MEMORANDUM

FROM: Susan Parker Bodine

SUBJECT: Oil and Natural Gas Exploration and Production Facilities New Owner Audit Program Finalization

Today, the U.S. Environmental Protection Agency (EPA) finalized the Oil and Natural Gas Exploration and Production Facilities New Owner Audit Program (Program). The Agency announced its intention to develop a disclosure program focused on new owners of upstream oil and natural gas exploration and production facilities on May 4, 2018. Since that time, the EPA has engaged with interested stakeholders and shared an initial draft of the Agreement Template.

This Program offers New Owners of upstream oil and natural gas exploration and production facilities certainty with respect to their investments and operations through clearly defined civil penalty mitigation beyond what is offered by the EPA's Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations, 65 Fed. Reg. 19,618 (Apr. 11, 2000) (Audit Policy) and Interim Approach to Applying the Audit Policy to New Owners, 73 Fed. Reg. 44,991 (Aug. 1, 2008) (New Owner Audit Policy). The EPA will implement this Program through the Final Agreement Template, which will reduce transaction costs and improve efficiencies for the EPA and participating New Owners.

The EPA expects that this voluntary Program will be environmentally protective and efficient while providing certainty to New Owners of upstream oil and natural gas exploration and production facilities. New Owners have a unique opportunity to focus on, and invest in, making a clean start at newly acquired upstream oil and natural gas exploration and production facilities by proactively addressing Clean Air Act compliance issues. Most importantly, this Program provides an opportunity to achieve timely and cost-effective public health and environmental protections, and Clean Air Act compliance.

The EPA received feedback on this Program and the Draft Agreement Template from many stakeholders, including state and local governments, oil and natural gas exploration and production companies, oil and natural gas trade associations, and environmental nongovernmental organizations. We thank all those stakeholders for sharing their thoughtful input. We have considered all stakeholder feedback, and we have made several adjustments to the Final Agreement Template that are highlighted in the Program Implementation Considerations attachment. Notably, the EPA increased operational flexibility under the Program by providing participating New Owners with up to one year from the Effective Date of an Agreement to propose equivalent engineering, design, and/or operational measures in lieu of those specified in Appendix B to the Final Agreement Template. Please see this memorandum's Program Implementation Considerations attachment for more details regarding this additional operational flexibility.

Finalizing the Program triggers timeframes for certain parties to be considered New Owners under the Program and to contact the EPA about participating in the Program. For all Program eligibility details and other important Program implementation information, please review this memorandum's two attachments.

In closing, the EPA reaffirms its strong support for self-auditing, whether it is under this Program, the EPA's existing Audit Policy, its New Owner Audit Policy, state audit programs, or corporate compliance management systems. The EPA encourages oil and natural gas exploration and production companies who may qualify as New Owners to consider participating in this voluntary Program if they have concerns about Clean Air Act compliance at newly acquired facilities, especially concerns about the prior design, operation, and maintenance of the newly acquired facilities' storage tanks and air pollution control equipment. Finally, please review this memorandum's attachments for key Program details, including how to contact the EPA with questions or to express interest in participating in this Program.

Attachments

Oil and Natural Gas Exploration and Production Facilities New Owner Audit Program Agreement - Final Agreement Template

Oil and Natural Gas Exploration and Production Facilities New Owner Audit Program Agreement - Program Implementation Considerations

OIL AND NATURAL GAS EXPLORATION AND PRODUCTION FACILITIES

NEW OWNER AUDIT PROGRAM AGREEMENT

IMPLEMENTATION CONSIDERATIONS

General Information

What has the EPA announced and why is the EPA doing this?

The EPA has finalized its Oil and Natural Gas Exploration and Production Facilities New Owner Audit Program (Oil and Gas New Owner Audit Program or Program) tailored for New Owners of upstream oil and natural gas exploration and production facilities. This Program will ensure environmental protection, while providing certainty at upstream oil and natural gas exploration and production facilities based on the EPA's analysis of these facilities' unique operations. This is an opportunity to achieve timely and cost-effective public health and environmental protections, and Clean Air Act compliance.

This Program offers New Owners of upstream oil and natural gas exploration and production facilities-i.e., well sites, including associated storage tanks and pollution control equipment-incentives specifically tailored to encourage them to make clean starts at recently acquired facilities by finding, correcting, and disclosing Clean Air Act violations, and preventing the recurrence of those violations. This Program provides additional flexibilities and is designed to encourage self-disclosures of violations that will, once corrected, yield significant pollutant reductions and public health and environmental protections. New owners of upstream oil and natural gas facilities satisfying the Program's conditions will receive penalty reductions beyond those provided in the EPA's Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations, 65 Fed. Reg. 19,618 (Apr. 11, 2000) (Audit Policy) and Interim Approach to Applying the Audit Policy to New Owners, 73 Fed. Reg. 44,991 (Aug. 1, 2008) (New Owner Audit Policy).

The EPA is initially offering this Program to New Owners of upstream oil and natural gas exploration and production facilities because the EPA and states have seen significant excess emissions and Clean Air Act noncompliance from Vapor Control Systems at these facilities. Offering additional flexibilities under this Program encourages New Owners with Vapor Control Systems at these facilities to identify, correct, and self-disclose Clean Air Act violations, thereby providing additional public health and environmental protections.

What incentives is the EPA offering to New Owners of upstream oil and natural gas exploration and production facilities under this Program?

This Program offers New Owners of upstream oil and natural gas exploration and production facilities certainty with respect to their investments and operations through clearly defined civil penalty mitigation beyond what is offered by the EPA's Audit Policy and New Owner Audit Policy. This Program will be implemented through the Final Agreement Template, which will reduce transaction costs and improve efficiencies for the EPA and participating New Owners. The EPA identified the need for these efficiencies through its past experiences working with new owners of upstream oil and natural gas exploration and production facilities. These past experiences led the EPA to conclude that developing this Program in a way that streamlines the process for reaching agreement on the audit terms, and that sets clearer expectations up front for corrective actions and penalty mitigation, would lead to efficiencies that result in enhanced compliance and environmental benefits sooner than might otherwise occur.

This Program is a voluntary program available to New Owners who have recently acquired exploration and production facilities-i.e., well sites and associated Tank Systems and Vapor Control Systems. This Program has been tailored to address concerns regarding excess emissions from tanks and Vapor Control Systems related to operation, maintenance, and/or design issues at newly acquired oil and natural gas exploration and production facilities. The EPA will not impose civil penalties for violations that are discovered, corrected, and disclosed to the EPA by New Owners of oil and natural gas exploration and production facilities who enter into, and fulfill all obligations under, an Oil and Natural Gas Exploration and Production Facilities New Owner Audit Program Agreement.

Why does this Program focus on New Owners; and why would New Owners of upstream oil and natural gas exploration and production facilities want to participate in this Program?

New Owners have a unique opportunity to focus on and invest in making a clean start at recently acquired facilities by addressing Clean Air Act compliance issues. Under this Program, the EPA will be able to secure public health and environmental protections sooner than might otherwise occur. Despite New Owners' best efforts to reduce public health and environmental risks through pre-closing due diligence or post-closing assessments, some causes of excess emissions and Clean Air Act noncompliance that the EPA and states have observed at Vapor Control Systems at upstream oil and natural gas facilities may not always be identified during these assessment processes when there are transactional time constraints and a significant number of newly acquired assets. This Program provides flexibilities and certainties that incentivize comprehensive Clean Air Act compliance assessments and corrective actions so that noncompliant facilities return to compliance and achieve public health and environmental protections sooner than might otherwise occur.

Based on the EPA's experience developing and implementing the New Owners Policy, New Owners of these facilities may already be well-situated and motivated to use the Program because these New Owners were not responsible for violations that began prior to acquisition, and the EPA expects that most violations that might be discovered during a comprehensive, post-transaction Clean Air Act audit would likely have started with the prior owner. In addition, New Owners may already be assessing newly acquired facilities to manage risk and may have funding available to fix problems, or they may have budget commitments which are still relatively flexible.

The New Owner Audit Program and its Relation to the EPA's Audit Policy and New Owner Audit Policy

This Program is separate from, and does not change, the EPA's Audit Policy or New Owner Audit Policy.

Furthermore, a New Owner of an upstream oil and natural gas exploration and production facility may choose to enter into an agreement with the EPA under the Audit Policy or New Owner Audit Policy if the New Owner can satisfy the respective terms of those policies and believes one of those policies is better suited to the operational considerations of its newly acquired facilities. However, a New Owner of an upstream oil and natural gas exploration and production facility that enters into an agreement with the EPA under the Audit Policy or New Owner Audit Policy will be bound by those policies' respective guidelines for resolving any corrected and disclosed violations, including guidelines related to the collection of civil penalties.

For additional information on the Audit Policy, click here.

For additional information on the New Owner Audit Policy, click here.

Logistical Considerations

Timeframe to Complete the Audit and Audit Scope

The schedule for completing the audits and corrective actions under the Oil and Natural Gas Exploration and Production Facilities New Owner Audit Program (Oil and Gas New Owner Audit Program or Program) will be primarily based on the number of facilities subject to the Agreement and the scope of the audit. With respect to the audit's scope, the EPA strongly encourages New Owners of these facilities to conduct a comprehensive Clean Air Act audit of all applicable statutory and regulatory requirements, including permitting requirements. While the EPA is willing to entertain proposals for more targeted Clean Air Act compliance audits, the EPA reserves its right not to enter into an Agreement under this Program if the proposed audit appears insufficient to address the engineering and design, and operation and maintenance, issues related to storage tanks at upstream oil and natural gas exploration and production facilities that this Program seeks to address.

Existing Noncompliance at Newly Acquired Facilities

The EPA reserves it right not to enter into an Agreement under this Program if the EPA or a state has already discovered Clean Air Act noncompliance at newly acquired facilities that a New Owner has proposed to audit under this Program-e.g., a notice of

violation has been issued or there is an ongoing enforcement action for violations at the newly acquired facilities.

State Audit Programs

A New Owner participating in this Program may choose to enter into a parallel audit agreement with a state that has an audit policy or equivalent self-disclosure program. However, a parallel agreement with a state (or states) with an equivalent audit policy or self-disclosure program is not required for participation in this Program.

Stakeholder Feedback and Changes to the Final Agreement Template

• A summary of stakeholder feedback on the Program and the May 4, 2018 Draft Agreement Template can be found here. Following stakeholder feedback, the EPA made several changes when finalizing the Final Agreement Template (Agreement). Notable changes are highlighted below.

• The EPA is providing New Owners within nine months following the Date of Acquisition to contact the EPA about participating in this Program. The Draft Agreement Template initially required New Owners to contact EPA about participating in this Program within sixth months following the Date of Acquisition. Please consult the Agreement for all details regarding the timeframes for eligibility as a New Owner and contacting the EPA to express interest in participating in this Program.

• The EPA revised the process by which a New Owner could include additional newly acquired Facilities in an existing audit that the New Owner is conducting under this Program.

• The new Paragraph 10 addresses violations discovered by completing Appendix B's requirements and provides a 180-day timeframe for a New Owner to correct a violation

discovered through the Appendix B requirements. This paragraph also includes new details on how to request an extension of the 180-day timeframe to correct a violation discovered through Appendix B.

• The new Paragraph 11 provides New Owners with 60 days to correct violations that are discovered outside of the Appendix B requirements. This paragraph also includes new details on how to request an extension of the 60-day timeframe to correct violations discovered outside of the Appendix B requirements.

• The EPA has limited the certification statement requirements to the Semi-Annual and Final Reports submitted to the EPA pursuant to Appendix C.

• The EPA has added the following definitions to Appendix A: Closed Loop Control System and Leak Point.

• The EPA has added language specifying that a New Owner could choose to modify a Vapor Control System by installing a Closed Loop Control System as means to control Vapor Control System pressures so that those pressures do not cause emissions that would constitute a violation.

• The EPA has clarified that the Semi-Annual Report requirement terminates when the New Owner submits its Final Report to the EPA.

Why is the EPA Requiring Participating New Owners to Complete Appendix B?

The EPA is requiring participating New Owners to complete Appendix B because its engineering and design considerations, and field evaluations, are designed to help participating New Owners ensure that their newly acquired Vapor Control Systems are:

1. Designed to handle maximum and minimum system pressures based on production; and

2. Operated and maintained in a manner that prevents excess emissions that could violate applicable air pollution control requirements, including permitting requirements.

In 2015, the EPA issued a Compliance Alert about excess emissions from controlled storage tanks due to engineering and design, and operation and maintenance, issues. Following the Compliance Alert and federal and state enforcement actions involving violations of the Clean Air Act and/or state air pollution control laws, the EPA and

state inspectors continue to observe excess emissions from controlled storage tanks in violation of federal and state requirements-e.g., State Implementation Plan and federally enforceable state permitting requirements. The primary causes of these excess emissions are:

1. Inadequate design and sizing of the Vapor Control System; and

2. Inadequate Vapor Control System operation and maintenance practices.

Appendix B provides a systematic process for estimating Vapor Control System pressures and vapor flow rates to control devices. Participating New Owner can then use the data generated from the Appendix B analyses to evaluate the following technical and operational considerations:

1. Compare Vapor Control System pressures to pressure relief valve and thief hatch set points;

2. Compare Vapor Control System pressures and vapor flow rates to control device specifications;

3. Evaluate the sizing of the Vapor Control Systems and control devices; and

4. Relate emissions to production and estimate short- and long-term emission rates.

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The Participating New Owners can also use the data generated from the Appendix B requirements to assess the following Clean Air Act compliance considerations:

1. Evaluate permit emissions limitations, including the underlying assumptions and representations in permit applications-e.g., vapor capture efficiency, and control device destruction and removal efficiency;

2. Estimate actual emissions for applicability determinations and verify that the correct permits and compliance requirements are being applied;

3. Compare Vapor Control System pressures, vapor flow rates, and emission estimates to authorization representations and applicable emission limitations and standards; and

4. Evaluate compliance with applicable requirements, including requirements for covering well-site tanks, and capturing and controlling their emissions.

As part of its federally-enforceable state implementation plan (SIP) (or federal implementation plan), each state has several potentially applicable requirements for well site equipment that should be evaluated as part of the New Owner Program. These requirements may include minor source permitting, well site equipment-specific regulations-e.g., tank rules, and combustor or flare requirements-and oil and natural gas sector-specific permits and/or regulations. State minor source permitting programs typically have requirements for estimating worst-case emissions as part of the application process to ensure that the appropriate permit type is issued and enforceable emissions limits can be set.

The engineering and design considerations and field evaluations in Appendix B are used to evaluate compliance with the applicable emissions limits, including underlying assumptions and application representations, and to ensure that the appropriate permit type has been issued. The resulting federally enforceable emissions limits and the underlying application assumptions and representations should be evaluated, in part, because these limits may impact applicability for other regulations-e.g., the limits may be used to avoid NSPS OOOO/OOOOa applicability. Accordingly, failure to design a Vapor Control System to adequately handle system pressures generated by production or consistent with control device manufacturer specifications can lead to excess emissions that would be inconsistent with the permit application representations and applicable permit limits and conditions, and would be actionable violations. In addition, failure to properly operate and maintain Vapor Control Systems can also lead to excess emissions that violate permit limits and conditions, as well as other federally approved and enforceable air pollution control requirements.

Appendix B outlines a practical approach for completing comprehensive Clean Air Act compliance audits at multiple facilities and provides a framework that will help participating New Owners consistently evaluate compliance with regulatory and permitting requirements at their newly acquired oil and natural gas exploration and

production facilities. The engineering, emission, and operational analyses required by Appendix B will help New Owners ensure that they have appropriately characterized their emissions and designed their Vapor Control Systems to control those emissions. The correct characterization of emissions and design of Vapor Control Systems will help New Owners assess whether:

1. Emissions are staying below levels specified on federally enforceable permit applications and permits; and

2. System operations are consistent with control device manufacturer specifications.

Finally, because this is a voluntary self-auditing program, it is the participating New Owners' responsibility to:

1. Assess compliance with applicable requirements at their newly-acquired Vapor Control Systems, and determine what, if any, violations may have occurred or be occurring;

2. Undertake actions to correct, and prevent the recurrence of, the discovered violations consistent with the Agreement; and

3. Disclose the discovered and corrected violations to the EPA.

Participating New Owners who discover, correct, and disclose violations pursuant to the Agreement, will not be assessed a civil penalty for those violations.

The EPA is Providing Participating New Owners with Additional Operational Flexibility for Completing Appendix B

As stated in the memorandum finalizing the Oil and Gas New Owner Program, for up to one year following the Agreement's Effective Date, a New Owner may propose equivalent engineering, design, and/or operational measures in lieu of those specified in Appendix B. The proposed measures shall demonstrate that:

1. Vapor Control System pressures will not exceed the applicable Leak Points during Normal Operations;

2. Vapor Control Systems achieve stated control efficiencies during Normal Operations; and

3. Compromised Equipment is detected and repaired or replaced.

EPA Points of Contact for the Oil and Gas New Owner Program

New Owners of upstream oil and natural gas exploration and production facilities interested in participating in this Program or with questions about the Program should contact [TBD].

OIL AND NATURAL GAS EXPLORATION AND PRODUCTION FACILITIES

NEW OWNER AUDIT PROGRAM AGREEMENT

BETWEEN THE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

AND

[COMPANY]

I. INTRODUCTION

1. Environmental auditing plays a critical role in protecting human health and the environment by identifying, correcting, and preventing Violations of environmental laws and regulations.

2. The oil and natural gas exploration and production sector is a dynamic energy-producing industry where facilities are routinely transferred in asset sales and other business transactions. Auditing newly acquired oil and natural gas exploration and production facilities' compliance with environmental laws and regulations is a key way in which oil and natural gas exploration and production companies can help ensure

responsible domestic energy production.

3. In recognition of [COMPANY'S] [DATE OF ACQUISITION] acquisition of oil and natural gas exploration and production facilities from [SELLER] in [DESCRIBE FACILITIES' GEOGRAPHIC LOCATION(S)] and listed in Appendix E (Newly Acquired Oil and Natural Gas Exploration and Production Facilities Subject to Agreement or Facilities), [COMPANY] and the United States Environmental Protection Agency (EPA) hereby agree that [COMPANY] shall conduct a self-audit of its newly acquired Facilities for compliance with the Clean Air Act (Act), its implementing regulations, and federally-approved and

-enforceable requirements of applicable State Implementation Plans (SIPs), including permit requirements and permits, as set forth below (Audit Program). This New Owner Audit Program Agreement (Agreement) shall govern the Audit Program.

II. AUDIT PROGRAM ELIGIBILITY

4. [COMPANY] is considered a New Owner under the Audit Program and eligible to enter into this Agreement with EPA because:

A. [COMPANY] was not responsible for environmental compliance at the Facilities prior to [DATE OF ACQUISITION];

B. Prior to the transaction in which [COMPANY] acquired the Facilities from [SELLER], neither [COMPANY] nor [SELLER] had the largest ownership share of the other entity, and they did not have a common corporate parent; and

C. [COMPANY] has notified EPA within nine months of the Date of Acquisition of the Facilities or of the date EPA finalizes the Audit Program, whichever is later, but in no event can the Date of Acquisition of the newly acquired Facilities be earlier than 12 months before the date EPA finalizes the Audit Program.

III. AUDIT PROGRAM AGREEMENT TERMS

Audit Program

5. After consultation with EPA, [COMPANY] shall conduct an Audit of its Facilities' compliance with agreed upon provisions of the Clean Air Act, its implementing regulations, and federally-approved and -enforceable requirements of applicable SIPs, including permit requirements and permits. At a minimum, [COMPANY] shall complete the requirements in Appendix B. The benefits of this Agreement shall only extend to those Facilities listed in Appendix E that [COMPANY] audits pursuant to this Agreement.

Covered Facilities

6. The Audit Program shall cover the Facilities listed in Appendix E. Should [COMPANY] sell or otherwise Transfer ownership of a Facility or a subset of Facilities listed in Appendix E without completing all Audit Program requirements under this Agreement for the Transferred Facility (or Facilities), including the requirements of Section III and Appendix B, [COMPANY] shall notify EPA as set forth in Section VI and Appendix C.

7. Should [COMPANY] acquire additional oil and natural gas exploration and production facilities after the Effective Date that it wishes to include in the Audit Program and Agreement, [COMPANY] must notify EPA in writing of [COMPANY'S] intent to expand the Audit Program and Agreement to include the additional facilities within three months of the Date of Acquisition of the additional facilities. This written notification must be submitted by email to the EPA Technical and Legal Contacts listed in Paragraph 27. The additional facilities will be considered covered by the Audit Program and Agreement unless EPA denies the proposed expansion within 45 days of receiving [COMPANY'S] written notice.

Schedule

8. The period for conducting the Audit Program's Audits, and discovering and correcting Violations, shall end [SPECIFIED TIME PERIOD] from the Effective Date.

9. Detailed timeframes for specific Audit Program obligations are contained in Paragraphs 10, 11, 12, 13, and 20, and Appendices B (Vapor Control System Engineering and Design Analysis, Field Survey, and Corrective Action Guidelines) and C (Audit Program Reporting and Recordkeeping Requirements).

Corrective Actions

10. Violations Discovered by Completing Appendix B Requirements: [COMPANY] shall complete the requirements of Appendix B, correct each Violation identified through the Appendix B requirements, and shall take steps necessary to prevent the recurrence of each Violation identified through the Appendix B requirements within 180 days of discovery. In those instances where [COMPANY] is unable to correct a Violation within this 180-day timeframe, it shall request an extension of time from EPA in writing before the expiration of the initial 180-day correction timeframe and provide a revised correction schedule for that Violation, accompanied by a justification for the revised correction schedule. An extension request must be submitted by email to the EPA Technical and Legal Contacts listed in Paragraph 27. Any extension of the 180-day correction timeframe shall be subject to EPA's approval, which shall not be unreasonably withheld.

11. Violations Discovered Outside of Completing Appendix B Requirements. [COMPANY] shall correct each Violation and shall take steps necessary to prevent the recurrence of each Violation within 60 days of discovery. In those instances where [COMPANY] is unable to correct a Violation within this 60-day timeframe, it shall request an extension of time from EPA in writing before the expiration of the initial 60-day correction timeframe and provide a revised correction schedule for that Violation, accompanied by a justification for the revised correction schedule. An extension request must be submitted by email to the EPA Technical and Legal Contacts listed in Paragraph 27. Any extension of the 60-day correction timeframe shall be subject to EPA's approval, which shall not be unreasonably withheld.

12. Immediate and Substantial Endangerment to Public Health or Welfare, or the Environment. If [COMPANY] discovers a condition(s) that may present an immediate and substantial endangerment to public health or welfare, or the environment, at a Facility (or Facilities), notwithstanding any other language in the Agreement to the contrary, [COMPANY] agrees to address these conditions at all Facilities as expeditiously as possible and promptly take action as may be necessary to protect public health, welfare, and the environment. In addition to [COMPANY'S] existing reporting obligations related to any release of pollutants (e.g., notice to the National Response Center, State Emergency Response Commission(s), and Local Emergency Planning Committee(s)), [COMPANY] shall notify EPA (initial notice may be oral) of the condition(s) within 24 hours of discovery of the condition(s), and shall inform EPA in writing within five business days of discovery of proposed remedial action(s) the [COMPANY] plans to take and a schedule for performing them.

Reporting and Recordkeeping Requirements

13. [COMPANY] shall submit required reports and maintain records pursuant to Appendix C.

IV. GENERAL PROVISIONS

14. This Agreement and a final EPA determination (Final Determination) in this matter - e.g., a Notice of Determination - issued after [COMPANY'S] completion of the Audit Program and submission of its Final Report shall be the complete resolution of all civil penalty claims for

violations of the Clean Air Act (Act), its implementing regulations, and the federally-approved and -enforceable requirements of applicable SIPs, including permit requirements and permits, that are timely corrected and disclosed in [COMPANY'S] Final Report to EPA. However, compliance with this Agreement and a subsequently-issued Final Determination shall not be a defense to any actions that EPA may subsequently commence pursuant to federal law, federal regulation, and federally-approved and -enforceable state requirements with respect to any Violations that are not timely corrected and disclosed to EPA pursuant to this Agreement. This Agreement and a subsequently-issued Final Determination does not resolve any criminal liability.

15. For purposes of this Agreement, without a trial, administrative hearing, or any adjudication of facts, [COMPANY] admits that EPA has jurisdiction over the subject matter of the terms of this Agreement and any materials submitted to EPA pursuant to

this Agreement.

16. [COMPANY] waives any right to contest the Final Determination in a judicial or administrative hearing.

17. [COMPANY'S] disclosure and correction of Violations pursuant to this Agreement shall not constitute an admission of any Violation of the Clean Air Act, its implementing regulations, and federally-approved and -enforceable requirements of applicable SIPs for purposes of this Agreement, a subsequently issued Final Determination in this matter, or any other civil, criminal, or administrative proceeding. In consideration of the terms of this Agreement and to resolve any disclosed Violations of the Clean Air Act, its implementing regulations, and federally-approved and -enforceable requirements of applicable SIPs [COMPANY] reports to EPA in a Final Report pursuant to Appendix C, Paragraph 3, [COMPANY] agrees to conduct the corrective actions in accordance with Section III and Appendix B.

18. Authority of Signatories. The signatories to the Agreement represent that they have the authority to bind the Parties.

19. Modification. This Agreement may be modified only by a writing signed by all Parties to the Agreement.

20. Transferability. At least 30 days prior to (a) any proposed transfer of ownership or operation of a Facility or (b) any proposed transaction in which [COMPANY] would sell more than 50 percent of the equity interest in a business that owns or operates a Facility, [COMPANY] shall provide EPA with written notice of the prospective Transfer. After the submission to EPA of the foregoing notice, [COMPANY] and its transferee may jointly request in writing that EPA either: (a) transfer this Agreement in whole and without amendment or modification to the transferee and release [COMPANY] from any remaining obligations under this Agreement; or (b) transfer this Agreement in relevant part without amendment or modification to the transferee, and amend Appendix E to this Agreement to remove those Facilities that have been included in the transferee's Agreement. EPA's agreement to the joint request shall not be unreasonably withheld or denied.

21. Costs. The Parties shall bear their own costs of this Agreement, including attorneys' fees.

V. EFFECT OF AGREEMENT - RESOLUTION OF LIABILITY

FOR DISCLOSED AND CORRECTED VIOLATIONS

22. After [COMPANY'S] submission of the Final Report, EPA will determine the specific Violations that occurred and assess which were satisfactorily corrected. Pursuant to this Audit Program and as an exercise of its enforcement discretion, EPA will then resolve [COMPANY'S] civil penalty liability for the disclosed Violations that are satisfactorily corrected consistent with this Agreement's requirements by not imposing a civil penalty for those disclosed and satisfactorily corrected Violations. EPA will memorialize the disclosed and satisfactorily corrected Violations that satisfy the terms of this Agreement in a Final Determination

23. EPA reserves its right to proceed against [COMPANY] for all Violations outside the scope of this Agreement. EPA reserves its right to proceed against [COMPANY] for all Violations within the scope of this Agreement that are not satisfactorily - which includes timely - corrected and disclosed consistent with this Agreement's requirements. Should EPA receive information that proves or demonstrates that the facts are other than as certified by [COMPANY] in its Final Report, the portion of this Agreement pertaining to the affected Facilities, including the Final Determination and resolution of [COMPANY'S] civil penalty liability, may be voided, or this entire Agreement may be declared null and void at EPA's election, and EPA may proceed with an enforcement action. In any enforcement action regarding Violations described above in this Paragraph, EPA may enforce applicable provisions of the Clean Air Act, its implementing regulations, federally-approved and

-enforceable requirements of applicable SIPs, and any other applicable environmental laws, regulations, and permits for which EPA has authority to enforce.

24. Any Violation that [COMPANY] could have identified and disclosed pursuant to this

Agreement and did not do so shall not be considered a Violation of this Agreement, but will be an actionable Violation of the Act, its implementing regulations, and/or the federally-approved and -enforceable requirements of the applicable SIP for which EPA may bring a claim or cause of action in accordance with applicable laws and regulations.

25. Compliance with Applicable Statutory, Regulatory, and Permitting Requirements. Neither the existence of, nor compliance with, this Agreement relieves [COMPANY] of its obligation of continued compliance with the Act, its implementing regulations, the federally-approved and -enforceable requirements of applicable SIPs, and any federal and state permits covered by this Agreement, and all other federal, state, and local laws and regulations.

VI. NOTIFICATIONS

26. [COMPANY'S] Semi-Annual and Final Reports required by Appendix C of this Agreement shall be certified by a responsible [COMPANY] corporate official. The responsible corporate official's certification statement shall be in the following form:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing Violations.

The responsible corporate official's statement shall also include the date, and the official's name, signature, and title.

27. Except where otherwise provided in this Agreement, whenever this Agreement requires [COMPANY] to give notice or submit reports, information, certifications, or documents (collectively information), the information shall be submitted to the following:

[EPA TECHNICAL CONTACT]

and

[EPA LEGAL CONTACT]

28. Unless otherwise provided in this Agreement, whenever this Agreement requires EPA to provide [COMPANY] with information, the information shall be submitted to the following persons and addresses:

[COMPANY TECHNICAL CONTACT]

and

[COMPANY LEGAL CONTACT]

29. Notification to State Environmental Agencies. EPA will notify appropriate state environmental agencies of Violations disclosed and corrected pursuant to this Agreement.

VII. INTEGRATION / HEADINGS

30. This Agreement and its Appendices constitute the final, complete, and exclusive agreement and understanding among the Parties with respect to the requirements embodied in this Agreement. The Parties acknowledge that there are no representations, agreements, or understandings relating to the Agreement other than those expressly contained in this Agreement.

31. Headings to the sections, subsections, paragraphs, and subparagraphs of this Agreement are provided for convenience and do not affect the meaning or interpretation of the Agreement's provisions.

VIII. APPENDICES

32. The following Appendices are attached to, incorporated by reference, and considered part of this Agreement:

A. Definitions;

B. Vapor Control System Engineering and Design Analysis, Field Survey, and Corrective Action Guidelines;

C. Audit Program Reporting and Recordkeeping Requirements;

D. Audit Program Reporting Template; and

E. [COMPANY] Newly Acquired Oil and Natural Gas Exploration and Production Facilities Subject to Agreement.

WE, THE UNDERSIGNED, HEREBY AGREE TO BE BOUND BY THIS AGREEMENT:

For [COMPANY]:

_____

[Name]

[Title]

[COMPANY]

[Street]

[City, State, Zip]

Date:_____

For the United States Environmental Protection Agency:

_____

[Name]

[Title]

[Division/Office]

U.S. Environmental Protection Agency

1200 Pennsylvania Avenue, NW

Washington, D.C. 20460

Date:_____

APPENDIX A

DEFINITIONS

For purposes of this Agreement, every term expressly defined in this Appendix shall have the meaning given that term herein. Every other term used in this Agreement that is also defined in the Clean Air Act (Act), 42 U.S.C. §§ 7401-7671q, the Act's implementing regulations, or in the federally-approved and -enforceable provisions of the applicable SIPs, shall mean in this Agreement what the term means under the Act, the implementing regulations, or the federally-approved and -enforceable provisions of the applicable SIPs. In the case of a conflict between federal and state definitions, federal definitions shall control.

1. Agreement means the Oil and Natural Gas Exploration and Production Facilities New Owner Audit Program Agreement between the U.S. Environmental Protection Agency and [COMPANY].

2. Audit means a systematic, documented, and objective review by a regulated entity of facility operations and practices related to meeting environmental requirements.

3. Closed Loop Control System means a Vapor Control System equipped with a system of feedback loops from the Tank System to production equipment upstream of the Tank System that continuously measure, control, and record pressure in the Tank System or tanks within the Tank System. Closed Loop Control Systems automatically regulate hydrocarbon flow from separation equipment to the Tank System, thereby controlling the vapor flow rate, duration, and frequency to maintain Vapor Control System pressure below the Leak Point of the Vapor Control System pressure relief device(s) as described in the Design Guideline.

4. Compromised Equipment means equipment associated with a Vapor Control System that is beginning to show signs of wear beyond normal wear, and that cannot be addressed by cleaning the equipment. Examples include, but are not limited to, cracks or grooves in gaskets, abnormally or heavily corroded equipment, and beveling or other indications of inefficient connection of the thief hatch to the tank.

5. Date of Acquisition means [DATE], which is the date on which the transaction closed and [COMPANY] acquired ownership or control of the Facilities from [SELLER].

6. Effective Date means the date on which EPA signs this Agreement.

7. Engineering Design Standard means engineering design methods, equations, and information used to evaluate the capacity and performance of each Vapor Control System and control device, consistent with the control device's operational parameters (e.g., manufacturer specifications) and the size and design of the Vapor Control System, including piping, pressure relief valves, and available tank headspace.

8. Facility or Facilities means the oil and natural gas exploration and production assets or well sites, including Vapor Control Systems and Tank Systems, [COMPANY] acquired from

[SELLER] on [DATE OF ACQUISITION] and that are subject to this Agreement and listed in Appendix E.

9. IR Camera Inspection means an inspection of a Vapor Control System using an optical gas imaging infrared camera designed for and capable of detecting hydrocarbon and VOC emissions, conducted by trained personnel who maintain proficiency through regular use of the optical gas imaging infrared camera.

10. Leak Point means the lowest pressure at which emissions are released from any pressure relief devices, including thief hatches, on a Vapor Control System. The Leak Point may be determined by measurement of the Vapor Control System pressure during pressurization of the Vapor Control System, noting the lowest pressure at which emissions are observed from any Vapor Control System pressure relief device during the Field Survey. For purposes of establishing the Leak Point for a Closed Loop Control System, the value of the Leak Point must not exceed the rated pressure at which any Vapor Control System pressure relief device is designed to open or relieve pressure.

11. Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

12. Modeling Guideline means the engineering model used to estimate the Potential Minimum Instantaneous Vapor Flow Rate and the Potential Maximum Instantaneous Vapor Flow Rate as specified in Appendix B, Paragraph 1. The guideline should consider pressurized hydrocarbon liquid and natural gas samples, equipment inventories, separation equipment operating conditions, and well production rates to model the process flow rates, while incorporating the volume, frequency, and duration of individual dump events or transfers to the atmospheric storage tanks.

13. Normal Operations means all periods of operation, excluding Malfunctions. For storage tanks at well production facilities, normal operations include, but are not limited to, liquid dumps from the Separator.

14. Parties means the U.S. Environmental Protection Agency (EPA) and [COMPANY].

15. Potential Minimum Instantaneous Vapor Flow Rate means the minimum instantaneous rate of vapors routed to a Vapor Control System during Normal Operations, including flashing, working, and standing losses, as determined using the Modeling Guideline developed pursuant to Appendix B, Paragraph 1.

16. Potential Peak Instantaneous Vapor Flow Rate means the maximum instantaneous rate of vapors routed to a Vapor Control System during Normal Operations, including flashing, working, and standing losses, as determined using the Modeling Guideline developed pursuant to Appendix B, Paragraph 1.

17. Separator means a pressurized vessel used for separating a well stream into gaseous and liquid components.

18. Tank System means one or more atmospheric tanks that store hydrocarbon liquids and any other interconnected tank (e.g., produced water tank) that share a common Vapor Control System or is/are required by regulation or permit to have a Vapor Control System.

19. Transfer (Transferred) means the assignment of ownership, control, or operational responsibility of a Facility or subset of Facilities from [COMPANY] to an entity that is not a party to this Agreement.

20. Vapor Control System means the system used to contain, convey, and control vapors from one or more storage tank(s), including flashing, working, and standing losses, as well as any emissions routed to the tank Vapor Control System. A Vapor Control System includes a Tank System, piping to convey vapors from a Tank System to a combustion device and/or vapor recovery unit, fittings, connectors, liquid knockout vessels, openings on tanks (e.g., pressure relief valves and thief hatches), and emission control devices.

21. Violation means noncompliance with an applicable requirement under the Clean Air Act, its implementing regulations, and federally-approved and -enforceable requirements of applicable State Implementation Plans (SIPs), including federal and state permits and permitting requirements.

22. Well Production Operations means surface operations to produce hydrocarbon liquids and/or natural gas from a well, but shall not include well maintenance activities (e.g., swabbing).

APPENDIX B

VAPOR CONTROL SYSTEM ENGINEERING AND DESIGN ANALYSIS,

FIELD SURVEY, AND CORRECTIVE ACTION GUIDELINES

1. Development of a Modeling Guideline. [COMPANY] shall develop a written Modeling Guideline. The Modeling Guideline's purpose is to determine the Potential Minimum Instantaneous Vapor Flow Rate and the Potential Peak Instantaneous Vapor Flow Rate for designing and adequately sizing Vapor Control Systems and to provide procedures for achieving this objective. The Modeling Guideline shall address all vapor sources (e.g., atmospheric storage tanks and transfer and loading systems) tied or to be tied into the Vapor Control System.

A. [COMPANY] shall submit a draft Modeling Guideline to EPA for its review and comment no later than 60 days after the Effective Date. Within 45 days of [COMPANY'S] submission of the draft Modeling Guideline, EPA shall inform [COMPANY] of any questions, concerns, or omissions perceived by EPA, and [COMPANY] shall amend the draft Modeling Guideline as appropriate.

B. [COMPANY] may periodically update the Modeling Guideline as appropriate. Should the Modeling Guideline be updated, the use of the version current at the time of the Engineering Evaluation is acceptable. Updates to the Modeling Guideline do not in and of themselves require [COMPANY] to redo Engineering Evaluations (see Paragraph 4 of this Appendix).

2. Engineering Design Standards. [COMPANY] shall complete one or more Engineering

Design Standards to assess whether Vapor Control Systems are adequately sized and properly functioning considering the Potential Minimum Instantaneous Vapor Flow Rate and the Potential Peak Instantaneous Vapor Flow Rate. The Engineering Design Standard(s) may apply to Vapor Control Systems at individual Tank Systems or to groupings of Tank Systems as [COMPANY] may determine appropriate.

3. Vapor Control System Field Survey Standard Operating Procedure (SOP). [COMPANY] shall prepare a written SOP establishing how it will conduct its Vapor Control System Field Surveys under this Agreement. The SOP must be submitted to EPA for review and comment 60 days after the Effective Date and shall include:

A. Procedures for verifying the equipment associated with the Vapor Control System (Associated Equipment) installed and that the Associated Equipment is properly operating.

B. Procedures for conducting an IR Camera Inspection of the Vapor Control System during Normal Operations, including while and immediately after hydrocarbon liquids are being sent to the Tank System from all associated Well Production Operations.

C. Procedures for evaluating all Vapor Control System components, including all pressure relief valves, thief hatches, mountings, and gaskets at each tank in the Tank System, and the possibility of upgrading this equipment to reduce the likelihood of VOC emissions.

Within 45 days of [COMPANY'S] submission of the SOP, EPA shall inform [COMPANY] of any questions, concerns, or omissions perceived by EPA, and [COMPANY] shall amend the SOP as appropriate.

4. Vapor Control System Engineering Evaluation and Field Survey. For each Vapor Control System at each Tank System, [COMPANY] shall conduct the following:

A. An Engineering Evaluation to ensure each Vapor Control System is adequately designed and sized to handle the Potential Minimum Instantaneous Vapor Flow Rate and the Potential Peak Instantaneous Vapor Flow Rate that were calculated through the application of the Modeling Guideline and Engineering Design Standard (see Paragraphs 1 and 2 of this Appendix). The Engineering Evaluation shall compare modelled or measured Vapor Control System pressures to the Leak Point; and

B. A Field Survey following the SOP (see Paragraph 3 of this Appendix) to ensure each Vapor Control System is not emitting VOCs detected with an IR Camera while and immediately after hydrocarbon liquids are being sent to the Tank System from all associated Well Production Operations.

5. Vapor Control System Modifications and Verification.

A. Vapor Control System Modifications. For those Vapor Control Systems that are not adequately designed and sized based on the Engineering Evaluation (see Paragraph 4 of this Appendix) and/or emitting VOCs detected with an IR Camera while and immediately after hydrocarbon liquids are being sent to the Tank System from all associated Well Production Operations, [COMPANY] shall:

i. Make all necessary modifications in accordance with the Engineering Evaluation and Field Survey to:

a. Increase the capacity of the Vapor Control System to handle the Potential Peak Instantaneous Vapor Flow Rate in accordance with a revised Engineering Design Standard; and/or

b. Reduce the Potential Peak Instantaneous Vapor Flow Rate by managing the hydrocarbon liquid and/or vapor flow rate into the Vapor Control System as recalculated using the Modeling Guideline - e.g., use a Closed Loop Control System. If a Closed Loop Control System is selected, the Leak Point shall be determined by measuring the Vapor Control System pressure at a specific location during pressurization of the Vapor Control System, noting the lowest pressure at which VOC

emissions are detected from any Vapor Control System pressure relief device using an IR

camera. The Closed Loop Control System feedback loop shall be designed to respond to pressure measurements at the same Vapor Control System location where the Leak Point was determined.

ii. Make all necessary modifications to ensure that the control device(s) operates within manufacturer specifications for the device's size and design, considering the Potential Minimum Instantaneous Vapor Flow Rate and the Potential Peak Instantaneous Vapor Flow Rate (as recalculated using the Modeling Guideline); and

iii. Fix and/or replace Compromised Equipment associated with the Vapor Control System that may be causing VOC emissions.

B. Verification. [COMPANY] shall verify and ensure that each Vapor Control System that has been modified pursuant to Paragraph 5.A. of this Appendix is adequately designed and sized to handle the Potential Minimum Instantaneous Vapor Flow Rate and the Potential Peak Instantaneous Vapor Flow Rate, as determined through application of an Engineering Design Standard (see Paragraph 2 of this Appendix), and that equipment associated with the Vapor Control System is not causing VOC emissions. [COMPANY] shall conduct a verifying IR Camera Inspection - consistent with the specifications for the initial IR Camera Inspection detailed in Subparagraph 3.B of this Appendix - demonstrating that after completion of the modifications pursuant to Paragraph 5.A. of this Appendix, the Vapor Control System is adequately designed and that equipment associated with the Vapor Control System is not causing VOC emissions detected with an IR Camera while and immediately after hydrocarbon liquids are being sent to the Tank System from all associated Well Production Operations.

APPENDIX C

AUDIT PROGRAM REPORTING AND RECORDKEEPING REQUIREMENTS

Reporting Requirements

1. Audit Instruments. Within 60 days of the Effective Date, [COMPANY] shall submit to EPA the [COMPANY]-tailored Audit protocols (i.e., outline of planned Audit and planned schedule) and Audit checklists (i.e., lists of actions that [COMPANY] will perform to assess compliance with statutory, regulatory, and permitting requirements), the Modeling Guideline (see Appendix B, Paragraph 1), and the Field Survey SOP (see Appendix B, Paragraph 3) (collectively Audit Instruments) for the Audits. Within 45 days of [COMPANY'S] submission of the Audit Instruments, EPA shall inform [COMPANY] of any questions, concerns, or omissions perceived by EPA, and [COMPANY] shall amend the Audit Instruments or otherwise reach agreement with EPA on the Audit Instruments which EPA and [COMPANY] will deem to satisfy the scope of the Audits as set forth in Section IV. If [COMPANY] amends any of its Audit Instruments based on EPA comments, [COMPANY] shall submit the amended Audit Instrument(s) within 30 days of receiving EPA's comments.

2. Semi-Annual Reports. [COMPANY] shall disclose all Violations discovered during the Audits in written disclosure reports to be submitted to EPA on a semi-annual basis during the Audit Program. Each Semi-Annual Report shall be submitted on the 15th day of the month (or the first business day thereafter) after the conclusion of each six-month period following the Effective Date, and shall contain the following information:

A. A list of the Facilities audited during the previous six-month period;

B. A summary of the Violations discovered;

C. A summary of actions taken to correct the discovered Violations (corrective actions); and

D. A list of any changes to the list of Facilities covered under this Agreement.

This Semi-Annual Reporting requirement terminates once [COMPANY] has submitted its Final Report.

3. Final Report. The Final Report shall be submitted no later than 60 days following the completion of the Audit Program and all corrective actions. The Final Report shall provide, in a cumulative fashion, the following summary information regarding the disclosed and corrected Violations in tabular form1:

A. Facility Compliance: Provide the following information for each disclosed Violation, if applicable, so that EPA has complete information on the Violations that may have occurred, and on each Facility's compliance record:

1 See Attachment D (Audit Program Reporting Template).

i. Facility name;

ii. Facility address (street, city, state, and zip code (if appropriate));

iii. Facility GPS coordinates;

iv. Facility US Well Number(s) (formerly known as API Well Number);

v. Facility permitting status and applicable permit number(s);

vi. Violation;

vii. Federal statutory citation;

viii. Federal regulatory citation;

ix. State statutory and regulatory citations (if applicable);

x. Date noncompliance began (if known);

xi. Date of return to compliance;

xii. All corrective actions taken to return the Facility to compliance; and

xiii. Indicate whether any corrective actions taken to return the Facility to compliance resulted from the requirements of Appendix B, Paragraph 5.A.

B. Summary Compliance Information. Provide the following summary information in narrative form for the entire Audit Program:

i. Explain all measures taken - and that will be taken in the future - to ensure the disclosed Violations will not be repeated; and

ii. Estimated cost of returning to compliance (e.g., internal staff or outside consultants' time to become familiar with the regulations, preparing forms and/or permits, submitting forms and/or permits to appropriate agencies, fees collected by the state or other regulatory agencies, and start-up costs for plan implementation or tank monitoring); and

iii. [COMPANY]-estimated amount of pollutants reduced by all corrective actions (specified by pollutant).

Recordkeeping Requirements

4. Until at least two years after resolution of this Agreement with a Final Determination, [COMPANY] shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) (hereinafter referred to as "Records") in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that directly relate to [COMPANY'S] performance of its obligations under this Agreement. This information-retention requirement applies regardless of any contrary [COMPANY] policies or procedures. At any time during this information-retention period, upon request by EPA, [COMPANY] shall provide copies of any Records required to be maintained under this Agreement.

5. Business Confidential Documents. [COMPANY] may assert a business confidentiality claim covering part or all of the Records required to be provided under this Appendix to the extent permitted by and in accordance with 40 C.F.R. § 2.203(b). Records determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of business confidentiality accompanies Records when they are submitted to EPA, or if EPA has notified [COMPANY] that the Records are

not confidential under 40 C.F.R. Part 2, Subpart B, the public may be given access to the Records without further notice to [COMPANY]. Note: "Emissions Data," as defined at 40 C.F.R. § 2.301(a)(2), is not entitled to treatment as Confidential Business Information.

6. This Agreement in no way limits or affects any right of entry and inspection, or any right to obtain information, held by EPA or the United States pursuant to applicable federal laws, regulations, or permits, nor does it limit or affect any duty or obligation of [COMPANY] to maintain documents, records, or other information imposed by applicable federal, state, and local laws, regulations, or permits.

APPENDIX D

AUDIT PROGRAM REPORTING TEMPLATE

Facility Compliance: Provide the following information for each disclosed Violation, if applicable, so that EPA has complete information on the Violations that may have occurred, and on each Facility's compliance record:

Facility Name

Facility Address (Street, City, State, and Zip Code (If Appropriate))

Facility GPS Coordinates

Facility US Well Number(s) (Formerly Known as API Well Number)

Facility Permitting Status and Applicable Permit Number(s)

Violation - Add a New Entry for Each Violation at the Facility and Provide the Required Information that Follows for Each New Entry

Federal Statutory Citation

Federal Regulatory Citation

State Statutory and Regulatory Citations (If Applicable)

Date Non-compliance Began (If Known)

Date of Return to Compliance

All Corrective Actions Taken to Return Facility to Compliance

Indicate Whether Any Corrective Actions Taken to Return the Facility to Compliance Resulted from the Requirements of Appendix B, Paragraph 5.A

APPENDIX E

[COMPANY] NEWLY ACQUIRED OIL AND NATURAL GAS EXPLORATION

AND PRODUCTION FACILITIES SUBJECT TO AGREEMENT