

August 9<sup>th</sup>, 2017

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  
350Brooklyn.org | Brooklyn, NY  
350NJ-Rockland | New Jersey and Rockland County, NY  
Air Alliance Houston | Houston, TX  
Alaska Climate & Energy Action Coalition | Alaska  
Alliance of Nurses for Healthy Environments | USA  
American Security Project | Washington, DC  
Americas for Conservation + Arts | Denver, CO  
Appalachian Mountain Club | Boston, MA  
Appalachian Trail Conservancy | Harpers Ferry, WV  
Athens County Fracking Action Network | Athens County, OH  
Azul | San Francisco, CA  
Big Bend Defense Coalition | Alpine, TX  
Blancett Ranches | Aztec, NM  
Breathe Easy Susquehanna County | Montrose PA  
Brewster County Democratic Chair | Alpine, TX  
Buckeye Environmental Network | Ohio  
Butte Valley Coalition | Butte Valley, CA  
Californians for Western Wilderness | San Francisco, CA  
Camp Toyahvale | Balmorhea, TX  
Carroll Concerned Citizens, Inc. | Carrollton, OH  
Catskill Citizens for Safe Energy | New York  
Catskill Mountainkeeper | Livingston Manor, NY  
CAVU | Santa Fe, NM  
Center for Biological Diversity | USA  
Center for Coalfield Justice | Pennsylvania  
Central CA Environmental Justice Network | Bakersfield, CA  
Citizens Alliance Upholding a Safe Environment | Wilmington, PA

Citizens Coalition for a Safe Community | LA County, CA  
Citizens for Clean Air | Grand Junction, CO  
Citizens For Water | New York  
Citizens to Preserve the Ligonier Valley (CPLV) | Ligonier, PA  
Citizens' Environmental Coalition | New York  
Clean Air Council | Mid-Atlantic  
Clean Air Task Force | USA  
Clean Water Action | USA  
Communities United for Rights and Environment | Pittsburgh, PA  
Compressor Free Franklin | Franklin, NY  
Concerned Health Professionals of New York | New York  
Conservation Colorado | Colorado  
Conservation Voters New Mexico | Santa Fe, NM  
CVNM Education Fund | Albuquerque, NM  
Dakota Resource Council | North Dakota  
Damascus Citizens for Sustainability | USA  
Denton Drilling Awareness Group | Denton, TX  
Downwinders at Risk | Dallas, TX  
Dryden Resource Awareness Coalition | Dryden, NY  
Earthjustice | USA  
Earthworks | USA  
Elmirans and Friends Against Fracking | Elmira, NY  
EPCF | Bakersfield, CA  
Flint Hills Stewards | Matfield Green, KS  
Flower Mound Citizens Against Urban Drilling | Flower Mound, TX  
Food & Water Watch | USA  
Fort Berthold Protectors of Water and Earth Rights | Mandaree, ND  
Fort Cherry Impacted Parents | McDonald, PA  
Frac Sand Sentinel | Chippewa Falls, WI  
Frack Free Catskills | Saugerties, NY  
Grand Canyon Trust | Flagstaff, AZ  
Grand Valley Citizens Alliance | Rifle, CO  
Grassroots Citizens for Peace and Justice | Iowa County, WI  
Grassroots Environmental Education | Port Washington, NY  
Great Old Broads for Wilderness | USA  
GreenFaith | USA  
GreenFaith Latinoamerica | USA  
Group Against Smog and Pollution | Pittsburgh, PA  
Hawaii Institute for Human Rights | Hawaii  
Hispanic Access Foundation | Washington, DC  
Howard County Climate Action in Maryland | Howard County, MD  
Indivisible Denton Environmental | Denton, TX  
Irving Impact | Irving, TX  
Jeff Davis County Friends | Fort Davis, TX  
LEAD Agency, Inc. | Vinita, OK

League of Conservation Voters | USA  
League of United Latin American Citizens | USA  
League of Women Voters Pennsylvania | Harrisburg, PA  
Liveable Arlington | Arlington, TX  
Mansfield Gas Well Awareness | Mansfield, TX  
Maryland Environmental Health Network | Maryland  
Mi Familia Vota | USA  
Moms Clean Air Force | USA  
Mount Shasta Bioregional Ecology Center | Mount Shasta, CA  
Mountain Watershed Association | Pennsylvania  
Multicultural Alliance for a Safe Environment | Albuquerque, NM  
National Hispanic Medical Association | USA  
Natural Resources Defense Council | USA  
Nature Abounds | USA  
NC WARN | North Carolina  
New Mexico Interfaith Power and Light | New Mexico  
New Mexico Sportsmen | New Mexico  
New Mexico Story Power | Albuquerque, NM  
New York-New Jersey Trail Conference | Mahwah, NJ  
NextGen America | San Francisco, CA  
NH Energy Impacts on Health Study Group | Temple, NH  
Northcoast Environmental Center | Arcata, CA  
Northern Plains Resource Council | Montana  
NYC Friends of Clearwater | New York, NY  
NYH2o | New York, NY  
Ohio Allies | Barnesville, OH  
Ohio Environmental Council | Columbus, OH  
Ohio Nurses Association | Columbus, OH  
Ohio Sustainable Business Council | Ohio  
Oil Change International | USA  
Oxfam America | USA  
Partnership for Policy Integrity | Pelham, MA  
People for a Healthy Environment, Inc. | New York  
Plymouth Friends of Clean Water | South Plymouth, NY  
Ponca Tribe of Oklahoma | Ponca City, OK  
Progressive Allies Coalition | Fort Worth, TX  
Project CoffeeHouse | Lycoming County, PA  
Protect Orange County | Orange County, New York  
Public Citizen | USA  
Pueblo Action Alliance | Albuquerque, NM  
Physicians for Social Responsibility | USA  
Responsible Drilling Alliance | Williamsport, PA  
Rio Grande International Study Center | Laredo, TX  
Sachamama | Miami, FL  
San Juan Citizens Alliance | Durango, CO and Farmington, NM

Sane Energy Project | New York, NY  
Save Amtrak Big Bend | Alpine, TX  
Save Our Salem | Salem Township, PA  
Schuylkill Pipeline Awareness | Schuylkill County, PA  
SCRAM | Highland, NY  
Sierra Club | USA  
Slow Food NYC | New York, NY  
Society of Alternative Resources | Wichita, KS  
South Fayette Township | South Fayette, PA  
Southwest Native Cultures | Albuquerque, NM  
Stop Fracking Payne County (Oklahoma) | Stillwater, OK  
Stop the Algonquin Pipeline Expansion (SAPE) | New York  
Stop the Denton Gas Plants | Denton, TX  
StopNED | Ashby, MA  
Sustainable Dunn | Menomonie, WI  
Tewa Women United | Española, NM  
Texas Grassroots Network | Texas  
The Endocrine Disruption Exchange | Eckert, CO  
The Wilderness Society | USA  
Thrive At Life: Working Solutions | Dayton, OH  
Union of Concerned Scientists | USA  
United Methodist Women | USA  
Upper Green River Alliance | Pinedale, WY  
Voces Verdes | USA  
VoteVets | Portland, OR  
Waterkeeper Alliance | USA  
Waterkeepers Chesapeake | Chesapeake Bay, MD/VA  
We Are Cove Point | Lusby, MD  
West Texas Accountability Project | Lubbock, TX  
Western Colorado Congress | Colorado  
Western Leaders Network | Western United States  
Western Leaders Network, San Juan Citizens Alliance | Durango, CO  
Western Organization of Resource Councils | USA  
Western Watersheds Project | Western United States  
Westmoreland Marcellus Citizens' Group | Westmoreland County PA  
WildEarth Guardians | Western United States  
Winyah Rivers Foundation | Conway, SC  
WV Surface Owners' Rights Organization | Charleston, WV