DEPA

DOMESTIC ENERGY PRODUCERS ALLIANCE

June 4, 2018

Apple Chapman

Deputy Director, Air Enforcement Division

Environmental Protection Agency

1200 Pennsylvania Ave. NW

Washington, D.C. 20004

Re: New Owner Clean Air Act Audit Program for Oil and Natural Gas Exploration and Production Facilities ("Audit Program")

Dear Ms. Chapman:

The Domestic Energy Producers Alliance (DEPA) is an alliance of producers, royalty owners, and oilfield service companies as well as state and national independent oil and gas associations representing the small business men and women of the energy industry, devoted to the survival of U.S. domestic crude oil and natural gas exploration and production. Our membership promotes common sense efforts to ensure environmentally responsible exploration and production of oil and natural gas throughout the nation; however, we oppose overly broad or unduly burdensome regulations that suppress the economic engine of domestic energy production. DEPA appreciates the opportunity to provide comments regarding the EPA's draft New Owner Clean Air Act Audit Program ("Audit Program").

DEPA supports the underlying concept of a voluntary program by which operators are incentivized to bring facilities into compliance with the Clean Air Act without fear of agency enforcement and penalties. However, DEPA opposes the concept of making this a federal program run by EPA. Numerous states already provide for voluntary self-audit programs. A separate, EPA-run program is unnecessary and creates the potential for duplicative or conflicting requirements associated with a self-audit. The State of Texas, in particular, has achieved a reasonable, common-sense approach to self-auditing with its Environmental, Health and Safety Audit Privilege Act. The EPA's proposed self-audit program, as written, falls far short of this. States should be allowed to run their compliance programs – including self-audit programs – in the way they need in order to achieve compliance with their regulatory framework, delegated authority for enforcing compliance with the Clean Air Act, and state implementation plans.

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In addition, DEPA is concerned by details in EPA's draft Audit Program which impose an unreasonably dogmatic and stringent paradigm for what constitutes "compliance" to qualify for the benefits offered by the program. The draft Audit Program contains uniform, prescriptive engineering and design standards that are not based on science, impose unreasonable burdens on the operator, and cannot be applied equally across all fields, plays and types of operations.

One example is the mandate to determine the Potential Peak Instantaneous Vapor Flow Rate for each audited facility, and then re-design those facilities for the peak rate. In many plays across the country, final stage separation operates at lower pressures, such that the normal operating event of transferring fluids from the final stage of separation to the storage tanks has minimal effect on tank head space pressure when the valve is operating and installed properly. Disrupted operations would constitute malfunctions. By drafting the agreement for the Audit Program as if upstream oil and gas production facilities in every basin should follow a single approach to modeling and facility design, EPA is effectively mandating inappropriate engineering standards that will cause vapor control systems to be ineffective during standard operating conditions.

In addition to mandating that the vapor control system be designed and sized for the Potential Peak Instantaneous Vapor Flow Rate, Appendix B also requires the vapor control system be designed and sized for the Potential Minimum Instantaneous Flow Rate. This mandate would put the operator in the position of designing a facility to handle both extremes of production. Considering that the definitions for both Potential Peak Instantaneous Vapor Flow Rate and for Potential Minimum Instantaneous Vapor Flow Rate in Appendix A fail to define the perspective from which maximum and minimum are declared, the operator is left with the potential of being held to unreasonable design standards depending upon the EPA's interpretation of maximum and minimum rates. If the maximum and minimum rates are from the perspective of well productivity, then there is no guidance as to future well production estimates or consideration for the age of the well. If the maximum and minimum rates are from the perspective of the equipment capacity, then there is no acknowledgement of the reservoir capacity of the well.

Regardless of the design standards to which the facility is held, the requirement to subject all facilities to a modeling guideline and engineering evaluation is excessive and inappropriate. If an initial IR camera inspection is performed on a facility, it should not be subject to mandated facility modeling and engineering evaluations. If an operator performs an inspection of a routinely operating facility and finds it to be operating without situations sufficient to cause a Clean Air Act violation, then excessive prescriptive modeling and evaluations are not appropriate to address a facility that is operating efficiently.

These are just examples of numerous details in Appendix B of the draft Audit Program which adopt an unreasonably prescriptive paradigm for what is required of operators to be "in compliance" with the Clean Air Act. Indeed, the language of Appendix B is remarkably similar to language in several consent decrees entered by the EPA after bringing enforcement actions in 2015 and 2016. The engineering and design dictates in those consent decrees have never been subjected to public comment, scrutiny, or scientific peer review. DEPA strongly believes they are flawed and arise from an ill-conceived notion that more federal regulation is better regulation.

DEPA respectfully requests the EPA withdraw the proposed Audit Program in its current form and continue to foster state authority and responsibility for running successful, common sense compliance and self-audit programs.

Sincerely,
DOMESTIC ENERGY PRODUCERS ALLIANCE

J. Roger Kelley
Chairman – Regulatory

cc: Patrick Traylor, Deputy Assistant Administrator, Office of Enforcement & Compliance
Doug Benevento, Region 8 Administrator
Tim Sullivan, EPA
Christopher Williams, EPA