



September 24, 2019

Submitted via regulations.gov

Elineth Torres
Sector Policies and Programs Division (D205-02)
Office of Air Quality Planning and Standards
U.S. Environmental Protection Agency
Research Triangle Park, NC 27711

RE: Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act (Docket ID No. EPA-HQ-OAR-2019-0282)

Dear Ms. Torres:

The reclassification of major sources as area sources when facility emissions fall below applicability criteria is a common-sense change to current EPA policy. For decades EPA has kept sources that have reduced their emissions below major thresholds in a regulatory structure meant for much larger emitting facilities. This has had a profound effect on the oil and natural gas companies our associations represent due to their highly variable production levels. Regulations that are appropriate for the level of emissions and size of facility is a cornerstone of the Clean Air Act (CAA), which is why we are supportive of the policy changes proposed in this rule.

Western Energy Alliance, American Exploration & Production Council (AXPC), and the Independent Petroleum Association of America (IPAA) (collectively the Associations) appreciate the opportunity to comment on the proposed revisions of the major source classification process under Section 112 (i.e. NESHAP) of the CAA. We believe that EPA has proposed significant positive changes to the regulation, but a few clarifications on how this could impact major source determinations in new source performance standards (NSPS) would be helpful as those rules have a disproportionate impact on the independent oil and natural gas companies we represent.

Western Energy Alliance represents 300 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas in the West. Alliance members are independents, the majority of which are small businesses with an average of fourteen employees.

AXPC is a national trade association representing 33 of America's largest and most active independent natural gas and crude oil exploration and production companies. The AXPC's members are "independent" in that their operations are limited to the exploration for and production of natural gas

and crude oil. Moreover, its members operate autonomously, unlike their fully integrated counterparts, which operate in different segments of the energy industry, such as refining and marketing.

IPAA is a national upstream trade association representing thousands of independent oil and natural gas producers and service companies across the United States. Independent producers develop 90 percent of the nation's oil and natural gas wells. These companies account for 83 percent of America's oil production, 90 percent of its natural gas and natural gas liquids production, and support over 4.5 million American jobs.

We support EPA using the January 2018 guidance memo on reclassification as a guide to develop this proposed rule which ensures a plain language reading of the major source and area source definitions.¹

We support EPA's proposal to amend the definition of "potential to emit" to require limits that meet the effectiveness criteria of being both legally and practicably enforceable. As clearly articulated in the *National Mining Association* case, federal enforceability is a term that does not enhance the effectiveness of the CAA.²

We also support the proposal that operators can reclassify sources from major to area with a simple electronic notification. While submission of the required information through the Compliance and Emissions Data Reporting Interface can sometimes be a difficult process, the notification will ensure that both EPA and the operator are clear as to what requirements are applicable to the source.

We have experienced firsthand the problems with source classification that will be addressed by this proposed rule. For instance, operators who have glycol dehydrators co-located with exploration and production facilities have found that the relatively high initial production flows trip the NESHAP major source threshold. The well then quickly drops to the emission rate of an area source, but is required to comply with the record keeping, control, and monitoring requirements of a major source for as long as the facility exists. This situation imposes years if not decades of paperwork and expenses on minor sources that EPA has considered appropriate only for much larger sources of emissions.

The CAA is designed such that facilities are subject to regulatory requirements that are appropriate for their size and level of emissions. For that reason, EPA has created different regulatory structures for major sources and area sources. While this proposal fixes the permanent classification issue in the NESHAP regulations, there are NSPS standards that require facilities to maintain control and recordkeeping requirements in perpetuity even when emissions fall below applicability thresholds. The only way to remove the requirements is to remove the equipment completely from the site. The clear statement, "This text is not reasonably read to say that, once a standard is applicable to a source, that standard continues to be applicable to the source for all time, even if the source's potential to emit changes such that it no longer meets the applicability criteria for the standard" should also be applied to

¹ [Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act Guidance Memo](#), EPA, January 25, 2018

² [National Mining Association \(NMA\) v. EPA](#), 59 F.3d 1351 (D.C. Cir. 1995)

the NSPS regulations.³ We suggest making it clear in the final rule that NSPS requirements should also no longer apply to a source when it no longer meets the applicability criteria for the standard.

The Associations appreciate the opportunity to provide comments to the proposed rule. Please feel free to contact us regarding any questions with our comments.

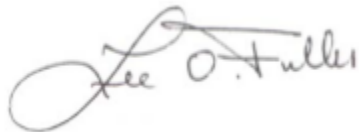
Sincerely,

A handwritten signature in blue ink, appearing to read 'K M Sgamma', with a long horizontal flourish extending to the right.

Kathleen M. Sgamma
President
Western Energy Alliance

A handwritten signature in blue ink, appearing to read 'V. Bruce Thompson', with a long horizontal flourish extending to the right.

V. Bruce Thompson
President
American Exploration & Production Council

A handwritten signature in blue ink, appearing to read 'Lee O. Fuller', with a long horizontal flourish extending to the right.

Lee O. Fuller
Executive Vice President
Independent Petroleum Association of America

³ [84 FR 36311](#)