

January 13, 2025

Texas Commission on Environmental Quality
12100 Park 35 Circle
Austin, TX 78753

Re: Rule Project Number **2024-027-113-AI**, joint comments of *Liveable Arlington, Texas Impact, Sierra Club, Lone Star Chapter, Greater Edwards Aquifer Alliance, Bayou City Waterkeeper, Chispa Texas, Progress Texas, Environment Texas Research and Policy Center, Public Citizen, Rio Grande International Study Center, Texas Permian Future Generations, Texas Physicians for Social Responsibility, GreenLatinos, Environmental Defense Fund, Commission Shift, Earthworks*

Dear Mr. Munzenmaier,

We welcome the opportunity to submit comments on Texas's implementation of EPA's Emissions Guidelines, 40 CFR Part 60, Subpart OOOOc, for existing crude oil and natural gas facilities. Together, our organizations represent the interests of over 200,000 Texans across the state and advocate on their behalf for clean air, water, and thriving communities.

On December 2, 2023, the Environmental Protection Agency (EPA) announced final rules to limit methane emissions from the oil and gas industry and set out a process for states to develop their plans to limit pollution from existing sources of pollution. EPA estimates that standards of performance for existing sources will reduce 8.6 million tons of volatile organic compounds (VOCs) that contribute to ground-level ozone, and approximately 320,000 tons of hazardous air pollutants (HAPs). The rule will also reduce methane by approximately 35 million short tons.¹ When combined with the related NSPS rule for new oil and gas infrastructure, the two rules are estimated to reduce methane by 58 million short tons, volatile organic compounds by 16 million short tons and hazardous air pollutants by 590,000 short tons. While methane is a super-pollutant, and the most common pollutant emitted by our state's massive oil and gas industry, Texas does not directly regulate this harmful gas. This rule presents an historic opportunity for Texas to bring the oil and gas industry into the 21st century and we thank the Texas Commission on Environmental Quality (TCEQ) for its work to date to begin this process.

Per the TCEQ's request for general comments on the use of the proposed model rule and implementation of Remaining Useful Life and Other Factors (RULOF) provisions for the model rule, we are pleased to submit comments that address those topics.

I. The importance of reducing methane emissions for Texas

¹ EPA, Regulatory Impact Analysis, Table 1-3. P 20:
https://www.epa.gov/system/files/documents/2023-12/eo12866_oil-and-gas-nsps-eg-climate-review-2060-av16-ria-20231130.pdf

We urge the TCEQ to continue the urgently needed work to adopt the strongest standards possible to protect the nearly 5.3 million Texans who live within health harming proximity to an oil or gas site.² Adopting standards that are at least as stringent as the federal rule will help put Texas on a path to curbing unchecked pollution for the future health of the state's natural resources and communities. Extending basic fugitive emissions monitoring requirements to all operators, drastically reducing emissions of methane and co-pollutants including HAPs from outdated inherently-emitting equipment, controlling pollution from routine flaring, and identifying super-emitting facilities is critical to protecting Texans from methane and co-emitted pollution from the oil and gas industry.

Texas is the nation's largest producer of oil and gas and largest emitter of oil and gas methane, emitting approximately 5,900,000 metric tons of methane in 2023 alone according to recent analysis.³ Using a 20-year global warming potential for methane, this staggering number is the equivalent of the emissions from 128 coal fired power plants run for a year or over 119 million passenger cars driven for a year. Implementing methane standards to existing sources will bring attention to a significant and underregulated source of emissions in Texas.

A. Oil and gas pollution harms our air quality and creates health risks to millions of Texans while disproportionately affecting marginalized and vulnerable communities.

As you have heard in stakeholder testimony, Texans care about cutting methane and other dangerous co-pollutants that harm our air, water, land, and health. Methane pollution from oil and gas development is released alongside smog-causing VOC which can worsen asthma and respiratory disease, as well as known carcinogens including benzene and toluene. Toxic hydrogen sulfide is present in gas across the state,⁴ resulting in health impacts⁵ and death.⁶ From the 228,000 children in daycare centers and schools near Tarrant County's oil and gas sites⁷ to the 50% increased likelihood of preterm births for Latinas living near flaring sites in the Eagle Ford shale,⁸ Texans feel the health burdens from oil and gas emissions widely and deeply.

² Earthworks & FracTracker Alliance, Oil and gas threat map, TX state profile, retrieved December 2024 from <https://oilandgasthreatmap.com/threat-map/>

³ EDF, Methodology for Developing MAIR Informed State-Level Estimates, found at <https://library.edf.org/AssetLink/8m16021t5ci0a70d260xc2274ii4g038.pdf>

⁴ See, e.g., <https://iopscience.iop.org/article/10.1088/2515-7620/ad75f0/meta>; see also <https://www.texastribune.org/2024/09/20/texas-oil-wells-hydrogen-sulfide-caldwell-county/> and also <https://www.houstonchronicle.com/business/energy/article/hydrogen-sulfide-gas-investigation-takeaways-19458445.php>

⁵Houston Chronicle, Texas Oil companies are leaking toxic gas near schools and homes, June 2024 found at <https://www.houstonchronicle.com/business/energy/article/texas-oil-companies-toxic-h2s-gas-leaks-19446603.php>

⁶ U.S. Chemical Safety and Hazard Investigation Board, Hydrogen Sulfide Release at Aghorn Operating Waterflood Station, May 2021 <https://www.csb.gov/aghorn-operating-waterflood-station-hydrogen-sulfide-release/>

⁷ Earthworks & FracTracker Alliance, Oil and gas threat map, Tarrant County level data, retrieved December 2024 from <https://oilandgasthreatmap.com/threat-map/>

⁸ Flaring from Unconventional Oil and Gas Development and Birth Outcomes in the Eagle Ford Shale in South Texas, July 2020, available at <https://ehp.niehs.nih.gov/doi/10.1289/EHP6394>

B. Methane pollution fuels climate change, loading the dice for extreme weather and costing Texans billions.

Methane has over 80 times the climate warming effect of carbon dioxide in its first twenty years in the atmosphere. Oil and gas emissions can be reduced by 75% using available technology and often at no-net cost because of the value of recovered gas.⁹ Since methane is such a potent greenhouse gas, cutting oil and gas methane pollution now is a cost-effective solution that can buy us much-needed time to avoid and mitigate the worst impacts of climate change. Texans are already suffering the costs of extreme storms which are increasingly likely to occur.

C. Venting and Flaring pose a Texas-sized problem that requires immediate attention and regular monitoring.

Together our organizations have extensive experience documenting flaring and venting across the state and are uniquely qualified to comment on the gravity of this problem. Over the past 10 years, Earthworks has conducted over 1,000 individual site inspections in Texas with trained thermographers and OGI technology. The organization has documented the alarming prevalence of unpermitted flaring in two 2021 reports.¹⁰ Flaring rates are rising, heading in the wrong direction.¹¹ Instead of seriously addressing this problem, the Railroad Commission is on track to authorize the waste of a record 3.5 billion cubic feet of gas by 2030 - or enough gas to power every residential gas customer in Texas for over 15 years, as detailed in Commission Shift's latest report.¹² Routine flaring wastes our natural resources and emits climate-warming and health-harming pollution, including VOCs and nitrogen oxides, both ozone-precursors, and hazardous air pollutants such as benzene. We support the standards set forth by the EPA which offers flexibility and technology-neutral options for industry to significantly reduce pollution from routine venting and flaring. TCEQ must coordinate with the RRC to implement and enforce EPA's commonsense limits to rein in this wasteful and polluting practice.

II. RULOF exceptions will be difficult to demonstrate. TCEQ should leverage available compliance assistance resources and avoid overreliance on RULOF in its state plan.

In regard to RULOF, we ask that TCEQ develop an implementation plan that covers all wells regardless of age or production. Low-producing or marginal wells are chronic sites of pollution and should not be exempt from protective standards. A 2022 DOE study found that

⁹ International Energy Agency, The Imperative of Cutting Methane from Fossil Fuels, available at <https://www.iea.org/reports/the-imperative-of-cutting-methane-from-fossil-fuels>.

¹⁰ Earthworks, Flaring in Texas, April 2021 available at <https://earthworks.org/wp-content/uploads/2021/09/Flaring-in-Texas-FINALsm.pdf> see also Flaring Away, January 2021 https://earthworks.org/wp-content/uploads/2021/01/FlaringAway_TX-GLO_FINAL-1.pdf

¹¹ The World Bank, Global Gas Tracker Report, June 2024, available at <https://thedocs.worldbank.org/en/doc/d01b4aebd8a10513c0e341de5e1f652e-0400072024/original/Global-Gas-Flaring-Tracker-Report-June-20-2024.pdf>

¹² Commission Shift, Permission Granted, September 2024 available at <https://commissionshift.org/wp-content/uploads/2024/09/Permission-Granted-Texas-Oil-and-Gas-Regulators-On-Track-to-Allow-More-Flaring-Waste-Than-Ever.pdf>

low-producing wells generate a disproportionate amount of methane emissions.¹³ EPA's guidelines were developed after an extensive review of a wide variety of sources common in Texas and documented economical, available solutions to reduce emissions from existing sources. Based on this thorough analysis and the narrow applicability of RULOF, we do not believe that exemptions would be widely available.

Instead of over relying on RULOF, TCEQ should leverage the extended compliance timeframe for existing sources and considerable financial support available for oil and gas emissions reductions. Specifically, we encourage the rule team to coordinate with the Air Grants Division to support emissions reductions through existing financial incentives like the New Technology Implementation Grant Program and the Texas Voluntary Marginal Conventional Well Plugging Program. Additionally, EPA and the Department of Energy are considering applications for \$850 million in funding to help small oil and natural gas operators reduce methane emissions and transition to available and innovative methane emissions reduction technologies, while also supporting partnerships that improve emissions measurement and provide accurate, transparent data to impacted communities. We encourage TCEQ to engage and collaborate with recipients of these awards to facilitate timely implementation of methane standards for existing sources in Texas.

Unlike many other oil and gas producing states, Texas has never before attempted to regulate methane pollution and therefore has the most to gain from implementing EPA's guidelines. These gains include not only improved air quality and public health but economic benefits as well. Strong methane regulation will reduce energy waste and keep Texas energy competitive in a global market increasingly demanding lower carbon products. Limiting venting and flaring will prevent the waste of millions of dollars of lost product and in turn increase returns to royalty owners and the taxpayers. Once again, we thank the TCEQ for beginning a rulemaking and state plan process and encourage the timely and transparent proceedings of the rule and state plan.

Sincerely,

¹³ <https://www.osti.gov/biblio/1865859/>. These findings are in accord with Commission Shift's recent report on flaring in Texas, which found that the bottom third of producers in Texas could flare as much as five times more per permit than the top third of producers.

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