

1. In June 2016, EPA issued a new source performance standard (“NSPS”) regulating methane emissions from new and modified sources in the oil and gas industry (hereinafter referred to as “NSPS OOOOa”). 81 Fed. Reg. 35,824 (June 3, 2016).

2. Multiple interested parties filed petitions for administrative reconsideration with EPA regarding aspects of the fugitive emissions obligations in this rule (in addition to filing litigation in this court). *See* 82 Fed. Reg. 25,730, 25,731 (June 5, 2017); *Am. Petroleum Inst. v. EPA*, No. 13-1108 (D.C. Cir) and consolidated cases Nos. 13-1289, 13-1290, 13-1292, 13-1293, 13-1294, 15-1040, 15-1041, 15-1042, 15-1043, 15-1044, 16-1242, 16-1257, 16-1262, 16-1263, 16-1264, 16-1266, 16-1267, 16-1269, and 16-1270.

3. EPA published a notice of the reconsideration and partial stay of the rule on June 5. 82 Fed. Reg. 25,730 (June 5, 2017).

4. The stay applies to 40 C.F.R. § 60.5397a, which pertains to the fugitive emission requirements for well sites and compressor stations. *See id.* Through this action, EPA has stayed “the effectiveness of the fugitive emissions requirements, the standards for pneumatic pumps at well sites, and the certification by a professional

engineer requirements.” *Id.* at 25,732. The “stay will remain in place until August 31, 2017.” *Id.*

5. Petitioners have filed a petition for review of this stay. ECF No. 1678132.

6. INGAA is a national, non-profit trade association that advocates regulatory and legislative positions of importance to the interstate natural gas pipeline industry in North America. INGAA’s members represent the vast majority of the interstate natural gas transmission pipeline companies in the United States, and its members operate thousands of compressor stations across the country.

7. INGAA’s members have an interest in this case because they are directly affected by the stay and absent the stay they must comply with the fugitive emission requirements in 40 C.F.R. § 60.5397a. Furthermore, INGAA’s concerns about the fugitive emission requirements in NSPS OOOOa led INGAA to file a petition for review of the rule on August 2, 2016.¹ *See Interstate Natural Gas Ass’n of Am. v. U.S. EPA*, No. 16-1263 (D.C. Cir. Aug. 2, 2016). INGAA’s statement of

¹ This litigation has been subsequently held in abeyance pending EPA’s review of the entire rule. ECF No. 1675813.

issues in that litigation makes clear that INGAA's only issue of concern in the case relates to the delay of repair provisions in 40 C.F.R. § 60.5397a. ECF No. 1634119.

8. Intervention is warranted because INGAA timely seeks to protect the direct, substantial, and legally protectable interests of its private members whose concerns as EPA-regulated companies subject to the requirements in 40 C.F.R. § 60.5397a might not adequately be protected by EPA.

9. INGAA's motion for leave to intervene is timely. Under Federal Rule of Appellate Procedure 15(d), motions to intervene must be filed within 30 days after the petition for review was filed. INGAA's motion for leave to intervene was filed within less than 30 days of Petitioners' June 5, 2017 petition for review. INGAA's intervention would not prejudice the other parties or unduly delay the resolution of the Petitioners' claims. The record has not been filed, and no briefing schedule has been set. In short, allowing INGAA to participate at this early stage of proceedings would neither delay the resolution of the issues nor prejudice any party's rights.

10. INGAA also has a substantial and legally protectable interest in the subject of the litigation. The stay at issue applies to 40 C.F.R. § 60.5397a, 82 Fed. Reg. at 25,733, which is the precise provision that INGAA is litigating in this court. ECF No. 1634119. As a representative of some of the companies that must comply with 40 C.F.R. § 60.5397a, INGAA has a direct, substantial, and legally cognizable interest in this case because overturning the stay could subject INGAA's members

to significant burdens and risks. INGAA's members have relied on EPA's April 18 letter stating that the requirements would be stayed. *See* Petitioners' Emergency Mot., Attach. 13.

11. Respondents cannot fully represent INGAA's position because they do not represent the actual entities burdened by the requirements in 40 C.F.R. § 60.5397a. EPA will likely raise concerns about the stay of 40 C.F.R. § 60.5397a from the standpoint of a regulator, not as a regulated entity. EPA's interests do not always align with those of the regulated community, as evidenced by the fact that INGAA and others needed to file litigation and take administrative action to compel EPA to address problems with 40 C.F.R. § 60.5397a.

12. Because INGAA meets the requirements for intervention, its motion to intervene should be granted.

13. Respondent EPA has stated that it does not oppose this motion. Petitioners have stated that they take no position.

For the reasons stated above, INGAA respectfully requests that this court grant INGAA's motion to intervene in this proceeding.

Respectfully submitted,

Date: June 14, 2017

/s/ Sandra Y. Snyder

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CERTIFICATE OF SERVICE

I hereby certify that, on this 14th day of June, 2017, I have this day caused the foregoing “Unopposed Motion for Leave to Intervene” to be to be served electronically through the Court’s CM/ECF system on all ECF-registered counsel.

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pipelines and thousands of compressor stations in the U.S. INGAA advocates regulatory and legislative positions of importance to the natural gas pipeline industry. Its member companies are regulated by the U.S. Environmental Protection Agency.

2. INGAA has no parent companies, subsidiaries, or affiliates that have issued publicly traded stock. Most INGAA member companies are corporations with publicly traded stock.

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