Council v. Pruitt*, No. 17-1145, 2017 WL 2838112, at *5-9 (D.C. Cir. July 3, 2017). Therefore, EPA’s initial 90-day stay is unlawful, as are its two proposed extensions of that unlawful stay. Notably, the agency cites no authority enabling it to suspend or otherwise delay compliance requirements of a lawfully promulgated rule beyond those 90 days. Once again, the D.C. Circuit has already decided this issue: the Clean Air Act permits EPA to stay the effectiveness of emission standards for one three-month period as described in 42 U.S.C. § 7607(d)(7)(B) and not otherwise. *NRDC v. Reilly*, 976 F.2d 36, 40 (D.C. Cir. 1992) (The Clean Air Act “permitted a stay only under carefully defined circumstances; and even then, it did so for a single period not to exceed three months.”).

Aside from flouting the Clean Air Act, the proposed rule reflects a shocking indifference to the harm this unlawful action will inflict. Although the agency takes pains to calculate the money it believes the oil and gas industry will save in avoided compliance costs, it declines to characterize or quantify (much less monetize) the emission reduction benefits that would be sacrificed if the proposed stays take effect, other than simply noting in passing that “there

would be foregone benefits as a result of this proposed delay.” 82 Fed. Reg. at 27,650. Nor does the agency discuss or analyze the climate and public health impacts that would result from the proposed stays. This one-sided analysis is manifestly arbitrary and violates the agency’s duty to protect public health and the environment. See *Michigan v. EPA*, 135 S.Ct. 2699, 2707 (2015) (“[R]easonable regulation ordinarily requires paying attention to the advantages and the disadvantages of agency decisions.”).

In fact, the one statement that the agency does make about public health is its admission that “the environmental health or safety risk addressed by this action may have a disproportionate effect on children.” 82 Fed. Reg. at 27,650. Amazingly, EPA goes on to assert that “[a]ny impacts on children’s health caused by the delay in the rule will be limited, because the length of the proposed stay is limited,” and so “it is more appropriate to consider the impact on children’s health in the context of any substantive changes proposed as part of reconsideration,” rather than in the context of the proposed stays. *Id.* The agency’s reasoning is thus as follows: because this action may disproportionately harm children for a period of two years, as opposed to forever, an analysis of that harm is simply unnecessary at this time. This callous and casual disregard of the public health threat that the proposed delays would represent is simply staggering. The agency must abandon its proposal and enforce the oil and gas standards--in their entirety--immediately.

Given the damage that results from oil and gas emissions and the readily achievable, low-cost opportunities to reducing those emissions, regulation is both necessary and warranted. Curbing methane emissions from the oil and gas industry is a “win-win-win-win” solution that can reduce waste, curb greenhouse gas emissions, and improve air quality and public health. We therefore strongly oppose a stay of any length for the new source performance standards for the oil and gas sector. EPA’s proposed stays are unauthorized, unwarranted, and would be particularly harmful to people, especially children, who live near oil and gas development across the country.

Sincerely,

350 DC | Washington, DC | Charlie Jiang
350Brooklyn.org | Brooklyn, NY | Sara Gronim
350NJ-Rockland | New Jersey and Rockland County, NY | Jerome Wagner
Air Alliance Houston | Houston, TX | Bakeyah Nelson
Alaska Climate & Energy Action Coalition | Alaska | Ceal Smith
Alliance of Nurses for Healthy Environments | USA | Katie Huffling

American Security Project | Washington, DC | Esther Babson
Americas for Conservation + Arts | Denver, CO | Irene Vilar
Appalachian Mountain Club | Boston, MA | Georgia Murray
Appalachian Trail Conservancy | Harpers Ferry, WV | Laura Belleville
Athens County Fracking Action Network | Athens County, OH | Heather Cantino
Azul | San Francisco, CA | Marce Gutiérrez-Graudiņš
Big Bend Defense Coalition | Alpine, TX | Lori Glover
Blancett Ranches | Aztec, NM | Tweeti Blancett
Breathe Easy Susquehanna County | Montrose PA | Rebecca Roter, Chairperson
Brewster County Democratic Chair | Alpine, TX | Mary Bell Lockhart
Buckeye Environmental Network | Ohio | Teresa Mills
Butte Valley Coalition | Butte Valley, CA | John Scott
Californians for Western Wilderness | San Francisco, CA | Michael J. Painter
Camp Toyahvale | Balmorhea, TX | Ramon Holguín Jr.
Carroll Concerned Citizens, Inc. | Carrollton, OH | Paul Feezel
Catskill Citizens for Safe Energy | New York | Jill Wiener
Catskill Mountainkeeper | Livingston Manor, NY | Wes Gillingham
CAVU | Santa Fe, NM | Jordan V Smith
Center for Biological Diversity | USA | Howard Crystal
Center for Coalfield Justice | Pennsylvania | Veronica Coptis
Central CA Environmental Justice Network | Bakersfield, CA | Gustavo Aguirre
Citizens Alliance Upholding a Safe Environment | Wilmington, PA | Carrie Hahn
Citizens Coalition for a Safe Community | LA County, CA | Paul Ferrazzi
Citizens for Clean Air | Grand Junction, CO | Karen Sjoberg
Citizens For Water | New York | joe Levine
Citizens to Preserve the Ligonier Valley (CPLV) | Ligonier, PA | Edward Oles
Citizens' Environmental Coalition | New York | Barbara Warren, RN, MS
Clean Air Council | Mid-Atlantic | Joseph Otis Minott
Clean Air Task Force | USA | Sarah Uhl
Clean Water Action | USA | John Noel
Communities United for Rights and Environment | Pittsburgh, PA | Loretta Weir
Compressor Free Franklin | Franklin, NY | Donald Hebbard
Concerned Health Professionals of New York | New York | Carmi Orenstein
Conservation Colorado | Colorado | Pete Maysmith
Conservation Voters New Mexico | Santa Fe, NM | Liliana Castillo
CVNM Education Fund | Albuquerque, NM | Liliana Castillo
Dakota Resource Council | North Dakota | Linda Weiss

Damascus Citizens for Sustainability | USA | B. Arrindell
Denton Drilling Awareness Group | Denton, TX | Ed Soph
Downwinders at Risk | Dallas, TX | Tamera J. Bounds
Dryden Resource Awareness Coalition | Dryden, NY | Marie McRae
Earthjustice | USA | Jessica Ennis
Elmirans and Friends Against Fracking | Elmira, NY | Doug Couchon
EPCF | Bakersfield, CA | Edward Padilla
Flint Hills Stewards | Matfield Green, KS | Cindy Hoedel
Flower Mound Citizens Against Urban Drilling | Flower Mound, TX | Tammi Vajda
Food & Water Watch | USA | Elizabeth Schuster
Fort Berthold Protectors of Water and Earth Rights | Mandaree, ND | Lisa DeVille
Fort Cherry Impacted Parents | McDonald, PA | Jane Worthington
Frac Sand Sentinel | Chippewa Falls, WI | Patricia Popple
Frack Free Catskills | Saugerties, NY | Joan Walker-Wasylyk
Grand Canyon Trust | Flagstaff, AZ | Amber Reimondo
Grand Valley Citizens Alliance | Rifle, CO | Leslie Robinson
Grassroots Citizens for Peace and Justice | Iowa County, WI | Jane H Kavaloski
Grassroots Environmental Education | Port Washington, NY | Ellen Weininger
Great Old Broads for Wilderness | USA | Shelley Silbert
GreenFaith | USA | Rev. Fletcher Harper
GreenFaith Latinoamerica | USA | Rev. Dr. Neddy Astudillo
Group Against Smog and Pollution | Pittsburgh, PA | Jamin Bogi
Hawaii Institute for Human Rights | Hawaii | Joshua Cooper
Hispanic Access Foundation | Washington, DC | Jennifer Brandt
Howard County Climate Action in Maryland | Howard County, MD | Ruth White
Indivisible Denton Environmental | Denton, TX | Margarete Neale
Irving Impact | Irving, TX | Cathy Wallace
Jeff Davis County Friends | Fort Davis, TX | Beth Francell
LEAD Agency, Inc. | Vinita, OK | Earl Hatley, Grand Riverkeeper
League of Conservation Voters | USA | Madeleine Foote
League of United Latin American Citizens | USA | Brent Wilkes
League of Women Voters Pennsylvania | Harrisburg, PA | Susan Carty
Liveable Arlington | Arlington, TX | Ranjana Bhandari
Mansfield Gas Well Awareness | Mansfield, TX | Tamera J. Bounds
Maryland Environmental Health Network | Maryland | Tamara Toles O'Laughlin
Mi Familia Vota | USA | Ben Monterroso
Moms Clean Air Force | USA | Molly Rauch

Mount Shasta Bioregional Ecology Center | Mount Shasta, CA | Michelle Berditschevsky
Mountain Watershed Association | Pennsylvania | Ashley Funk
Multicultural Alliance for a Safe Environment | Albuquerque, NM | Susan Gordon
National Hispanic Medical Association | USA | Pedro Montenegro
Natural Resources Defense Council | USA | Lucy Laflamme
Nature Abounds | USA | Melinda Hughes
NC WARN | North Carolina | Jim Warren
New Mexico Interfaith Power and Light | New Mexico | Sr. Joan Brown, osf.
New Mexico Sportsmen | New Mexico | Oscar Simpson
New Mexico Story Power | Albuquerque, NM | Delaney Pearson
New York-New Jersey Trail Conference | Mahwah, NJ | Edward Goodell
NextGen America | San Francisco, CA | David Weiskopf
NH Energy Impacts on Health Study Group | Temple, NH | Beverly Edwards
Northcoast Environmental Center | Arcata, CA | Larry Glass
Northern Plains Resource Council | Montana | Deborah Hanson
NYC Friends of Clearwater | New York, NY | Edith Kantrowitz
NYH2o | New York, NY | Buck Moorhead
Ohio Allies | Barnesville, OH | Jill A. Hunkler
Ohio Environmental Council | Columbus, OH | Melanie Houston
Ohio Nurses Association | Columbus, OH | Susan Tullai-McGuinness
Ohio Sustainable Business Council | Ohio | Mayda Sanchez
Oil Change International | USA | Lorne Stockman
Oxfam America | USA | Thomas Damassa
Partnership for Policy Integrity | Pelham, MA | Dusty Horwitt
People for a Healthy Environment, Inc. | New York | Frank Potter
Plymouth Friends of Clean Water | South Plymouth, NY | Peter Hudiburg
Ponca Tribe of Oklahoma | Ponca City, OK | Casey Camp Horinek
Progressive Allies Coalition | Fort Worth, TX | Kit Jones
Project CoffeeHouse | Lycoming County, PA | Barbara Jarmoska
Protect Orange County | Orange County, New York | Pramilla Malick
Public Citizen | USA | Stephanie Thomas
Pueblo Action Alliance | Albuquerque, NM | Julia Bernal
Physicians for Social Responsibility | USA | Barb Gottlieb
Responsible Drilling Alliance | Williamsport, PA | Ralph Kisberg
Rio Grande International Study Center | Laredo, TX | Tricia Cortez
Sachamama | Miami, FL | Carlos Zegarra
San Juan Citizens Alliance | Durango, CO and Farmington, NM | Mark Pearson

Sane Energy Project | New York, NY | Kim Fraczek
Save Amtrak Big Bend | Alpine, TX | Chris Sweeney
Save Our Salem | Salem Township, PA | Dawn Law
Schuylkill Pipeline Awareness | Schuylkill County, PA | Faith Zetrbe
SCRAM | Highland, NY | George Billard
Sierra Club | USA | Andres Restrepo, Staff Attorney
Slow Food NYC | New York, NY | Holley Atkinson
Society of Alternative Resources | Wichita, KS | Lori Lawrence
South Fayette Township | South Fayette, PA | Joseph Horowitz
Southwest Native Cultures | Albuquerque, NM | Terry A. Sloan
Stop Fracking Payne County (Oklahoma) | Stillwater, OK | SFPC Planning Committee
Stop the Algonquin Pipeline Expansion (SAPE) | New York | Suzannah Glidden
Stop the Denton Gas Plants | Denton, TX | Deborah Armintor
StopNED | Ashby, MA | Cathy Kristofferson
Sustainable Dunn | Menomonie, WI | Linda Walsh
Tewa Women United | Española, NM | Beata Tsosie & Kathy Sanchez
Texas Grassroots Network | Texas | Ramon Holguín Jr.
The Endocrine Disruption Exchange | Eckert, CO | Carol Kwiatkowski
The Wilderness Society | USA | Chase Huntley
Thrive At Life: Working Solutions | Dayton, OH | Peggy Ann Berry, PhD, RN, COHN-S
Union of Concerned Scientists | USA | Alyssa Tsuchiya
United Methodist Women | USA | Elizabeth Chun Hye Lee
Upper Green River Alliance | Pinedale, WY | Linda F Baker
Voces Verdes | USA | Adrianna Quintero
VoteVets | Portland, OR | Hazel Diaz
Waterkeeper Alliance | USA | Daniel E. Estrin
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We Are Cove Point | Lusby, MD | Donny Williams
West Texas Accountability Project | Lubbock, TX | Karen Porter
Western Colorado Congress | Colorado | Steve Allerton
Western Leaders Network | Western United States | Jessica Pace
Western Leaders Network, San Juan Citizens Alliance | Durango, CO | Don Schreiber
Western Organization of Resource Councils | USA | Sara Kendall
Western Watersheds Project | Western United States | Erik Molvar
Westmoreland Marcellus Citizens' Group | Westmoreland County PA | Jan Milburn
WildEarth Guardians | Western United States | Rebecca Fischer
Winyah Rivers Foundation | Conway, SC | Christine Ellis

WV Surface Owners' Rights Organization | Charleston, WV | Julie Archer