



Midstream's Greatest Resource

August 20, 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 Managing Emissions from Oil and Natural Gas Production 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 the advanced notice of proposed rulemaking (ANPR) for Managing Emissions from Oil and Natural Gas Production in Indian Country, published at 79 Fed. Reg. 32,502 (June 5, 2014). The notice summary indicates that the proposal is intended to solicit feedback on implementing the Environmental Protection Agency's (EPA) Indian Country Minor New Source Review (NSR) program for sources in the oil and natural gas sector.

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 future rulemaking. As such, GPA submits the following comments on the ANPR.

GPA previously submitted comments on the proposed General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country, published at 79 Fed. Reg. 2546 (Jan. 14, 2014). These comments apply to the current ANPR and are incorporated by reference.

1. About Natural Gas Processing Operations

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 regard 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.

Natural gas gathering compressor stations and natural gas processing plants are usually larger sites than well pads. Compressor stations typically include multiple natural gas fired compressor engines and/or turbines, small heaters, triethylene glycol (TEG) dehydration units, storage vessels, and fugitive components. The main function of a compressor station is to increase the pressure of the gas to transport it further down a pipeline to a gas plant. This is done with natural gas fired compressor engines. Some liquids fall out of the raw natural gas at this point which is condensate and produced water. Some treating of the gas may occur such as dehydration to remove water or sweetening to remove hydrogen sulfide or carbon dioxide. Some field gathering stations also gather oil and/or produced water from well pads via pipeline. Pumping equipment is often used to support these operations and can be co-located with a natural gas compressor station.

Gas plants include similar emission sources to those found at a compressor station but with some variation. Depending on the maximum designed natural gas throughput, gas plants usually have larger or more numerous emission sources as compared to a compressor station. Typical emission sources for natural gas processing plants

includes: natural gas fired engines for natural gas compression, natural gas fired engines for propane refrigerant compression, heaters for molecular sieve dehydration bed regeneration, heaters for amine treating systems, amine treaters to remove hydrogen sulfide and/or carbon dioxide, storage vessels, and piping components. Natural gas processing plants do not have many process vents.

2. Synthetic Minor Source Permitting

2.1 Treat synthetic minor sources the same as true minor sources.

GPA members urge the EPA to treat synthetic minor sources the same as true minor sources. State minor NSR programs do not make a distinction between true and synthetic minor sources for applicability to streamlined permitting programs. By developing streamlined permitting for synthetic minor sources, we believe EPA can effectively manage oil and gas permitting and promote the expeditious installation of midstream facilities. 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 while simultaneously reducing 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.

2.2 Allow federally-enforceable limits to be established during the application or registration phase.

GPA recommends a program structured to allow federally-enforceable limits to be established during the application or registration phase. Such limits can be created via a self-certification process and/or by listing in a response letter confirming authorization. Allowing enforceable emission limits on sources typically controlled would encourage emission reductions throughout Indian Country. Certification of synthetic minor emission limits will incentivize operators to reduce emissions to avoid requirements or long permit processes.

2.3 Allow applicants to make criteria and hazardous air pollutant limits federally enforceable as requested by an applicant.

GPA requests the EPA allow applicants to make criteria and hazardous air pollutant limits federally enforceable as requested by an applicant. Applicants should be allowed to document federally enforceable, numeric emission limits for both criteria pollutants and HAPs. For example, a rich burn engine that is subject to NSPS JJJJ for spark ignited engines that requires a catalyst control device for compliance with this regulation would be able to request and document federally enforceable, numeric HAP emission limits associated with this control device which could allow the site to be an area source under 40 CFR Part 63 NESHAP standards.

2.4 Allow operators to voluntarily adopt emission limits in order to avoid becoming subject to a NSPS or NESHAP standard.

GPA supports EPA's proposal to recognize the effect of a NESHAP or NSPS control requirement lowering emissions of pollutants that are controlled as a co-benefit. GPA encourages EPA to go even farther and allow operators to voluntarily adopt emission limits in order to avoid becoming subject to a NSPS or NESHAP standard. This approach has the potential to reduce emissions further, as companies may choose to control emissions to lower levels in order to avoid burdensome monitoring, recordkeeping and reporting requirements. Virtually every state-administered program allows this approach, so incorporating this in Indian Country would provide consistency between state and Indian Country programs.

3. Streamlined Natural Gas Processing Plant Permitting

3.1 Include natural gas processing plants in the streamlined permitting approach.

GPA supports streamlining midstream source category permitting because it will reduce the amount of time required for gatherers to install the infrastructure to support production facilities. Many states have developed streamlined permits that cover oil and natural gas sources including small natural gas processing plants. We urge the EPA to include natural gas processing plants in the streamlined permitting approach. These sources typically have similar types of emission sources as compressor stations (though typically larger in size or quantity) and are frequently true or synthetic minor sources.

3.2 Current NSPS and NESHAP regulations contain provisions that adequately ensure compliance.

GPA believes that current NSPS and NESHAP regulations contain provisions that adequately ensure compliance. Most common equipment types installed at midstream natural gas processing plants have applicable standards, monitoring, recordkeeping, and reporting requirements under NSPS and NESHAP regulations necessary to ensure compliance. A minor source permitting program would not need to recreate these requirements. Rather, the program could incorporate federally enforceable numeric emission limits for criteria and HAPs that are voluntarily requested by the permittee to establish an applicable source's status as a synthetic minor.

4. Elements of a Minor Source Permitting Program

4.1 GPA supports a streamlined permitting approach.

As noted in the ANPR, EPA is considering three approaches to streamlined permitting: a FIP, a permit-by-rule (PBR), and a General Permit, as well as a combination of these approaches. There are pros and cons of each approach, and GPA welcomes the opportunity to further discuss this with EPA. GPA would like to take this opportunity to describe the beneficial elements of a streamlined permitting program, as

well as highlight potential hindrances to be avoided based on experience from state-level streamlined permitting programs.

Again, GPA believes that EPA should allow sources to use a streamlined permitting approach to establish federally-enforceable limits to avoid major source permitting or other potentially applicable regulatory requirements (e.g., NSPS or NESHAP). No distinction should be made in terms of permitting for synthetic minor sources versus true minor sources under a streamlined permitting program. Further, sources should be allowed to tailor the federally-enforceable limit(s) requested to specific values rather than broadly apply prescriptive emission control requirements. Many states have successfully used streamlined permitting programs to allow sources to establish federally-enforceable emission limits and customize such limit(s) to the needs of the site. A common approach used is a self-certification process during the application or registration phase whereby the applicant specifically notes the limit(s) being requested. The reviewing authority must then merely confirm that the requested limits are acceptable.

4.2 Create incentives for sources to control emissions in order to qualify for coverage under a streamlined permit.

GPA supports EPA allowing customizable, federally-enforceable limits that create incentives for sources to control or limit emissions in order to qualify for coverage under a streamlined permit rather than undergo a more-involved permitting process. For example, a source proposing to construct a compressor station might choose engine catalytic converters with a higher control efficiency to reduce emissions under the thresholds for a streamlined permitting option. In this example, the source would need a mechanism to establish the federal enforceability of its additional control. Conversely, a program with prescriptive, inflexible control requirements can create a disincentive to control emissions beyond what is required. It also neglects site-specific characteristics that can make emission controls more technically and economically feasible in some areas. For example, vapor recovery on tanks may be economically and technically feasible in an area with high-BTU gas streams and developed gathering infrastructure, but not in an area with low-BTU gas streams and minimal infrastructure. Many state-level streamlined permitting programs allow sufficient flexibility for site-specific design considerations while incorporating adequate conditions and review to protect ambient air quality. This is quite often achieved by incorporating certain prohibitions into the permit, while retaining the flexibility through the application/registration process.

5. Reasonable and Practicable Compliance Requirements

5.1 It is not technically or economically feasible to apply control and monitoring requirements nation-wide.

GPA members understand that recordkeeping and reporting are necessary for compliance assurance. However, the data recording and compliance assurance

discussed in the ANPR appear to suggest the implementation of monitoring and recordkeeping requirements above and beyond what is required at large Title V sources. It is not technically or economically feasible to apply control and monitoring requirements nation-wide. The following items must be taken into consideration to ensure realistic and practicable requirements in Indian Country:

- Remote, unmanned locations;
- Geographically dispersed;
- Large number of small sources; and
- Extreme weather conditions.

Control and monitoring expectations and efficiencies should be adjusted to realistically achievable levels to account for time and monies needed to travel to locations, identify and diagnose problems, procure and deliver parts, and complete repair.

5.2 Individual data management systems must be realistic and practicable.

GPA believes that individual data management systems must be realistic and practicable. Monitoring must be minimized and meaningful to avoid overwhelming database collection systems on both EPA's and operators' networks. If extensive data management requirements are implemented it will be more burdensome for small operators without resources to implement complex data management systems. The following issues should be taken into account when considering data recordkeeping requirements associated with streamlined permitting approaches for oil and natural gas sources:

- Responsible Official (RO) certification for thousands of facilities;
- Time required to set up each facility in a reporting system;
- Time, personnel, and resources required to enter data; and
- Data transfer after a facility is transferred or sold.

Practicable emission thresholds must be in place to trigger electronic reporting requirements due to time, monies and personnel involved.

6. **Control of Existing Minor Sources Based on an Identified Need**

The Clean Air Act gives states a significant amount of control in determining how to achieve and maintain compliance with the National Ambient Air Quality Standards (NAAQS) because states are in the best position to understand the industries and emission sources within their borders. Furthermore, states are presumed to have an interest in both protecting the air quality within their borders and maintaining their industries and economy. The Clean Air Act provides a systematic approach for developing implementation plans. See 42 U.S. Code § 7410. This approach includes ambient air quality monitoring (to identify areas that are not meeting the NAAQS), development of emission inventories, and development of an emission budget based on photochemical grid modeling and or weight of evidence. See 42 U.S. Code §§ 7410,

7511a, and 40 C.F.R. Part 51. Some emission reductions will occur without any formal agency action; for example, as existing sources reach the end of their useful life and are retired or replaced with new, lower-emitting sources (e.g. vehicles meeting new emission standards, or oil and gas sources meeting NSPS), the state will take these reductions into account. If additional reductions are needed, the state will start with the “low-hanging fruit,” which include sources that are easier and less costly to control, and work from there. In short, the state implementation plan should take a reasoned, well thought out, scientific, and economic approach to correcting a defined air quality issue.

EPA, in implementing a FIP, must likewise take the specifics of each individual tribal area into consideration and follow the appropriate process to define and address the air quality issues specific to each area. There are a number of key questions EPA must first address before establishing a FIP: Does the area already have a FIP (e.g. Fort Berthold), and is it effective in reducing emissions? Has the area been designated non-attainment with respect to a NAAQS? Is additional monitoring required? What pollutants and emission sources are contributing to the monitored NAAQS violation and to what degree? How much reduction is needed to achieve compliance? What is the most cost effective way to achieve those emission reductions? To bypass these critical, area-specific analyses by adopting the requirements of a nearby or adjacent state or addressing multiple tribal areas in a broad FIP would run counter to how NAAQS are implemented. EPA would likely face significant legal challenges from multiple parties were it to attempt either of these approaches.

Moreover, EPA should consider existing Consent Decrees, RODs, compliance with existing NSPS and recognize these when compiling the permitting program to avoid duplicity or enacting more stringent controls. EPA should also confer with other agencies, such as BLM, to ensure conformity with potential FIPs is met. This will help avoid case-by-case conformity analyses and permitting scenarios that will likely hinder oil and gas production.

7. GPA Comments on Proposed Approaches Discussed in the ANPR:

7.1 EPA Proposed approach: Require emission controls for existing oil and natural gas production sources to create a growth margin that will allow further development in the oil and natural gas production segment in a manner that is protective of the environment.

GPA concern: While GPA is concerned with emerging air quality issues, arbitrarily controlling existing sources to create a “growth margin” for new sources is not good policy.

The immediate need is for a streamlined permitting process for new sources, which, as discussed above, are already well regulated through existing federal rules, have low emissions, and are unlikely to contribute to non-attainment or prevent the area from coming into attainment. Since emissions from the new sources are low, they are likely to be offset by emission reductions from existing sources due to naturally declining

production of existing wells over time. Indeed, the Utah Division of Air Quality recently developed a white paper in which they determined this to be the case.¹

Moreover, in two of EPA's recently published proposed rules to implement the Federal Minor New Source Review Program in Indian Country for certain industry sectors, (*see, e.g.,* General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country, 79 Fed. Reg. 2546, 2555 (Jan. 14, 2014) and General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country, 79 Fed. Reg. 41,846, 41,856 (July 17, 2014)), EPA acknowledged that prior to determining how best to protect against future adverse air quality impacts, the "reviewing authorities will consider any air quality concerns *unique to specific areas that arise after issuance of the general permits....*" GPA urges EPA to take this same approach when determining how best to manage emissions from oil and gas production in Indian Country.

7.2 EPA Proposed approach: Create a unified FIP for Indian Country to capture all emissions from the oil and natural gas sector.

GPA concern: When implementing a FIP, EPA steps into the shoes of either the state, or in this case, an Indian tribe.²

The Clean Air Act only authorizes EPA to include in a FIP what a state could include in its state implementation plan (SIP) or what a tribe could include in its tribal implementation plan (TIP). When developing SIPs, states' decisions on how to address air pollution must be guided and informed by emissions monitoring data. Therefore, the development of comprehensive and valid emissions monitoring data is a critical first step when developing any implementation plan. Before implementing a FIP, EPA would need to gather emissions data, just like a state or tribe would be required to do. Regardless of whether there is currently a "scarcity" of emission data, EPA should not develop a FIP to address emissions from existing sources until there is comprehensive data that demonstrates the need for such controls.

Any FIP should be tailored to reflect the different air sheds and unique emission sources located throughout particular areas of Indian Country. One FIP to address all existing sources on reservation lands for the entire country would never approximate what a state or a tribe would do. States would not be allowed to include in their SIPs regions outside of their state boundaries just like one tribe cannot develop or include in a TIP another tribe's reservation lands. Implementing a broad FIP with one set of controls for all Indian Country lands is not reasonable and is not the best approach to address emerging air quality issues in Indian Country.

¹ *VOC Emissions Projection Methodology for the Uinta Basin* Version 1.0, February 18, 2014.

² "Because the EPA may administer a federal program only 'in the shoes of a tribe or the shoes of [a] state,' it can exercise no more jurisdiction than could the tribe or state whose shoes it fills." *Okla. Dep't of Env'tl. Quality v. Env'tl. Prot. Agency*, No. 11-1307 at p. 15 (D.C. Cir. 2014) (quoting *Michigan v. EPA*, 268 F.3d 1075, 1082 (D.C. Cir. 2001)).

- 7.3 EPA Proposed approach: Address “emerging” air quality issues by regulating existing emission sources.

GPA concern: As discussed above, control requirements for existing sources should be based on an area-specific analysis.

One of the Clean Air Act’s goals is to insure that economic growth will occur in a manner consistent with the preservation of existing clean air resources. Attempting to control existing sources that have not undertaken modifications and will not produce additional emissions contravenes the Clean Air Act’s goal of striking a balance between air quality and economic growth. 42 U.S.C. § 7470. This would be especially true if EPA implements a FIP in Indian Country to control existing sources under the Minor NSR program. The Minor NSR program is designed to control emissions from new and modified minor sources and minor modifications at major sources. Using a FIP to control existing minor sources that are not being modified would stymie economic growth even in attainment areas.

- 7.4 EPA Proposed approach: Establish a uniform set of control technology requirements for new, modified, and existing sources.

GPA concern: The economics are very different for retrofitting controls on existing sources vs. installing emission controls on new sources.

As discussed above, control requirements for existing sources should be based on an area-specific analysis. New sources are already well-regulated, so there is little to be gained from further regulation.

There is a large distinction between existing sources and new or modified sources. For new or modified sources that are in the process of construction, adapting to changing emission requirements by installing new control technology is much easier. Requiring existing sources that are not making any changes to comply with the same type of control technology as a new or modified source would place an enormous burden on these sources. Thus, for existing sources that are not undertaking modifications that increase emissions and in situations where there are no demonstrated air quality issues, EPA should not require these sources to undertake new control requirements.

8. Ambient Air Monitoring

EPA cannot require individual sources to conduct ambient air monitoring via section 114 or any other provision of the Clean Air Act. As part of the agency’s efforts to determine whether it is necessary or appropriate for EPA to impose requirements on existing sources, EPA asks for comment on whether Clean Air Act section 114 provides authority to require oil and gas industry sources in Indian Country to install ambient air quality monitors.³ Any reliance on section 114 as the statutory basis for requiring

³ 79 Fed. Reg. at 32,519 (June 5, 2014).

sources to install ambient air quality monitors would be well beyond the scope of what is authorized by that section. Specifically, section 114(a) provides, in relevant, part that:

(1) the Administrator may require any person who owns or operates any emission source . . . who the Administrator believes may have information necessary for the purposes set forth in this subsection, or who is subject to any requirement of this chapter . . . on a one-time, periodic or continuous basis to—(A) establish and maintain such records; (B) make such reports; (C) install, use, and maintain such monitoring equipment, and use such audit procedures, or methods; (D) sample such emissions (in accordance with such procedures or methods, at such locations, at such intervals, during such periods and in such manner as the Administrator shall prescribe⁴

As this language demonstrates, the requirements specified in section 114(a)(1) are *source specific*. Nothing in section 114 suggests that an owner or operator of a source would be required to collect general emissions data for the area in which it is located.

The Senate’s Summary of the Provisions of Conference Agreement on the Clean Air Act Amendments of 1970 provides additional support that the requirements specified in section 114 are source specific:

The conference agreement grants authority to the Administrator or his authorized representative to enter the premises of any emission sources, to require the owner or operator of any source to install and maintain emissions monitoring equipment (and to protect it against tampering), to require sampling of emissions, and to require records and reports.

The reference to entering “the premises of any emission sources” naturally means that the type of monitoring intended to be authorized by section 114 was not ambient air monitoring, but rather, monitoring the emissions from a particular source located on a particular premises.

Furthermore, ambient air quality monitoring is typically considered a section 110 function that is undertaken by the implementing authority (State, Tribe, or EPA) and not a function undertaken by individual sources. Monitoring at source fence lines is typically not the ideal location for estimating ambient air for a region. Except for what would be required in the permitting context, EPA cannot require individual sources to conduct ambient air monitoring via section 114 or any other provision of the Clean Air Act. EPA would likely face legal challenges were it to attempt to impose this requirement on operators.

⁴ CAA § 114(a)(1)(C); 42 U.S.C. § 7414(a)(1)(C).

9. Setbacks

Generally, GPA believes setback requirements should not be prescribed in the rule. 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. Locating emission sources a fixed distance 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 the existing source is 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.

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

GPA very much appreciates your consideration of our comments on this ANPR. We offer our assistance as EPA considers public comments and prepares a proposed rule for publication.

Sincerely,



Jeff Applekamp
Vice President of Government Affairs
Gas Processors Association