



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA-HQ-OAR-2010-0505; FRL-9950-34-OAR]

Reconsideration of the Oil and Natural Gas Sector: New Source Performance Standards; Final Action

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of petitions for reconsideration.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is providing notice that it has responded to 11 petitions for reconsideration of the final rule titled "Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews," published in the **Federal Register** on August 16, 2012, and seven petitions for reconsideration of subsequent amendments published in the **Federal Register** on September 23, 2013, and December 31, 2014. The agency previously granted reconsideration of several discrete issues and took final action on reconsideration through documents published in the **Federal Register** on September 23, 2013, December 31, 2014, August 12, 2015, and June 3, 2016. The Administrator denied the remaining requests for reconsideration in separate letters to the petitioners. The basis for the EPA's action is set out fully in a separate document available in the rulemaking docket.

DATES: Effective [**insert date of publication in the Federal Register**].

FOR FURTHER INFORMATION CONTACT: 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; fax number: (919) 541-3470; email address: thompson.lisa@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Where can I get a copy of this document and other related information?

A copy of this **Federal Register** notice, the petitions for reconsideration, and the separate document describing the full basis for this action are available in the docket the EPA established under Docket ID No. EPA-HQ-OAR-2010-0505. In addition, following signature, an electronic copy of this final action and the document will be available on the World Wide Web (WWW) at the following address:

<https://www3.epa.gov/airquality/oilandgas/actions.html>.

II. Judicial Review

Section 307(b)(1) of the Clean Air Act (CAA) specifies which Federal Courts of Appeal have venue over petitions for review of final EPA actions. This section provides, in part, that "a petition for review of action of the Administrator in

promulgating . . . any standard of performance or requirement under section [111] of [the CAA],” or any other “nationally applicable” final action, “may be filed only in the United States Court of Appeals for the District of Columbia.”

The EPA has determined that its action denying the petitions for reconsideration is nationally applicable for purposes of CAA section 307(b)(1) because the action directly affects the Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews, which are nationally applicable CAA section 111 standards. Thus, any petitions for review of the EPA’s decision to deny petitioners’ requests for reconsideration must be filed in the United States Court of Appeals for the District of Columbia Circuit by **[insert date 60 days after date of publication in the Federal Register]**.

III. Description of Action

On August 16, 2012, pursuant to CAA section 111(b) of the CAA, the EPA published the final rule titled “Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews.” 77 FR 49490. The EPA published subsequent amendments to the rule on September 23, 2013 (78 FR 58416), and December 31, 2014 (79 FR 79018). Following publication of these final rules, the Administrator received petitions for reconsideration of certain

provisions of the final rules pursuant to CAA section 307(d) (7) (B) .

CAA section 307(d) (7) (B) requires the EPA to convene a proceeding for reconsideration of a rule if a party raising an objection to the rule "can demonstrate to the Administrator that it was impracticable to raise such objection within [the public comment period] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule." The requirement to convene a proceeding to reconsider a rule is, thus, based on the petitioner demonstrating to the EPA both: (1) that it was impracticable to raise the objection during the comment period, or that the grounds for such objection arose after the comment period, but within the time specified for judicial review (i.e., within 60 days after publication of the final rulemaking notice in the **Federal Register**, see CAA section 307(b) (1)); and (2) that the objection is of central relevance to the outcome of the rule.

The EPA received 18 petitions for reconsideration of the new source performance standards and subsequent amendments from the following 13 organizations or groups of organizations:

- America's Natural Gas Alliance and the American Exploration and Production Council (ANGA & AXPC)

- American Petroleum Institute (API) (3 petitions)
- California Communities Against Toxics, California Safe Schools, Clean Air Council, Coalition For A Safe Environment, Desert Citizens Against Pollution, Natural Resources Defense Council, and the Sierra Club (Earthjustice)
- Clean Air Council, Clean Air Task Force, Environmental Defense Fund, Group Against Smog and Pollution, the Natural Resources Defense Council, and the Sierra Club
- Gas Processors Association (GPA) (2 petitions)
- Independent Petroleum Association of America, Independent Oil and Gas Association of West Virginia, Inc., Kentucky Oil & Gas Association, Inc., Indiana Oil and Gas Association, Pennsylvania Independent Oil & Gas Association, Ohio Oil and Gas Association, Illinois Oil & Gas Association
- Interstate Natural Gas Association of America
- M-Squared Products & Services, Inc. (M-Squared)
- REM Technology Inc.
- Texas Commission On Environmental Quality (TCEQ)
- Texas Oil & Gas Association (TXOGA) (2 petitions)
- Texas Pipeline Association

- Western Energy Alliance (WEA) (2 petitions)

The EPA previously granted reconsideration of all issues in seven of the petitions and on several discrete issues contained in some of the other petitions it received and took final action on reconsideration through documents published in the **Federal Register** on September 23, 2013, December 31, 2014, August 12, 2015, and June 3, 2016. The EPA has now denied the issues in the remaining 11 petitions as not satisfying one or both of the statutory conditions for compelled reconsideration. We discuss each of the petitions we are denying and the basis for those denials in a separate document titled "Denial of Petitions for Reconsideration of Certain Issues: Oil and Natural Gas New Source Performance Standards (40 CFR part 60, subpart OOOO)." For reasons set out in the document, the remaining issues raised in petitions for review from ANGA & AXPC, API, Earthjustice, GPA, M-Squared, TCEQ, TXOGA, and WEA are denied.¹

Dated: July 29, 2016.

Gina McCarthy,
Administrator.

¹ The Administrator is also sending an individual letter to each of the petitioners announcing her decision on their petitions.

