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U.S. Environmental Protection Agency
EPA Docket Center
Mail Code 28221T
Attention: Docket ID No. EPA-HQ-OAR-2018-0074
1200 Pennsylvania Avenue NW
Washington, DC 20460

December 5, 2019

Re: Comments on “National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline) Residual Risk and Technology Review: Proposed Rule,” 84 Fed. Reg. 56,288 (October 21, 2019) (Docket No. EPA-HQ-OAR-2018-0074)

Dear Sir or Madam:

The GPA Midstream Association (“GPA Midstream”) respectfully submits the following comments on the U.S. Environmental Protection Agency’s (“EPA” or “Agency”) proposed rule of October 21, 2019, titled “National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline) Residual Risk and Technology Review,” published at 84 Fed. Reg. 56,288 (the “Proposal”).

GPA Midstream has served the U.S. energy industry since 1921. GPA Midstream is composed of nearly 80 corporate members that are engaged in the gathering and processing of natural gas into merchantable pipeline gas, commonly referred to in the industry as “midstream activities.” Such processing includes the removal of impurities from the raw gas stream produced at the wellhead as well as the extraction for sale of natural gas liquid products (“NGLs”) such as ethane, propane, butane, and natural gasoline or in the manufacture, transportation, or further processing of liquid products from natural gas. GPA Midstream membership accounts for more than 90% of the NGLs produced in the United States from natural gas processing.

Members of GPA Midstream own and operate facilities in the midstream industry that are subject to certain of EPA’s national emission standards for hazardous air pollutants (“NESHAP”) under section 112 of the Clean Air Act (“CAA”). These facilities are not subject to the Organic Liquids Distribution (“OLD”) NESHAP that is codified at Subpart EEEE and is at issue in this rulemaking. Instead, they are generally subject to the Oil and Natural Gas Production Facility

NESHAP codified at Subpart HH.¹ Many of these facilities use flares to control hazardous air pollutant (“HAP”) emissions and comply with the requirements of the relevant NESHAP. GPA Midstream’s comments are focused on EPA’s proposed revisions to the Subpart EEEE flare requirements and their implications for flares in other source categories, including Subpart HH.

Under the current OLD NESHAP, flares used for compliance with Subpart EEEE must meet certain operating and monitoring requirements specified in the General Provisions of part 63 at 40 C.F.R. § 63.11(b).² These requirements include: (1) operating the flare at all times when emissions may be vented to them; (2) operating flares with no visible emissions except for periods not to exceed a total of 5 minutes during any 2 consecutive hours; (3) operating the flare with a pilot flame present at all times; and (5) complying with specified limits on minimum net heating value and maximum exit velocity.³

EPA now proposes to find that the operating and monitoring requirements specified at section 63.11(b) “are not adequate to ensure the level of destruction efficiency needed to conform with the [maximum achievable control technology (“MACT”)] standards for the OLD source category.”⁴ This conclusion does not appear to be based on analysis or research specific to the OLD source category’s HAP emissions or emitting equipment. Instead, EPA relies on analyses conducted for the Petroleum Refinery source category in its 2015 Refinery Sector Rule. Based on data and analysis developed specifically for petroleum refinery flares, EPA concludes that changes to the flare requirements “are necessary to ensure that OLD facilities that use flares as [air pollution control devices (“APCDs”)] meet the MACT standards at all times.” EPA also states its “belie[f]” that “the operating limits promulgated for flares used in the Petroleum Refinery Sector are also appropriate and reasonable and will ensure flares used as APCDs in the OLD source category meet the HAP removal efficiency at all times.”⁵

Accordingly, EPA proposes to revise the flare requirements for OLD sources by directly incorporating the Refinery Sector Rule’s flare requirements. Those revisions would subject OLD sources to new requirements, including daily visible emissions monitoring (with additional observations for longer periods if at any point visible emissions are observed from the flare), a single equation for specifying maximum flare tip velocity regardless of flare type, a single minimum operating limit for the net heating value of combustion zone gas regardless of flare type, and requirements to monitor the net heating value of gas routed to the flare.⁶

GPA Midstream takes no position on whether these proposed revisions are appropriate for flares in the OLD source category. We understand the Proposal’s discussion of flares, and EPA’s rationale for revising the requirements for those flares, to be limited to the specific context of the OLD source category. Nothing in the Proposal alters the requirements for other source categories or indicates that the requirements for flares used for compliance with other

¹ See 40 C.F.R. § 63.2334(c)(1) (excluding oil and natural gas production field facilities from OLD NESHAP); *id.* § 63.2338(c)(1) (stating OLD NESHAP does not apply to storage tanks, transfer racks, transport vehicles, containers, or equipment leak components regulated under other NESHAPs).

² See 84 Fed. Reg. at 56,302; 40 C.F.R. pt. 63 subpt. EEEE Tbl. 9.

³ See 84 Fed. Reg. at 56,303, 40 C.F.R. § 63.11(b).

⁴ 84 Fed. Reg. at 56,302.

⁵ 84 Fed. Reg. at 56,303.

⁶ 84 Fed. Reg. at 56,303-05.

NESHAPs should be similarly revised. EPA should confirm that understanding in any final action on this Proposal.

Of particular note, GPA Midstream members operate facilities that are subject to Subpart HH, and many of these facilities use flares as control devices for compliance with that NESHAP. Under Subpart HH, these flares must comply with the requirements of section 63.11(b) described above.⁷ The current Proposal for flares at OLD sources does not suggest that the section 63.11(b) requirements are inadequate for the purposes of Subpart HH. To the contrary, the Proposal only finds that additional flare requirements are necessary “to ensure the level of destruction efficiency needed to conform with the MACT standards *for the OLD source category*.”⁸ Notably, the MACT standards in Subpart EEEE assume a greater degree of destruction efficiency (98 percent) than those in Subpart HH (95.0 percent).⁹ Similarly, the Proposal does not suggest that the flare requirements of the Refinery Sector Rule are “appropriate and reasonable” to extend to any source category other than OLD facilities.¹⁰ EPA should maintain this limited scope in any final action on the Proposal.

EPA has not indicated that it plans to reevaluate whether the flare requirements of section 63.11(b) are sufficient to ensure the destruction efficiency contemplated by the MACT standards of Subpart HH. To the extent EPA plans to do so in the future, GPA Midstream emphasizes that the Agency cannot simply conclude that because it has found those requirements to be inadequate for purposes of one NESHAP, they must be inadequate for other NESHAPs as well. Likewise, EPA cannot simply assert without further analysis that the Refinery Sector Rule’s flare requirements are feasible, achievable, or appropriate for Subpart HH sources simply because they have been found to be so at petroleum refineries (and, if this Proposal is finalized, at OLD sources).

In this Proposal, EPA appears to have based its conclusions regarding the adequacy of the section 63.11(b) flare requirements and the appropriateness of the Refinery Sector Rule requirements for OLD sources largely on analyses of petroleum refinery flares, with little independent analysis of the characteristics of OLD flares. Regardless of whether EPA’s conclusions are correct with respect to OLD flares, in any future rulemaking evaluating the flare requirements for another source category, EPA must undertake a more detailed analysis that considers the unique characteristics of that category. Whether currently applicable flare requirements can effectively control emissions—and whether other requirements would be feasible, cost-effective, achievable, and appropriate—may vary from source category to source category based on variables like the specific HAPs emitted, the materials being handled or produced, the frequency and magnitude of emissions, the type of equipment from which HAPs are emitted, and the ways in which the emitting equipment is operated, among other factors. Similarly, EPA should not assume that any particular set of requirements is appropriate based on its adoption in a consent decree.¹¹ A consent decree simply reflects what one company was

⁷ See 40 C.F.R. § 63.769(c)(8).

⁸ 84 Fed. Reg. at 56,302 (emphasis added).

⁹ Compare 84 Fed. Reg. at 56,302 (noting assumption of 98 percent efficiency for OLD flares); with 40 C.F.R. § 771(d)(1) (requiring most Subpart HH sources using control devices other than flares to reduce HAPs by 95.0 percent).

¹⁰ 84 Fed. Reg. at 56,303.

¹¹ See 84 Fed. Reg. at 56,303 (citing consent decree in support of proposed OLD flare requirement revisions).

willing to voluntarily accept based on its unique circumstances, not what is suitable for every source in the category.

GPA Midstream appreciates the opportunity to comment on these issues. If you have any questions, please do not hesitate to contact me for further discussion.

Sincerely,

A handwritten signature in black ink that reads "Matthew Hite". The signature is written in a cursive style with a large, stylized "M" and a distinct "Hite" at the end.

Matthew Hite
Vice President of Government Affairs
GPA Midstream Association