



July 2, 2018

Environmental Protection Agency
Office of Enforcement

Attn: Apple Chapman (chapman.apple@epa.gov), Tim Sullivan (sullivan.tim@epa.gov), and
Christopher Williams (williams.christopher@epa.gov)

Via email

**RE: New Owner Clean Air Act Audit Program for Oil and Natural Gas Exploration
and Production Facilities**

Dear Ms. Chapman, Mr. Sullivan and Mr. Williams,

GPA Midstream Association ("GPA Midstream") appreciates the opportunity to submit comments to the Environmental Protection Agency ("EPA") regarding its "New Owner Clean Air Act Audit Program for Oil and Natural Gas Exploration and Production Facilities." GPA Midstream has served the U.S. energy industry since 1921. GPA Midstream is composed of nearly 100 corporate members of all sizes 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. GPA Midstream members account for more than 90 percent of the NGLs produced in the United States from natural gas processing. Our members also operate hundreds of thousands of miles of domestic gas gathering lines and are involved with storing, transporting, and marketing natural gas and NGLs.

GPA Midstream applauds EPA's effort to provide an avenue for new owners of oil and gas assets to audit acquired facilities and correct any environmental issues discovered without the threat of civil enforcement from the agency. This policy will speed compliance with environmental laws and create a win-win scenario for industry and EPA. GPA Midstream suggests EPA address the following in the draft program and agreement.

I. EPA Should Add Both the Gathering and Boosting as well as the Processing Segments to the Program

GPA Midstream requests EPA add gathering and boosting (G&B) segment and processing segment to this audit program or create a similar new owner program for this industry segment. As stated in the draft audit agreement, EPA developed this policy for production well facilities because they are "routinely transferred in asset sales and other business transactions." Routine transactions are not unique to the production segment of oil and gas. There are numerous transactions in the G&B and processing segments

as well, with many expected in the next few years as the energy space continues to adjust to higher commodity prices. The asset transactions in the G&B and processing segments are similar to those in the production segment with companies transferring multiple sites and pipeline systems within a given basin at the same time. As in production, the new owner then undertakes a period of review and auditing of the transferred assets after the date of acquisition. Moreover, many asset sales in the production segment include connected gathering facilities that are owned by the same entity or parent company.

II. EPA Should Allow Audits Within 9 Months of Date of Acquisition

EPA should stay consistent with the 2008 New Owner Audit Policy and allow companies to enter into an audit agreement within 9 months of the date of acquisition, not 6 months. In paragraph 4, C. of the draft audit agreement, EPA requires the company entering into the agreement to notify EPA within 6 months of the Date of Acquisition. At minimum, GPA Midstream requests EPA allow companies 9 months to notify the agency of an audit as allowed in the 2008 new owner audit policy. However, depending on the number of facilities involved in the transaction, it can be argued that the timeline should be extended further to a year after the acquisition. Unless there is an indemnity agreement in place for the acquisition, many companies may not initially intend to enter into an audit agreement. However, after transitioning into operating the assets, compliance issues may arise that warrant an audit. This process can take longer than 6 or 9 months since there can be numerous facilities spread over an expansive area.

III. EPA Should Provide an Extension for Corrective Actions Involving Engineering/Design Issues

EPA should allow companies the option to request an extension for engineering/design corrective actions past the Audit Program end date. Under the “Corrective Actions” section of the Audit Program Agreement Terms, paragraph 10 and 11 detail corrective actions timing for both engineering/design issues and non-engineering/design issues. Number 10 for non-engineering/design issues allows an extension to be submitted for issues that cannot be corrected during the 60-day time period. However, paragraph 11 for engineering/design issues does not allow for this kind of extension. While a longer period to correct engineering/design issues is provided, additional time may be required depending on the compliance issues that arise. For example, if a flare or vapor recovery unit compressor needs to be added to the facility, a consideration should be allowed to properly design the control system, order the equipment, and then install it once delivered. In some instance, there may be a long lead-time for delivery of the equipment. EPA should add language that allows companies to submit an extension request in paragraph 11, in the same fashion it allows in paragraph 10. Example language is included below in red:

11. Violations Related to Engineering and/or Design Issues: [COMPANY] shall complete the requirements of Appendix B and correct each Violation related to engineering and/or design issues identified through Appendix B requirements before the Audit Program ends. In those instances where [COMPANY] is unable to correct a Violation within this time frame, it shall request an extension of time from EPA in writing before the expiration of the initial correction timeframe and provide a revised correction schedule for that Violation, accompanied by a justification for the revised correction schedule. Any extension of the correction timeframe shall be subject to EPA's approval, which shall not be unreasonably withheld.

GPA Midstream believes that this ability to receive an extension of time is necessary for companies that actively and diligently take corrective action but may not be able to complete those actions within the

time period due to circumstances beyond their control. Without the option for receiving an extension, new owners and operators may reasonably choose not to put themselves at risk by undertaking corrective actions that require an extended period of time to complete.

IV. EPA Should Add an Agency Response Timeline to Extension Requests

GPA Midstream requests that EPA specify an agency response timeline to any corrective action extension request made under the agreement. Under the Corrective Actions section of III. Audit Program Agreement Terms, paragraph 10 allows an extension to be submitted for issues that cannot be corrected during the 60-day time period. In instances where a company submits an extension request, a requirement for EPA to respond in a timely fashion should be added. GPA Midstream suggests that this time frame be 10 agency working days. An agency response deadline would provide certainty for the company requesting the extension. The requested company can plan when to submit the request and receive a response before the 60-day corrective action deadline expires.

V. EPA Should Expand the Scope of the Audit Agreement to all Media

GPA Midstream requests that EPA expand the scope of the audit program to evaluate all media, including but not limited to water, waste, and spill prevention, control and countermeasures (SPCC) to this audit program or create a similar new owner program to evaluate all media. As written, the scope of the audit is limited to air regulations governed by the Clean Air Act. By allowing new owners to audit their recently acquired facilities for other environmental programs under the audit program, not only would the EPA program be more comprehensive, but additional benefits would be reaped by EPA and industry.

VI. EPA Should Not Require Companies to use the Audit Agreement Template

GPA Midstream requests that EPA continue to allow companies to develop custom audit agreements. The existing EPA New Owner Audit Policy has been implemented in the past with custom agreements. This process has been, and continues to be, executed successfully and to the satisfaction of EPA and industry. GPA Midstream would like EPA to acknowledge that the use of their template agreement is not mandatory for companies to use if they would like to take advantage of EPA's New Owner Audit Policy but only serves to act as an example or guide.

VII. EPA Should Consider Expanding the Audit Program Beyond New Acquisitions

GPA Midstream requests that EPA expands the scope beyond new acquisitions to routine audits. GPA Midstream applauds EPA's effort to provide an avenue for new owners to audit acquired facilities without the threat of civil enforcement from the agency. This policy will speed compliance with environmental laws and create a win-win scenario for industry and EPA. Expanding the program past new acquisitions would have a larger impact as new owner disclosures represent a much smaller subset of voluntary disclosures.

Thank you for your consideration of our comments. Please feel free to contact us with further questions.

Sincerely,

Matthew Hite
Vice President of Governmental Affairs
GPA Midstream Association

