



Midstream's Greatest Resource

March 14, 2014

Air and Radiation Docket and Information Center
U.S. Environmental Protection Agency
Attention: Docket ID No. EPA-HQ-OAR-2011-0151
Mailcode-6102T
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Re: Comments on General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country; Docket ID Number EPA-HQ-OAR-2011-0151

Dear Docket Clerk:

The Gas Processors Association (GPA) appreciates this opportunity to submit comments on proposed General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country, published at 79 Federal Register 2546 (January 14, 2014). The Proposed Rule notice summary indicates that the proposal is intended to address changes to the Indian Country Minor New Source Review (NSR) Rule.

GPA is a non-profit trade organization made up of approximately 130 corporate members, all of whom are engaged in the processing of natural gas into merchantable pipeline gas, or in the manufacture, transportation, or further processing of liquid products from natural gas. GPA's membership accounts for approximately 92% of all natural gas liquids produced by the midstream energy sector in the United States. Our members also produce, gather, transmit, and market natural gas and natural gas liquids, and include a number of Canadian and international companies that produce natural gas liquids on a global scale. Members have significant natural gas operations located within Indian Country covered by this rule and will be directly impacted by the Proposed Rule.

Midstream oil and natural gas operations gather natural gas, oil, condensate, and produced water through a network of pipelines and field compressor stations to route the gas from the well sites to central collection facilities and natural gas processing plants. This gathering infrastructure is primarily influenced by the drilling schedule of the oil and gas producing

companies and the results of the wells which are gathered. The producers' drilling schedule is impacted by a number of complex factors including:

- commodity prices,
- results of nearby completed wells,
- lease requirements,
- contractor and equipment availability, and
- weather.

As such, drilling schedules change frequently which impacts the required gathering infrastructure.

Moreover, the well results have a significant impact on the amount of gathering infrastructure needed. While producers develop models on the expected amount of production from a well, before it is drilled, the actual results can vary drastically. In regards to compression predictions, this can increase or decrease the capacity needs of the gathering infrastructure. Additionally, the composition of the oil and gas produced cannot always be predicted which may result in different field treatments. These treatments may require unpredictable air quality permitting actions (such as amine or dehydration units). All in all, midstream operators need to react quickly in order to accommodate the aforementioned variability.

1. Rule changes to permit deadlines

1.1. GPA supports extending the permit deadline for true minor sources within the oil and gas source category.

Midstream operations are classified as NAICS 21111 and therefore are covered by the permitting deadline extension. GPA urges EPA to set the deadline far enough in the future to allow sufficient time to develop a full general permit and permit by rule program that addresses midstream, as well as oil and gas production sources. We recommend changing the deadline to 12 months after the effective date of the general permit and/or permits by rule or September 2, 2015, whichever is later. This will allow the continued development of oil and natural gas gathering and processing infrastructure for true minor sources while the general permit / permit by rule program is being developed. Sufficient time should also be included for sources to assess applicability to the new general permit and permit by rule for their source category, determine which permit path they qualify for, and have sufficient time to obtain the correct NSR authorization mechanism.

1.2. GPA supports EPA's proposal to eliminate the requirement to obtain a permit beginning six months after the general permit for a source category is published if that date is before September 2, 2014.

Because the general permits have not been published to-date, we agree that this change clarifies that September 2, 2014 is the applicable permitting deadline.

1.3. GPA urges EPA to allow sources to begin construction immediately once the application is deemed complete.

GPA will continue to support the permit by rule process over a general permit process, as it will allow permittees to begin construction without delay, rather than waiting for preconstruction review and approval.

1.4. GPA supports shortening the general permit application review to 45 days.

GPA is supportive of the shortened application review period for general permits. It sets expectations for everyone involved and encourages development of well-crafted, general permits that are straightforward for regional offices to administer. GPA does not believe there should be an automatic denial if sources do not submit information within the short timeline allowed in the rule. We believe it should be case specific rather than automatic.

1.5. GPA supports making clear that sources may seek coverage under a general permit as soon as it is effective.

GPA agrees that sources should be able to seek coverage under a general permit as soon as it is effective, and we support EPA's efforts to remove any confusion on this point.

2. Use of General Permits and Permits by Rule by synthetic minor sources

2.1. GPA supports EPA's proposal to allow use of general permits and permits by rule to create synthetic minor sources.

GPA members support this proposed change in policy. By developing general permits and permits by rule, we believe EPA will effectively streamline true minor and synthetic minor oil and gas permitting and promote the expeditious installation of midstream facilities. As EPA notes in its proposal, GPA agrees that many states have successfully used general permits and permits by rule to authorize synthetic minor sources. These permitting programs afford permittees consistency, predictability, and efficiency and simultaneously reduce the administrative burden on the permitting authority. A standardized set of permit conditions ensures consistency whereby permittees of similar sites operate on a level playing field.

GPA believes general permits and permits by rule should be available for both true and synthetic minor source types. True minor and synthetic minor sources pose no significant difference to air quality when considering the total actual emissions.

GPA recommends the program be structured to allow federally-enforceable limits to be established during the application phase for a general permit or permit by rule. Such limits can be created via a self-certification process and/or by listing in a response letter

confirming authorization under a General Permit. Neither approach adds undue burden on the permitting authority, nor contravenes any conditions of a General Permit. Moreover, field inspectors are given a reference with which they can compare to actual emissions. Several streamlined permitting programs, including Oklahoma and Texas have successfully implemented this approach.

Natural gas compressor stations and natural gas processing plants do not vary significantly in types of sources and methods of control. Allowing these sources to begin construction quickly will potentially lead to reduced flaring of natural gas at wellsites and reduced trucking of oil and produced water where liquids are gathered. Both scenarios would reduce emissions from a region-wide perspective. In addition, allowing enforceable emission limits on sources typically controlled would encourage emission reductions throughout Indian Country.

As described in the introduction, determining the location of midstream facilities is complex and we support EPA's proposal to issue general permits and permits by rule to synthetic minor sources.

2.2. GPA recommends allowing synthetic minor sources to permit emissions up to major source thresholds without any margin.

There is no difference in emission impacts between a true minor source and synthetic minor source if actual emissions are the same. As noted in 2.1, site-specific federally enforceable limits can be established through a certification process to ensure compliance.

3. Additional source categories for general permits and permits by rule

3.1. GPA supports EPA's development of a general permit and permit by rule for the oil and gas source category.

GPA urges EPA to continue development of general permits and permits by rule for the oil and gas source category. We specifically request that operations associated with natural gas gathering and processing be included in the general permit and permit by rule.

By streamlining midstream facility permitting through the use of general permits and/or permits by rule, EPA will reduce the amount of time required for gatherers to install the infrastructure to support production facilities. Both Oklahoma and Texas have developed streamlined permits that cover oil and gas sources including natural gas compressor stations, small gas plants, well sites, and tank batteries.

We believe a General Permit or Permit by Rule is merited for the midstream sector and would be relatively straightforward to develop, since the majority of common equipment is already well-regulated under EPA's existing NSPS and NESHAP rules, as noted below:

- Spark-ignited and compression-ignited engines are potentially subject to NSPS Subpart IIII, Subpart JJJJ, and NESHAP Subpart ZZZZ.
- Turbines are potentially subject to NSPS Subpart GG or Subpart KKKK
- Glycol dehydrators are subject to MACT HH.
- Equipment fugitives are potentially subject to NSPS Subpart KKK or Subpart OOOO.
- Tanks are potentially subject to NSPS Subpart OOOO.
- Flares and combustor often must meet requirements in individual subparts or pursuant to 40 CFR 60.18.
- Compressors seals are potentially subject to NSPS Subpart OOOO.
- Pneumatic controllers are potentially subject to NSPS Subpart OOOO.
- Heat medium heaters are potentially subject to NSPS Dc.
- Amine treaters are potentially subject to NSPS LLL or NSPS OOOO.

As such, we believe that the most common equipment types installed at midstream sites have applicable standards, monitoring, recordkeeping, and reporting requirements under these regulations necessary to ensure compliance. The general permitting program would not need to recreate these requirements. Rather, the program would incorporate federally enforceable numeric emission limits for criteria and hazardous air pollutants (HAPs) that are voluntarily requested by the permittee to establish an applicable source's status as a synthetic minor.

4. Comments on specific portions of the proposed general permits and permits by rule

- 4.1. GPA supports having a general permit and permit by rule cover an entire process rather than a type of equipment.

Generally, general permits and/or permits by rule must cover multiple equipment types in order to be useful. For example, it may be appropriate to include storage tanks, dehydration units, engines, compressors, and pneumatic devices in a midstream compressor station permit. More inclusive permits that cover an entire process tend to be easier to administer and comply with than having multiple permits for each single equipment type.

- 4.2. GPA supports allowing more than one general permit at a site with multiple processes.

It is appropriate to allow more than one general permit at a single location. For example, a midstream company may have a compressor station co-located with a gas plant. We envision a general permit or permit by rule for each of these source types, so a single location could be permitted under two general permits or permits by rule. Co-located sources should not be precluded from using general permits simply because they are co-located if site-wide emissions remain below major source thresholds.

4.3. GPA supports use of general permits and permits by rule for existing sources.

GPA supports making general permits and permits by rule available to existing sources. In order to streamline permitting for a modification, operators may wish to request enforceable emission limits through the general permit process for existing sources. This activity should be encouraged, as it will encourage emission reductions throughout Indian Country.

4.4. GPA requests general permits allow applicants to make both criteria and hazardous air pollutants federally enforceable as requested by applicant.

The general permit and permit by rule program should enable applicants to document federally enforceable, numeric emission limits for both criteria pollutants and HAPs. For example, a source that is subject to NSPS JJJJ for spark ignited engines that requires a control device for compliance with this regulation would be able to request and document federally enforceable, numeric HAP emission limits through the general permit and permit by rule process, given that the NSPS regulation only covers criteria pollutants.

4.5. GPA requests EPA defer to Federal Land Management Agencies for regulating ESA and NHPA requirements.

EPA has designed a process to demonstrate compliance with the Endangered Species Act (ESA) and the National Historic Preservation Act (NHPA). EPA modeled this process after the National Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activities (NPDES) program. This is not appropriate. Federal land management agencies, either the Bureau of Land Management or the Bureau of Indian Affairs (FLMs), already have responsibility for administering the ESA and NHPA on Indian lands. In the case of an NPDES permit, approval of coverage under the general permit is likely to be the only federal action triggering ESA and NHPA applicability. In Indian Country, FLM surface use approval triggers ESA and NHPA review. EPA's proposed approach to ESA and NHPA compliance in Indian Country adds a redundant level of federal agency review and is likely to cause miscommunication and confusion for everyone involved. Since the FLMs already have well established consultation and approval processes to ensure ESA and NHPA compliance in Indian Country, it is appropriate for EPA to defer to the FLMs. EPA should engage with the FLMs to coordinate ESA and NHPA review in Indian Country thereby avoiding redundant federal agency review. This could be achieved through a Memorandum of Agreement or similar mechanism.

4.6. GPA believes setbacks should defer to local jurisdiction.

Generally, GPA believes we should defer to the local jurisdiction with authority when determining setback requirements. If setbacks are deemed appropriate, they should be specific to the emission source type, and they should be based on a scientific evaluation of potential health risks. Setback requirements should be paired with additional control requirements, if needed, to mitigate the health risk if the source cannot meet the setback

requirement. Control requirements for sources that do not meet the setback requirement should be included in the general permit or permit by rule.

Locating emission sources 150 feet from the nearest property boundary may not always be feasible for midstream facilities. Further, automatic setback requirements could cause significant issues for existing sites that do not meet the setback requirements and, therefore, could not qualify for a general permit or permit by rule when they are modified.

If deemed appropriate, setback requirements should be based on the physical location of the emission point and the nearest sensitive receptor, not the property boundary.

Finally, if setbacks are deemed appropriate, modern mapping tools and satellite imagery provides a better permanent record than physical markers on the ground that are subject to disturbance and deterioration.

4.7. GPA disagrees with EPA's proposal to apply local control requirements on a nationwide basis.

EPA has requested comments regarding whether control measures that are implemented in one localized area can be assumed to be technically and economically feasible, and cost effective throughout the United States. It is inappropriate to make this assumption. Rather, EPA must take into account factors that affect the technical and economic feasibility of controls in other areas. These factors may include but are not limited to climate, facility remoteness, whether the facility is manned, regional availability of control equipment, etc. Furthermore, the level of non-attainment status of the area should be taken into consideration when evaluating the cost effectiveness of controls.

In addition to our attached detailed comments, GPA supports comments submitted by the American Petroleum Institute (API).

GPA very much appreciates your consideration of our comments on the Proposed Rule. We offer our assistance as EPA considers public comments and revises the rule for final publication.

Sincerely,



Jeff Applekamp
Vice President of Government Affairs
Gas Processors Association