

## **Guidance for Subpart W (Oil and Natural Gas Systems) Reporters Completing Registration within e-GGRT**

Reporters subject to Subpart W, Oil and Natural Gas Systems, are required to enter only one person or entity as owner or operator for the purposes of completing the registration process in e-GGRT. Because EPA recognizes that the onshore petroleum and natural gas production industry has a different organizational structure and operational realities than other industries subject to part 98, in the 2010 final rule for Subpart W (75 FR 74512), EPA specifically defined the onshore petroleum and natural gas production owner or operator.

Under 40 CFR 98.238, onshore petroleum and natural gas production owner or operator means “the person or entity who holds the permit to operate petroleum and natural gas wells on the drilling permit or an operating permit where no drilling permit is issued, which operates an onshore petroleum and/or natural gas production facility (as described in 40 CFR 98.230(a)(2)). Where petroleum and natural gas wells operate without a drilling or operating permit, the person or entity that pays the state or federal business income taxes is considered the owner or operator.”

It was EPA’s intent that this definition of owner and operator apply not only to Subpart W, but also to Subpart A for the obligations of Subpart W “owners and operators” (*e.g.*, those obligations related to identifying the designated representative and the requirement for who must be included on the Certificate of Representation (COR)). Because we acknowledged that the final subpart W rule is not completely clear, on September 9, 2011 (76 FR 56010) we proposed changes to 40 CFR 98.1 to explicitly state this intention. Although these proposed changes have not yet become final, through this guidance we are interpreting the current definition of owner or operator provided in 40 CFR 98.238 to apply to Subpart A as well. As a result, Subpart W reporters are only required to list just one person or entity as the owner or operator when completing registration, per the definition in 98.238 for an “onshore petroleum and natural gas production owner or operator.”

While we have determined that the above interpretation is well within the bounds of the current rule language, we also note that 98.4(i)(3) states that as long as the certificate of representation includes the operators of the facility or supplier, and the owners with control of the facility or supplier, the failure to include any other owners does not make the certificate of representation incomplete. Further, Section 98.4(h) states that if the designated representative (or alternate designated representative) determines at any time that an owner or operator of the facility or supplier is not included, they have 90 days to amend the list of owners. As a result, although we feel that the existing provisions of 98.4 allow Subpart W reporters to report just one owner or operator prior to the September 9, 2011 proposed changes becoming final, we are issuing this additional guidance.