



July 30, 2021

Environmental Protection Agency
EPA Docket Center
Docket ID No. EPA-HQOAR-2021-0295
1200 Pennsylvania Ave, NW
Washington, DC 20460

Re: Docket No. EPA-HQ-OAR-2021-0295
Public Input on Upcoming Oil and Natural Gas Methane Rule

To Whom It May Concern

On behalf of the Railroad Commission of Texas and the Texas Commission on Environmental Quality, we are pleased to offer the following input as solicited on the United States Environmental Protection Agency's (EPA's) upcoming Oil and Natural Gas Methane Rule to reduce emissions of methane and other air pollutants from new and existing sources in the Oil and Natural Gas sector.

The Railroad Commission of Texas (RRC) has effectively regulated the oil and natural gas industry in the State of Texas since 1919. The RRC's primary statutory responsibilities in the regulation of Texas oil and natural gas resources are to conserve the State's natural resources, prevent waste of natural resources, protect the correlative rights of different interest owners, protect the environment from pollution associated with oil and natural gas activity, and ensure safety. The RRC works closely with the Texas Commission on Environmental Quality (TCEQ), which has primary jurisdiction over air emissions for the purposes of safeguarding the State's air resources.

On June 3, 2016, EPA issued a final rule, "Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources." This rule included amendments to the existing standards for the oil and natural gas source category (subpart OOOO) and set first-time standards for both greenhouse gases (GHGs) (specifically methane) and volatile organic compounds (VOC) (subpart OOOOa).

The 2020 Policy Rule amended the New Source Performance Standards (NSPS) for the Oil and Natural Gas Industry that EPA promulgated in 2012 (77 FR 49489) (Aug. 12, 2012) (“2012 NSPS”) and 2016 (81 FR 35824) (June 3, 2016) (“2016 NSPS”). The 2020 Policy Rule rescinded all NSPS (regulating emissions of volatile organic compounds and methane) from sources in the natural gas transmission and storage segment of the oil and gas industry and NSPS regulating methane from sources in the industry’s production and processing segments.

President Biden's Executive Order (EO) 13990, “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis,” instructed EPA to consider taking two key steps by September 2021: (1) propose a rule to reduce methane emissions from the Oil and Natural Gas sector by suspending, revising, or rescinding the NSPS modifications finalized in 2020; and (2) propose new regulations to establish comprehensive standards of performance and emission guidelines for methane and volatile organic compounds (VOC) emissions from existing operations in the oil and natural gas sector, including the exploration and production, processing and transmission and storage segments.

However, on June 30, 2021, President Biden signed into law a joint resolution of Congress, adopted under the Congressional Review Act (CRA), disapproving the 2020 Policy Rule. The CRA resolution has the effect of reinstating the 2012 VOC and 2016 VOC and methane standards for the transmission and storage segment, as well as the methane standards for the production and processing segments.

In a separate final rule promulgated shortly after the 2020 Policy Rule, EPA promulgated several technical amendments to the amended 2016 NSPS. “Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Reconsideration,” 85 FR 57398 (Sept. 15, 2020) (“2020 Technical Rule”). The CRA resolution that disapproved the 2020 Policy Rule did not address the 2020 Technical Rule; therefore, those amendments remain in effect.

EPA advises that it intends to comply with the executive order by issuing a proposed rulemaking in September, 2021 and established this docket to receive comments prior to the rulemaking.

The RRC and TCEQ continue to be concerned that the oil and natural gas industry, as well as mineral interest owners, consumers, and the State, in Texas could be significantly impaired by any new rules regulating methane and/or VOC emissions. We are particularly concerned that any proposed new rules would significantly expand EPA’s authority to regulate and control all aspects of oil and gas production, processing, transmission, and storage activities in Texas and other states. Energy production supports 3.157 million jobs in the

State and provides between 30 and 40 percent of the State's economy. Nationally, the U.S. Department of Energy estimated that: (1) at the start of 2020, the oil and gas industry was responsible for 12.3 million American jobs; (2) between 2012 and 2025, the industry is projected to provide \$1.6 trillion in federal and state tax revenue, supporting the maintenance of schools, hospitals, and public infrastructure across the country; and (3) the U.S. trade deficit in 2019 was \$305 billion lower than it would have been without domestic oil and natural gas production.

Any regulations must be clearly demonstrated to lead to noticeably lower emissions. Methane emissions have decreased 14.8% since 1990 despite a huge increase in production over the same timeframe. EPA should very carefully balance emission reductions and energy production and clearly demonstrate proportional gains in public health and environmental protection. For instance, the TCEQ has a robust air permitting program. Air permits typically include fugitive monitoring programs and control of VOC emissions, which would include methane emissions since methane is not separated from VOCs prior to atmospheric release. Additional requirements to control and monitor methane specifically are burdensome to the regulated community, duplicative and are therefore unnecessary.

We urge EPA to carefully estimate the number of sources that will be affected and the regulatory impact and burden of, and deadlines for, complying with any new requirements. In the past, EPA estimated that its NSPS for methane would affect 13,000 oil wells and 94,000 well pads, causing the operators of affected facilities to incur a total cost of \$640 million by 2025 to produce climate benefits of \$690 million. EPA predicted that the cost would be further offset by sales of \$110 million worth of gas that otherwise would have leaked into the atmosphere. (subtracting \$110 million from the \$640 million in engineering costs to produce a net engineering cost of \$530 million). However, EPA's prediction valued this gas at \$4.00 per thousand cubic feet (Mcf). (81 Fed. Reg. 35,827, 35,886). The RRC believes that EPA substantially underestimated both the number of potentially affected sources and the overall fiscal impact and regulatory burden of the rule on operators.

Texas is the nation's largest producer of oil and natural gas with, as of December 31, 2018, over 187,000 active producing oil wells and almost 99,000 natural gas wells. EPA should carefully estimate industry's ability to meet the compliance schedule by taking into account the availability of control and monitoring equipment.

The RRC and TCEQ further urge EPA to incorporate more flexibility and make sure it prioritizes requirements based on size of emission source. The 2016 Methane Rule is a one-size fits all scheme that is meant to be adopted across the board by all oil and natural gas producers in all states. For instance, the rule is especially burdensome for stripper and marginal well operators. Of

particular concern is the effect the cost of leak detection and monitoring will have on the marginal wells that account for approximately 20% of Texas's production. While existing wells were not initially covered under the new source performance standards, they could have become covered if they are re-fractured, and all new wells will eventually become marginal.

As we understand, the 2020 Policy Rule rescinded the methane requirements from all affected facilities in the production and processing segments, and the 2020 Technical Rule revised the VOC requirements for some of the affected facilities. For example, the 2020 Technical Rule created a new subcategory of "low production well sites" for well sites with total production below 15 barrels of oil equivalent per day (boe/day) and exempted such well sites from leak detection and repair requirements for VOC emissions. Because the 2021 Congressional Review Act (CRA) resolution reinstated the methane standards in the 2016 NSPS while having no effect on the 2020 Technical Rule, the enactment of the CRA resolution will cause some sources in the production and processing segments to be subject to two sets of standards - one for methane based on the 2016 NSPS, and one for VOC based on the 2020 Technical Rule. Low production well sites, for example, are now subject to semiannual methane leak detection and repair requirements under the 2016 NSPS even while they continue to be exempt from leak detection and repair for VOC emissions under the 2020 Technical Rule.

However, expenses at any price point factor into well economics. Operators produce wells only as long as they are capable of producing in paying quantities. The NSPS accelerate the date at which new and modified wells will no longer be capable of producing in paying quantities by adding fixed expenses to their day-to-day operations. In the long term, this will cause operators to shut wells in earlier, leading to less revenue for operators, less royalty income for mineral owners, and less tax revenue for the State.

Therefore, the RRC and TCEQ support exemptions for low production well sites of less than 15 barrels of oil equivalent or less pr day (BOEPD) and sites with less than 300 SCF/bbls gas to oil ratio. The RRC and TCEQ also urges EPA to establish other exemptions for small oil and gas sites based on reasonably limited emissions or equipment.

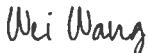
The RRC and TCEQ also recommend that EPA not include mandatory requirements to use third parties to verify completion of tasks, evaluate performance or implement a review and certification program because it would increase the regulatory and economic burden on operators, particularly the smaller operators who make up the overwhelming majority of the industry in Texas. Similarly, the RRC and TCEQ do not support an additional, mandatory regulatory layer of third parties to support compliance reporting. The use of third-party reporting should be a decision of the regulated entities.

With respect to leak detection and repair (LDAR), the RRC and TCEQ have concerns about the use of Optical Gas Imaging (OGI) as the only method of demonstrating compliance with LDAR requirements. EPA's NSPS imposed fugitive emission leak detection and repair (LDAR) requirements that apply to well sites and compressor stations. The new leak detection and repair requirements mandated quarterly inspections at compressor stations and semi-annual inspections at well sites, both of which must be performed with either optical gas imaging (OGI) equipment or the EPA's Method 21, a labor-intensive, time-consuming monitoring process performed with a portable instrument that detects much smaller leaks than most OGI cameras. Operators generally must repair leaks within thirty days of discovery, unless the repair would require shutting down the station, in which case they may perform the repair at the next scheduled shutdown or within two years. The operator must then perform a follow-up inspection within thirty days to confirm that the repair worked. Limiting the LDAR compliance tool to OGI technology both precludes use of other comparable leak detection methods and inhibits innovation by minimizing the value of research into new leak detection technologies and methods at oil and gas sites.

Finally, EPA should establish a workgroup with state regulatory, environmental, and industry representatives to simplify reports and submittals needed to comply with federal oil and gas air regulations, including elimination of duplicative requirements and publication of straightforward implementation and support materials to help achieve compliance.

Thank you for the opportunity to comment. RRC and TCEQ look forward to working with EPA to ensure that any final rules are readily understood, reasonable, and practicable and provide for the safe and efficient exploration, development and production of this nation's domestic oil and natural gas resources.

Sincerely,

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