

# TCEQ Memorandum

---

**To:** All Interested Persons

**Thru:** Kelly Keel, Executive Director, Texas Commission on Environmental Quality (TCEQ)

**From:** Cory Chism, Director, Office of Air, TCEQ  
Kristi Mills-Jurach, Director, Office of Compliance and Enforcement, TCEQ  
Phillip Ledbetter, Director, Office of Legal Services, TCEQ

**Date:** May 27, 2026

**Subject:** Implementation Guidance for EPA's Clarification of NSPS OOOOb Provisions Concerning Limits on Flaring Associate Gas for New Oil Wells

On April 9, 2026, the US. Environmental Protection Agency (EPA) published clarification to Title 40 of the Code of Federal Regulations Part 60, Subpart OOOOb, Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After December 6, 2022, effective May 7, 2024.

On April 30, 2026, a memorandum was issued by the EPA Assistant Administrator for Air and Radiation, [\*Clarification of Regulatory Provisions Concerning Limits on Flaring Associated Gas for New Oil Wells\*](#). The memo recognizes that circumstances may arise that are beyond the control of the owner or operator and could result in the temporary need to route the associated gas to a control device for destruction. TCEQ will recognize these flexibilities, consistent with EPA's memorandum, in applying NSPS OOOOb requirements below.

For facilities subject to NSPS OOOOb, owners and operators of affected facilities may utilize the exemption in 40 CFR 60.5377b(d)(3) to temporarily send the associated gas to a flare or other control device due to a temporary interruption in service downstream that is outside the owner or operator's control for a period not to exceed 30 days per incident. The temporary flaring provisions apply to production wells connected to a sales pipeline when there is an interruption in service outside the owner or operator's control and that prevents or impedes the gas from reaching a point where it can be sold. Per EPA, there is no requirement to make a technical infeasibility determination when invoking the temporary flaring restrictions at production wells that commenced construction after May 7, 2024. Temporary controlled emissions remain subject to independent requirements for authorization under a TCEQ permit by rule, standard permit, or case by case new source review permit.

## **Implementation**

Records required by OOOOb and TCEQ authorizations and rules must be maintained or submitted as required. As EPA further reconsiders NSPS OOOOb and publishes updated rules, owners and operators are expected to review and follow the applicable notification requirements.