

## **TXOGA Testimony on EPA's 2015 Oil & Gas Proposed Actions**

Good morning, I am Mari Ruckel. I am the Vice President of Government and Regulatory Affairs of the Texas Oil & Gas Association, or TXOGA, on whose behalf I am speaking today. TXOGA is the largest and oldest petroleum organization in Texas, representing more than 5,000 members. The membership of TXOGA produces in excess of 90 percent of Texas' crude oil and natural gas, operates nearly 100 percent of the state's refining capacity, and is responsible for the vast majority of the state's pipelines.

TXOGA appreciates the opportunity to provide our initial views on the recently proposed rulemaking packages that are the subject of today's hearing. Given the more than 1,000 pages of combined text in the proposed rules and the proposed CTG, TXOGA is in the early stages of fully understanding the rules, their interrelationship, and their potential impacts on our industry however, what is clear from our initial review is that cost of the rules, as proposed, far outweighs the gain. TXOGA intends to provide more detailed responses to the numerous issues on which EPA has solicited comment and to the proposed regulatory language in its formal, written comments and hopes to offer constructive suggestions for improvements.

With extensive expertise regarding the practical effect of regulations on both small and large oil and gas producers, TXOGA strives to be a

constructive stakeholder in the rulemaking process. For example, TXOGA worked extensively with EPA on the promulgation of the original NSPS Quad O rules in 2012 and throughout the subsequent reconsideration processes in the three years following promulgation. Those efforts resulted in key improvements from the proposed version of Quad O and later from the final and revised versions that EPA issued.

Today, I will highlight a few key issues raised by the proposed regulations:

- First, oil and gas producers are already highly-incentivized to recover methane, as EPA itself indicates in the Quad O sub A proposal. Thus, to a large extent, regulatory requirements to recover or prevent the loss of methane will not achieve additional meaningful emission reductions, and EPA should retain the concept of regulating natural gas as a VOC surrogate rather than directly regulating methane, as no additional benefits will occur from regulating methane directly. EPA acknowledges this for Quad O in the Regulatory Impact Analysis, and the same will be true for Quad O sub A. These regulations will impose substantial costs simply by virtue of the extensive systems that will be required to document and certify compliance. This concern is pronounced for smaller operators, for whom the real-world economic and resource burden of recordkeeping

and compliance have the potential to disproportionately outweigh predicted benefits. TXOGA believes that the additional costs will be substantial, particularly for smaller operators and remote operations. We urge EPA to consider whether formalizing these requirements in regulation is truly necessary, given the costs that compliance demonstration will impose on our members. And to the extent EPA finalizes these requirements, we urge EPA to reduce the monitoring and compliance burdens they will impose.

- Second, EPA must consider the potential impact of the proposed CTG in light of a proposed lower ozone standard, which is scheduled to be issued in just over a week from today. To the extent that areas of the country that are currently in attainment with the ozone standard will be designated nonattainment at a moderate or more serious classification if the standard is lowered, the CTG costs will be far more widespread and significant. This is a particularly acute concern given that minor New Source Review requirements could come into play for these sources in light of the CTG/RACT requirements, meaning that modifications of these sources could introduce significant delay in obtaining permits. As TXOGA has explained in comments on the original Quad O regulations, the industry needs to be able to timely develop resources, given the contractual

leasehold requirements for continued development and restricting lapses (subject to potential loss of leasehold).

- Third, with respect to the Source Determination proposal, also known as the “Aggregation Rule,” TXOGA appreciates the EPA’s desire for clarity on source determinations, but a rule isn’t necessary as oil and gas states, including Texas, manage this issue quite well. We do not believe that sources under common control located within a quarter of a mile should automatically be considered or even be presumed to be adjacent. While we would support a presumption that sources separated by more than a quarter mile are separate, the converse is not true.
- Texas has already enacted legislation addressing the aggregation issue, that TXOGA supports, which prohibits aggregating oil and gas sites that are more than one-quarter mile apart.. Within the quarter mile, sites also have to be operationally dependent to be aggregated. We would ask EPA to consider the input of the states that have a longstanding history of permitting these types of operations in determining when aggregation is appropriate based on their evaluation of a common sense notion of a plant.
- Similarly, we remain concerned about the resources required for a functional interrelatedness analysis for sources outside the one-quarter

mile distance. As a general rule, functionality analysis has been done at the federal level in the context of the SIC code evaluation, as has traditionally been the case where EPA groups contiguous or adjacent facilities with different SIC codes if one is a support facility for the other.

- We also urge EPA to consider the potential permitting implications of these new tests, given the permitting delay concerns I discussed with respect to the CTG. To the extent this rule would artificially treat multiple sources as a single source, the delays associated with Title I and Title V permitting and modifications could not only delay necessary changes but could result in failure to meet operation requirements in leasehold contracts, leading to loss of interest in a well.

In closing, TXOGA is focusing on these issues and identifying potential improvements as we analyze and develop detailed comments on the proposed rule. We believe that the breadth and complexity of the proposed NSPS regulatory changes would benefit from a longer comment period than the 60 days that has been provided. This will improve the ability of stakeholders to provide meaningful technical input to EPA. Thank you for this opportunity to share our initial concerns on the proposed rulemakings. As you deliberate the final outcome of the rules, we hope you consider the impact of the layers of cost and regulation in this proposal on small

businesses. TXOGA looks forward to the opportunity to provide more detailed and constructive comment as we continue our detailed analysis of the packages.