



6560-50-P

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-notice-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.

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

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).

² See Docket ID No. EPA-HQ-OAR-2010-0505-7730.

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.

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?

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(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].

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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.

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(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]**.

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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.

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(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]**.

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