

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

March 20, 2020

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and

Received by

**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
UTAH DIVISION OF AIR QUALITY**

EPA Region VIII

Hearing Clerk

IN THE MATTER OF:)	NOTICE OF VIOLATION
)	
EP Energy E&P Company, L.P.)	EPA Docket No. CAA-08-2020-0005
1001 Louisiana Street)	
Houston, TX 77002)	Proceedings Pursuant to
)	the Clean Air Act,
)	42 U.S.C. §§ 7401-7671q
)	and Utah Code, Title 19, Chapter 2

NOTICE OF VIOLATION

The U.S. Environmental Protection Agency and the Utah Department of Environmental Quality, Division of Air Quality (UDAQ) jointly allege that EP Energy E&P Company, L.P. (EP Energy) has violated or is violating the Clean Air Act at oil and natural gas production operations located in the Uinta Basin. Specifically, the EPA and the UDAQ jointly allege EP Energy has violated or is violating Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution for Which Construction, Modification or Reconstruction Commenced After August 23, 2011, and on or Before September 18, 2015, 40 C.F.R. part 60, subpart OOOO (NSPS OOOO); or, Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After September 18, 2015, 40 C.F.R. part 60, subpart OOOOa (NSPS OOOOa). The EPA and the UDAQ further jointly allege EP Energy has violated or is violating federally enforceable provisions of approval orders issued by the State of Utah pursuant to an EPA-approved permitting program.

Separately, the UDAQ alleges violations of State-enforceable air quality regulations for the oil and gas industry at facilities under the State of Utah’s jurisdiction, and the EPA alleges violations of NSPS OOOO and NSPS OOOOa at facilities located on the Uintah and Ouray Indian Reservation.

I. STATUTORY AND REGULATORY BACKGROUND

1. The Clean Air Act’s purpose is “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population.” 42 U.S.C. § 7401(b)(1).

New Source Performance Standards

2. Section 111(b) of the Clean Air Act authorizes the Administrator of the EPA to promulgate standards of performance applicable to “new sources” within categories of sources that cause “air pollution which may reasonably be anticipated to endanger public health or welfare.” 42 U.S.C. § 7411(b).

3. A “new source” is any stationary source, the construction or modification of which is commenced after the promulgation of the standards of performance that will apply to such source. 42 U.S.C. § 7411(a)(2).

4. A “stationary source” is a building, structure, facility, or installation that emits or may emit any air pollutant. 42 U.S.C. § 7411(a)(3).

5. In 1979, the EPA listed “Crude Oil and Natural Gas Production” as a source category that contributes significantly to air pollution and for which standards of performance would be established. 44 Fed. Reg. 49,222 (Aug. 21, 1979).

6. It is unlawful for owners or operators of any new source to operate in violation of applicable standards of performance after the standards have gone into effect. 42 U.S.C. § 7411(e).

40 C.F.R. Part 60, Subpart OOOO (NSPS OOOO)

7. In 2012, the EPA promulgated “Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution” under section 111 of the Clean Air Act. 77 Fed. Reg. 49,542 (Aug. 16, 2012). These standards are set forth in 40 C.F.R part 60, subpart OOOO, which includes 40 C.F.R. §§ 60.5360–5430.

8. Each of these standards is a “standard of performance” within the meaning of section 111(a)(1) of the Clean Air Act, 42 U.S.C. § 7411(a)(1), or a “design, equipment, work practice, or operational standard, or combination thereof” under section 111(h) of the Clean Air Act, 42 U.S.C. § 7411(h).

9. NSPS OOOO applies to “affected facilities” for which owners or operators commence construction, modification or reconstruction after August 23, 2011, and on or before September 18, 2015. 40 C.F.R. § 60.5365.

10. A “storage vessel affected facility” under NSPS OOOO includes a single storage vessel located in the natural gas production segment that has the potential for volatile organic compounds (VOC) emissions equal to or greater than 6 tons per year, as determined according to 40 C.F.R. § 60.5365(e).

11. NSPS OOOO requires “[a]t all times, including periods of startup, shutdown, and malfunction, owners and operators shall maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions.” 40 C.F.R. § 60.5370(b).

12. NSPS OOOO requires storage vessel affected facilities that utilize a control device to be equipped with a cover that meets the requirements of 40 C.F.R. § 60.5411(b) and is connected through a closed vent system that meets the requirements of § 60.5411(c), and emissions must be routed to a control device that meets the conditions specified in § 60.5412(c) and (d). 40 C.F.R. § 60.5395(e)(1).

13. Owners and operators must comply with the following requirements for covers on storage vessel affected facilities under NSPS OOOO:

a. The cover and all openings on the cover (e.g., access hatches and pressure relief valves) shall form a continuous impermeable barrier over the entire surface area of the liquid in the storage vessel. 40 C.F.R. § 60.5411(b)(1).

b. Each cover opening must be secured in a closed, sealed position whenever material is in the unit, except during those times specified in 40 C.F.R. § 60.5411(b)(2)(i)–(iv). 40 C.F.R. § 60.5411(b)(2).

c. Each storage vessel thief hatch must be equipped, maintained and operated with a weighted mechanism or equivalent, to ensure that the lid remains properly seated. 40 C.F.R. § 60.5411(b)(3).

14. Owners and operators must comply with the following requirements for closed vent systems associated with storage vessel affected facilities under NSPS OOOO:

a. Design the closed vent system to route all gases, vapors, and fumes emitted from the material in the storage vessel to a control device that meets the requirements specified in § 60.5412(c) and (d), or to a process. 40 C.F.R. § 60.5411(c)(1).

b. Design and operate a closed vent system with no detectable emissions, as determined using olfactory, visual and auditory inspections. 40 C.F.R. § 60.5411(c)(2).

15. Owners and operators must comply with the following requirements for control devices to reduce emissions from storage vessel affected facilities under NSPS OOOO:

a. Ensure each enclosed combustion device is maintained in a leak free condition. 40 C.F.R. §§ 60.5412(d)(1)(i), 60.5413(e)(7).

b. Install and operate a continuous burning pilot flame. 40 C.F.R. §§ 60.5412(d)(1)(ii), 60.5413(e)(2).

c. Design and operate a flare in accordance with the requirements of 40 C.F.R. § 60.18. 40 C.F.R. § 60.5425.

d. Operate the control device with no visible emissions, except for periods not to exceed a total of one minute during any fifteen-minute period, as determined using EPA Method 22, 40 C.F.R. part 60, appendix A. 40 C.F.R. §§ 60.5412(d)(1)(iii), 60.5413(e)(3).

e. Operate each control device used to comply with NSPS OOOO at all times when gases, vapors, and fumes are vented from storage vessel affected facilities through the closed vent system to the control device. 40 C.F.R. § 60.5412(d)(3).

16. For storage vessels constructed, modified, or reconstructed after August 23, 2011 and on or before April 12, 2013, owners or operators were required to submit a notification identifying each storage vessel affected facility in an initial annual report by July 14, 2015. The initial report must include documentation of the VOC emission rate determination and records of deviations in cases where the storage vessel affected facility was not operated in compliance with the requirements specified in 40 C.F.R. §§ 60.5395, 60.5411, 60.5412, and 60.5413, as applicable. 40 C.F.R. §§ 60.5410(h), 60.5420(b)(6), 60.5420(c)(5)(iii).

17. For storage vessels constructed, modified, or reconstructed after April 12, 2013 and on or before September 18, 2015, owners or operators must demonstrate initial compliance by April 15, 2014, or within 60 days after startup, whichever is later. Within 90 days after the end of the initial compliance period, owners or operators must submit an initial annual report that identifies the storage vessel affected facilities constructed, modified, or reconstructed during the reporting period and includes documentation of the VOC emission rate determination and records of deviations in cases where the storage vessel affected facility was not operated in compliance with the requirements specified in 40 C.F.R. §§ 60.5395, 60.5411, 60.5412, and 60.5413, as applicable. 40 C.F.R. §§ 60.5410(h), 60.5420(b)(6), 60.5420(c)(5)(iii).

18. After the initial report, owners or operators must submit annual reports identifying the storage vessel affected facilities constructed, modified, or reconstructed during the reporting period. Annual reports must include documentation of the VOC emission rate determination and records of deviations in cases where the storage vessel affected facility was not operated in compliance with the requirements specified in 40 C.F.R. §§ 60.5395, 60.5411, 60.5412, and 60.5413, as applicable. 40 C.F.R. §§ 60.5420(b)(6), 60.5420(c)(5)(iii).

40 C.F.R. Part 60, Subpart OOOOa (NSPS OOOOa)

19. In 2016, the EPA promulgated “Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification, or Reconstruction Commenced after September 18, 2015” under section 111 of the Clean Air Act. 81 Fed. Reg. 35,824 (June 3, 2016). These standards are set forth in 40 C.F.R part 60, subpart OOOOa, which includes

40 C.F.R. §§ 60.5360a–5432a (NSPS OOOOa).¹

20. Each of these standards is a “standard of performance” within the meaning of section 111(a)(1) of the Clean Air Act, 42 U.S.C. § 7411(a)(1), or a “design, equipment, work practice, or operational standard, or combination thereof” under section 111(h) of the Clean Air Act, 42 U.S.C. § 7411(h).

21. NSPS OOOOa applies to “affected facilities” for which owners or operators commence construction, modification or reconstruction after September 18, 2015. 40 C.F.R. § 60.5365a.

22. A “storage vessel affected facility” under NSPS OOOOa includes a single storage vessel that has the potential for VOC emissions equal to or greater than 6 tpy, as determined according to 40 C.F.R. § 60.5365a(e).

23. NSPS OOOOa requires “[a]t all times, including periods of startup, shutdown, and malfunction, owners and operators shall maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions.” 40 C.F.R. § 60.5370a(b).

24. NSPS OOOOa requires storage vessel affected facilities that utilize a control device to be equipped with a cover that meets the requirements of 40 C.F.R. § 60.5411a(b) and is connected through a closed vent system that meets the requirements of § 60.5411a(c) and (d), and emissions must be routed to a control device that meets the conditions specified in § 60.5412(c) and (d). 40 C.F.R. § 60.5395a(b)(1).

25. Owners and operators must comply with the following requirements for covers on storage vessel affected facilities under NSPS OOOOa:

a. The cover and all openings on the cover (e.g., access hatches and pressure relief valves) shall form a continuous impermeable barrier over the entire surface area of the liquid in the storage vessel. 40 C.F.R. § 60.5411a(b)(1).

b. Each cover opening must be secured in a closed, sealed position whenever material is in the unit, except during those times specified in 40 C.F.R. § 60.5411(b)(2)(i)–(iv). 40 C.F.R. § 60.5411a(b)(2).

c. Each storage vessel thief hatch must be equipped, maintained and operated with a weighted mechanism or equivalent, to ensure that the lid remains properly seated

¹ Following promulgation of the 2016 final rule, the EPA granted reconsideration of fugitive emission requirements at well sites and compressor stations, well-site pneumatic pump standards, and the requirements for professional engineer certification of closed vent systems. 82 Fed. Reg. 25,730 (June 5, 2017); 83 Fed. Reg. 52,056 (Oct. 15, 2018). This reconsideration does not affect the allegations in this Notice of Violation.

and sealed under normal operating conditions, including such times when working, standing/breathing, and flash emissions may be generated. 40 C.F.R. § 60.5411a(b)(3).

26. Owners and operators must comply with the following requirements for closed vent systems associated with storage vessel affected facilities under NSPS OOOOa:

a. Design the closed vent system to route all gases, vapors, and fumes emitted from the material in the storage vessel to a control device that meets the requirements specified in § 60.5412(c) and (d), or to a process. 40 C.F.R. § 60.5411a(c)(1).

b. Design and operate a closed vent system with no detectable emissions, as determined using olfactory, visual and auditory inspections. 40 C.F.R. § 60.5411a(c)(2).

27. Owners and operators must comply with the following requirements for control devices to reduce emissions from storage vessel affected facilities under NSPS OOOOa:

a. Reduce VOC emissions from storage vessel affected facilities by 95%. 40 C.F.R. § 60.5395a(a)(2).

b. Ensure each enclosed combustion device is maintained in a leak free condition. 40 C.F.R. §§ 60.5412a(d)(1)(i), 60.5413a(e)(7).

c. Install and operate a continuous burning pilot flame. 40 C.F.R. §§ 60.5412a(d)(1)(ii), 60.5413a(e)(2).

d. Design and operate a flare in accordance with the requirements of 40 C.F.R. § 60.18. 40 C.F.R. §§ 60.5412a(d)(3), 60.5425a.

e. Operate the control device with no visible emissions, except for periods not to exceed a total of one minute during any fifteen-minute period, as determined using EPA Method 22, 40 C.F.R. part 60, appendix A. 40 C.F.R. §§ 60.5412a(d)(1)(iii), 60.5413a(e)(3).

f. Operate each control device used to comply with NSPS OOOOa at all times when gases, vapors, and fumes are vented from storage vessel affected facilities through the closed vent system to the control device. 40 C.F.R. § 5412a(d)(4).

Approval Orders

28. All potential sources of air pollution subject to the State of Utah's regulations must submit a notice of intent and receive an approval order from the State prior to initiation of construction, modification or relocation, unless exempt under the regulations. U.A.C. R307-401.

29. The EPA approved the State of Utah's notice of intent and approval order requirements into Utah's State Implementation Plan minor new source review program. 79 Fed.

Reg. 7,072 (Feb. 6, 2014). Requirements in approval orders (AOs) are therefore federally enforceable. *See* 40 C.F.R. § 52.23.

30. The UDAQ issued AOs to EP Energy for several of EP Energy's oil and natural gas production facilities in Utah. Relevant AO numbers are listed in Appendix B, Table 1, and were in effect at all times pertinent to this NOV.

31. The AOs identified in Appendix B for EP Energy's oil and natural gas production facilities require owners or operators to keep storage tank thief hatches closed and latched except during tank unloading or other maintenance activities. *See* Conditions II.B.2.c, II.B.1.e, or II.B.2.d of AOs identified in Appendix B, Table 1.

32. The AOs identified in Appendix B for EP Energy's oil and natural gas production facilities require an owner or operator to route all gas/vapors from oil storage tanks to an operating combustor/flare. *See* Condition II.B.3.a of AOs identified in Appendix B, Table 1.

33. The AOs identified in Appendix B, Table 1, for EP Energy's Chestnut 3-17C4 and Moon 2-33C4 facilities require all gases, vapors, and fumes from produced water storage tanks be routed to an operating combustor. *See* Conditions II.B.3.a, AO Nos. DAQE-AN150080002-18, DAQE-AN150630003-18.

34. The AO identified in Appendix B, Table 1, for EP Energy's El Paso 3-21B4 facility requires an owner or operator to control emissions from oil tanks with a combustor or flare during all periods of operation. *See* Condition II.B.1.g, AO No. DAQE-AN145360002-13.

35. The AOs identified in Appendix B for EP Energy's oil and natural gas production facilities require owners/operators to operate equipment approved under an AO, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions. *See* Condition I.5 of AOs identified in Appendix B, Table 1.

State of Utah Air Quality Regulations for the Oil & Gas Industry

General Provisions

36. Effective December 2014, under Utah regulations, all oil and natural gas exploration, production, and transmission operations, and all well production facilities, must comply with general provisions for prevention of emissions and use of good air pollution control practices. U.A.C. R307-501.

37. "Well production facilities" include "all equipment at a single stationary source directly associated with one or more oil wells or gas wells. This equipment includes, but is not limited to, equipment used for production, extraction, recovery, lifting, stabilization, storage, separation, treating, dehydration, combustion, compression, pumping, metering, monitoring, and flowline." U.A.C. R307-501-2(2).

38. Utah’s general provisions require the following:

a. “All crude oil, condensate, and intermediate hydrocarbon liquids collection, storage, processing and handling operations, regardless of size, shall be designed, operated and maintained so as to minimize emission of volatile organic compounds to the atmosphere to the extent reasonably practicable.” U.A.C. R307-501-4(1)(a).

b. “At all times, including periods of start-up, shutdown, and malfunction, the installation and air pollution control equipment shall be maintained and operated in a manner consistent with good air pollution control practices for minimizing emissions.” U.A.C. R307-501-4(1)(b).

c. “All air pollution control equipment shall be operated and maintained pursuant to the manufacturing specifications or equivalent to the extent practicable and consistent with technological limitations and good engineering and maintenance practices.” U.A.C. R307-501-4(2)(a).

39. “Installation” means a “discrete process with identifiable emissions which may be part of a larger industrial plant. Pollution equipment shall not be considered a separate installation or installations.” U.A.C. R307-101-2.

Permit-by-Rule

40. Effective March 5, 2018, well sites as defined by NSPS OOOOa, including “centralized tank batteries,” are not required to obtain AOs under Utah regulations if they are not major sources as defined by U.A.C. R307-101-2 and they are registered with the UDAQ as required by U.A.C. R307-505. U.A.C. R307-401-10(5).

41. A “well site” means “one or more surface sites that are constructed for the drilling and subsequent operation of any oil well, natural gas well, or injection well.” U.A.C. (citing 40 C.F.R. § 60.5430a).

42. A “centralized tank battery” means a “separate tank battery surface site collecting crude oil, condensate, intermediate hydrocarbon liquids, or produced water from wells not located at the well site.” U.A.C. R307-506-2.

43. Owners or operators registering with the UDAQ under U.A.C. R307-505 must, among other things, certify that the registered facility is in compliance with U.A.C. R307-506 through R307-510. U.A.C. R307-505-3(4). These regulations are referred to collectively as a “permit-by-rule.”²

² On October 10, 2018 (a year after the “permit-by-rule” proposed date) U.A.C. R307-511 was added to the permit-by-rule regulations for certain facilities to be able to utilize the “permit-by-rule” process. U.A.C. R307-505-3(4) has not yet been amended to reflect the addition of R307-511.

44. Thief hatches on storage vessels subject to U.A.C. R307-506 “shall be kept closed and latched except during vessel unloading or other maintenance activities.” U.A.C. R307-506-4(1).

45. VOC emissions from storage vessels in operation as of January 1, 2018, with a site-wide throughput of 8,000 barrels or greater of crude oil or 2,000 barrels or greater of condensate per year on a rolling 12-month basis must be routed to a process unit where the emissions are recycled, incorporated into a product or recovered, or be routed to a VOC control device that is in compliance with U.A.C. R307-508. Storage vessels with combined, uncontrolled VOC emissions demonstrated to be less than 4 tons per year on a rolling 12-month basis are exempt from this requirement. U.A.C. R307-506-4(2).

46. The provisions referenced in Paragraphs 36–45 are enforceable only by the State of Utah.

II. FACTUAL BACKGROUND & FINDINGS OF VIOLATION

Factual Background

47. EP Energy is a limited partnership formed in the state of Delaware and doing business in the state of Utah.

48. EP Energy is a “person” within the meaning of section 302(e) of the Clean Air Act, 42 U.S.C. § 7602(e).

49. EP Energy owns and operates oil and natural gas production facilities located on the Uintah and Ouray Indian Reservation and in the State of Utah.

50. Oil and water produced from these facilities are stored in produced oil and produced water storage vessels. Produced oil and produced water storage vessels are kept at or near atmospheric pressure.

51. When pressurized oil is transferred to atmospheric storage vessels, some of the hydrocarbons in the oil, including VOC and hazardous air pollutants, vaporize in a process commonly known as “flashing.” After flashing occurs, the oil continues to emit vapors due to liquid level changes and temperature fluctuations (commonly known as “working” and “standing” or “breathing” losses).

52. Vapors from storage vessels are captured and controlled through a series of pipes or vent lines that route vapors to a combustion device.

53. At many or all of EP Energy’s oil and natural gas production facilities in the Uinta Basin, a storage vessel (overflow tank) is used to collect excess (overflow) liquids from the oil and produced water storage vessels.

54. EP Energy is the owner and operator of the oil and natural gas production facilities listed in Appendix A.

55. Based on information reported by EP Energy in its annual NSPS OOOO reports, storage vessels at the following EP Energy oil and natural gas production facilities are subject to the requirements for storage vessel affected facilities in NSPS OOOO: Chestnut 3-17C4, Hewett 2-6C4, LB Ute 1-13A3, Marquez 2-17C4, Ute Tribal 3-12A3, Ute Tribal 4-34A1E, and Wollman 2-23C4.

56. In the Notice of Intent submitted by EP Energy for Kozar 2-5C4, EP Energy indicated that the storage vessels at Kozar 2-5C4 are subject to the requirements for storage vessel affected facilities in NSPS OOOO.

57. Based on well production data reported to the Utah Division of Oil, Gas and Mining (UDOGM), the EPA believes that storage vessels at the following EP Energy oil and natural gas production facilities are subject to the requirements for storage vessel affected facilities in NSPS OOOO: Ute Tribal 2-13A3 and Ute Tribal 2-14A3.

58. Based on information reported by EP Energy in its annual NSPS OOOOa reports, storage vessels at the following EP Energy oil and natural gas production facilities are subject to the requirements for storage vessel affected facilities in NSPS OOOOa: Hunt 1-21B4, Moon 2-33C4, Moon 3-32C4, Murray 2-15A1E, Murray 3-22A1E, Thomas 3-4C4, and Ute Tribal 3-34A1E.

59. On June 25, 2018, the EPA conducted onsite inspections at three EP Energy oil and natural gas production facilities in the Uinta Basin. Inspections were conducted jointly with the Ute Indian Tribal Air Program. Using olfactory, visual, and auditory (OVA) observations and an optical gas-imaging infrared camera (IR camera), the EPA observed vapors being emitted directly to the atmosphere from storage vessels, including overflow tanks, at all three of the oil and natural gas production facilities inspected. *See Appendix A.*

60. At one of the three facilities with observed emissions referenced in Paragraph 59, Murray 2-15A1E, emissions were detected from storage vessels that EP Energy reported are subject to the requirements for storage vessel affected facilities in NSPS OOOOa.

61. During the June 25, 2018, inspections, EPA inspectors observed substantial, but intermittent, volumes of emissions coming from the overflow tanks at Murray 3-22A1E and Murray 3-27A1E. According to information provided by EP Energy personnel while on site, sales gas from the separator that cannot be sent to the sales gas pipeline is routed through the overflow tank.

62. In its response to the September 26, 2019, Information Request issued to EP Energy by the EPA, EP Energy stated that “[b]ypass of gas to the atmosphere at an EP Energy facility is rare, if ever” but that “if the pipeline is inaccessible, the well [at an oil and natural gas production facility] would continue to produce to the separator, and the produced gas would vent to the overflow tank through the Oil Treater’s Kimray self-contained gas regulator at a predetermined pressure setting.”

63. During the June 25, 2018, inspections, EPA inspectors noted that the combustor at Murray 2-15A1E was not operating and the switch was observed to be in the “off” position. No heat signature was observed from the combustor using the IR camera. A company representative

determined that the orifice was plugged on the air inlet to the combustor; he blew out the orifice with compressed air, and then re-lit the combustor. EPA inspectors noted intermittent black smoke from the combustor following its return to operation.

64. During the June 25, 2018, inspections, EPA inspectors observed nearly continuous visible emissions (black smoke) from the combustor at Murray 3-27A1E. EPA inspectors performed a visible emissions test according to EPA Method 22 and noted visible emissions from the combustor in excess of one minute in a fifteen-minute period.

65. The EPA provided EP Energy with the inspection report from the June 25, 2018, inspections via email on August 24, 2018.

66. On July 28, August 1, and August 7, 2018, the EPA conducted inspections at six EP Energy oil and natural gas production facilities in the Uinta Basin. On August 1 and August 7, 2018, using OVA observations and an IR camera, the EPA observed vapors being emitted directly to the atmosphere from storage vessels, including overflow tanks, at two of the six oil and natural gas production facilities inspected. *See Appendix A.*

67. At one of the two facilities with observed emissions referenced in Paragraph 66, Wollman 2-23C4, emissions were detected from a storage vessel that EP Energy reported is subject to the requirements for storage vessel affected facilities in NSPS OOOO.

68. During the August 1, 2018, inspections, EPA inspectors observed emissions from the overflow tank at DWR 3-22C6. DWR 3-22C6 is subject to the requirements in AO number DAQE AN144720002-12.

69. During the August 1, 2018, inspections, EPA inspectors noted that the combustor at DWR 3-22C6 did not appear to be operating. No heat signature was observed from the combustor using the IR camera.

70. The EPA provided EP Energy with the inspection reports from the July 28, August 1, and August 7, 2018, inspections via email on March 4, 2019.

71. On May 21, 2019, the EPA conducted inspections at eleven EP Energy oil and natural gas production facilities in the Uinta Basin. Inspections were conducted jointly with the UDAQ for facilities under state jurisdiction. Using OVA observations and an IR camera, the EPA observed vapors being emitted directly to the atmosphere from storage vessels, including overflow tanks, at nine of the eleven oil and natural gas production facilities inspected. *See Appendix A.*

72. At five of the nine facilities with observed emissions referenced in Paragraph 71, emissions were from storage vessels subject to emission control requirements of NSPS OOOO, NSPS OOOOa, or State of Utah AOs: Chestnut 3-17C4, Hunt 1-21B4, Marquez 2-17C4, Moon 2-33C4, and Moon 3-32C4.

73. During the May 21, 2019, inspections, EPA inspectors observed emissions coming from the overflow tanks at four facilities: Hunt 1-21B4, Moon 3-32C4, Freeman 4-16B4, and El Paso 4-21B4.

74. During the May 21, 2019, inspections, EPA inspectors noted that the combustors at Moon 2-33C4 and Marquez 2-17C4 were not operating. No pilot flame was present in the combustors at either facility, and no heat signature was observed from the combustors using the IR camera.

75. The EPA provided EP Energy with the inspection report from the May 21, 2019, inspections via email on June 24, 2019.

76. On August 13 – 14, 2019, the EPA conducted inspections at sixteen EP Energy oil and natural gas production facilities in the Uinta Basin. Inspections were conducted jointly with the Ute Indian Tribal Air Program or the UDAQ. Using OVA observations and an IR camera, the EPA observed vapors being emitted directly to the atmosphere from storage vessels, including overflow tanks, at twelve of the sixteen oil and natural gas production facilities inspected. *See* Appendix A.

77. At five of the twelve facilities with observed emissions referenced in Paragraph 76, emissions were from storage vessels subject to emission control requirements of NSPS OOOO, NSPS OOOOa, or State of Utah AOs: El Paso 2-21B4, Freeman 4-16B4, Hewett 2-6C4, Hunt 1-21B4, and Thomas 3-4C4.

78. At three of the twelve facilities with observed emissions referenced in Paragraph 76, emissions were from storage vessels located in Indian country and subject to emission control requirements of NSPS OOOO: Ute Tribal 2-13A3, Ute Tribal 2-14A3, and Ute Tribal 3-13A3.

79. During the August 13 – 14, 2019, inspections, EPA inspectors observed emissions coming from overflow tanks at six facilities: El Paso 4-21B4, Freeman 4-16B4, Kozar 2-5C4, LB Ute 1-13A3, Ute Tribal 2-13A3, and Ute Tribal 2-14A3.

80. During the August 13 – 14, 2019, inspections, EPA inspectors noted that the combustor at Hewett 2-6C4 was not operating, as evidenced by the absence of a pilot flame. The Hewett 2-6C4 facility is subject to the control device requirements of NSPS OOOO and a State of Utah AO.

81. During the August 13 – 14, 2019, inspections, EPA inspectors noted that the combustors at LB Ute 1-13A3, Ute Tribal 2-13A3, Ute Tribal 2-14A3, and Ute Tribal 3-13A3 were not operating, as evidenced by the absence of a pilot flame. These four facilities are located in Indian country and subject to the control device requirements of NSPS OOOO.

82. During the August 13 – 14, 2019, inspections, EPA inspectors observed visible emissions (black smoke) from the combustor at Ute Tribal 3-34A1E.

83. The EPA provided EP Energy with the inspection report from the August 13 – 14, 2019, inspections via email on September 9, 2019.

Joint Alleged Violations by EPA and UDAQ

NSPS 0000

84. Based on inspection findings, at the following three facilities, identified in Appendix B, Table 1, EP Energy violated or continues to violate the storage vessel cover requirements of 40 C.F.R. § 60.5411(b) because the covers and all openings on the covers (e.g., access hatches and pressure relief valves) do not form a continuous impermeable barrier over the entire surface area of the liquid in the storage vessel, as required by 40 C.F.R. § 60.5411(b)(1), the storage vessel cover openings are not secured in a closed, sealed position, as required by 40 C.F.R. § 60.5411(b)(2), or the storage vessel thief hatches are not maintained and operated to ensure that the lid remains properly seated, as required by 40 C.F.R. § 60.5411(b)(3): Hewett 2-6C4, Marquez 2-17C4, and Wollman 2-23C4.

85. Based on inspection findings, at the following three facilities, identified in Appendix B, Table 1, EP Energy violated or continues to violate the storage vessel closed vent system requirements of 40 C.F.R. § 60.5411(c) because the closed vent systems are not designed to route all gases, vapors, and fumes emitted from the material in the storage vessel to a control device that meets the requirements specified in § 60.5412(c) and (d), or to a process, as required by 40 C.F.R. § 60.5411(c)(1), and the closed vent systems are not designed and operated with no detectable emissions as determined using OVA inspections, as required by 40 C.F.R. § 60.5411(c)(2): Hewett 2-6C4, Marquez 2-17C4, and Wollman 2-23C4.

86. By failing to comply with the storage vessel cover requirements of 40 C.F.R. § 60.5411(b) and the storage vessel closed vent system requirements of 40 C.F.R. § 60.5411(c), EP Energy has violated or continues to violate the standards for storage vessel affected facilities at 40 C.F.R. § 60.5395(e)(1). *See* Appendix B, Table 1.

87. Based on inspection findings, EP Energy failed to operate a continuous burning pilot flame in the combustors at the Hewett 2-6C4 and Marquez 2-17C4 facilities, in violation of the control device requirements for storage vessel affected facilities at 40 C.F.R. § 60.5412(d)(1)(ii) and the continuous compliance requirements for combustion control devices tested by the manufacturer at 40 C.F.R. § 60.5413(e)(2). *See* Appendix B, Table 1.

88. Based on inspection findings, at the following three facilities, identified in Appendix B, Table 1, EP Energy failed or continues to fail to maintain and operate its storage vessel affected facilities and associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions, in violation of the requirements at 40 C.F.R. § 60.5370(b): Hewett 2-6C4, Marquez 2-17C4, and Wollman 2-23C4.

89. EP Energy failed to submit initial or annual reports containing the required information for storage vessel affected facilities at the Kozar 2-5C4 facility, in violation of 40 C.F.R. § 60.5420. *See* Appendix B, Table 1.

90. Each of the violations alleged in Paragraphs 84–89 are violations of section 111 of the Clean Air Act, 42 U.S.C. § 7411(e).

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91. Based on inspection findings, at the following four facilities, identified in Appendix B, Table 1, EP Energy violated or continues to violate the storage vessel cover requirements of 40 C.F.R. § 60.5411a(b) because the covers and all openings on the covers (e.g., access hatches and pressure relief valves) do not form a continuous impermeable barrier over the entire surface area of the liquid in the storage vessel, as required by 40 C.F.R. § 60.5411a(b)(1), the storage vessel cover openings are not secured in a closed, sealed position, as required by 40 C.F.R. § 60.5411a(b)(2), or the storage vessel thief hatches are not maintained and operated to ensure that the lid remains properly seated and sealed, including such times when working, standing/breathing, and flash emissions are generated, as required by 40 C.F.R. § 60.5411a(b)(3): Hunt 1-21B4, Moon 2-33C4, Moon 3-32C4, and Thomas 3-4C4.

92. Based on inspection findings, at the following four facilities, identified in Appendix B, Table 1, EP Energy violated or continues to violate the storage vessel closed vent system requirements of 40 C.F.R. § 60.5411a(c) because the closed vent systems are not designed to route all gases, vapors, and fumes emitted from the material in the storage vessel to a control device that meets the requirements specified in § 60.5412a(c) and (d), or to a process, as required by 40 C.F.R. § 60.5411a(c)(1), and the closed vent systems are not designed and operated with no detectable emissions as determined using OVA inspections, as required by 40 C.F.R. § 60.5411a(c)(2): Hunt 1-21B4, Moon 2-33C4, Moon 3-32C4, and Thomas 3-4C4.

93. By failing to comply with the storage vessel closed vent system requirements of 40 C.F.R. § 60.5411a(c)(2), EP Energy has violated or continues to violate the VOC standards for storage vessel affected facilities at 40 C.F.R. § 60.5395a(b)(1). *See* Appendix B, Table 1.

94. Based on inspection findings, EP Energy failed to operate a continuous burning pilot flame in the combustors at the Moon 2-33C4 facility in violation of the control device requirements for storage vessel affected facilities at 40 C.F.R. § 60.5412a(d)(1)(ii) and the continuous compliance for combustion devices tested by the manufacturer at 40 C.F.R. § 60.5413a(e)(2). *See* Appendix B, Table 1.

95. Based on inspection findings, at the following four facilities, identified in Appendix B, Table 1, EP Energy failed or continues to fail to maintain and operate its storage vessel affected facilities and associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions, in violation of the requirements at 40 C.F.R. § 60.5370a(b): Hunt 1-21B4, Moon 2-33C4, Moon 3-32C4, and Thomas 3-4C4.

96. Each of the violations alleged in Paragraphs 91–95 are violations of section 111 of the Clean Air Act, 42 U.S.C. § 7411(e).

Utah Approval Orders

97. Based on inspection findings, at the following nine facilities, identified in Appendix B, Table 1, EP Energy violated or continues to violate Conditions II.B.2.c, II.B.1.e, or II.B.2.d of AOs issued for those facilities, by failing to keep storage tank thief hatches closed and

latched except during tank unloading or other maintenance activities: Chestnut 3-17C4, El Paso 3-21B4, El Paso 4-21B4, Freeman 4-16B4, Hewett 2-6C4, Marquez 2-17C4, Moon 2-33C4, Moon 3-32C4, and Wollman 2-23C4.

98. Based on inspection findings, at the following six facilities, identified in Appendix B, Table 1, EP Energy violated or continues to violate Condition II.B.3.a of AOs issued for those facilities, by failing to route all gas/vapors from oil or produced water storage tanks to an operating combustor/flare: Chestnut 3-17C4, Hewett 2-6C4, Marquez 2-17C4, Moon 2-33C4, Moon 3-32C4, and Wollman 2-23C4.

99. Based on inspection findings, at the El Paso 3-21B4 facility, EP Energy violated or continues to violate Condition II.B.1.g of the AO issued for the facility, by failing to control emissions from crude oil tanks with a combustor/flare during all periods of operation. *See* Appendix B, Table 1.

100. Based on inspection findings, at the following eleven facilities, identified in Appendix B, Table 1, EP Energy violated or continues to violate Condition I.5 of the AOs issued for those facilities, by failing to operate equipment approved under an AO (oil storage tanks, produced water storage tanks, or overflow tanks), including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions: Chestnut 3-17C4, DWR 3-22C6, El Paso 3-21B4, El Paso 4-21B4, Freeman 4-16B4, Hewett 2-6C4, Kozar 2-5C4, Marquez 2-17C4, Moon 2-33C4, Moon 3-32C4, and Wollman 2-23C4.

EPA-Only Alleged Violations – Facilities Located in Indian Country

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101. Based on inspection findings, at the following four facilities, identified in Appendix B, Table 2, EP Energy violated or continues to violate the storage vessel cover requirements of 40 C.F.R. § 60.5411(b) because the covers and all openings on the covers (e.g., access hatches and pressure relief valves) do not form a continuous impermeable barrier over the entire surface area of the liquid in the storage vessel, as required by 40 C.F.R. § 60.5411(b)(1), the storage vessel cover openings are not secured in a closed, sealed position, as required by 40 C.F.R. § 60.5411(b)(2), or the storage vessel thief hatches are not maintained and operated to ensure that the lid remains properly seated, as required by 40 C.F.R. § 60.5411(b)(3): Ute Tribal 2-13A3, Ute Tribal 2-14A3, Ute Tribal 3-13A3, and Ute Tribal 4-34A1E.

102. Based on inspection findings, at the following four facilities, identified in Appendix B, Table 2, EP Energy violated or continues to violate the storage vessel closed vent system requirements of 40 C.F.R. § 60.5411(c) because the closed vent systems are not designed to route all gases, vapors, and fumes emitted from the material in the storage vessel to a control device that meets the requirements specified in 40 C.F.R. § 60.5412(c) and (d), or to a process, as required by 40 C.F.R. § 60.5411(c)(1), and the closed vent systems are not designed and operated with no detectable emissions as determined using OVA inspections, as required by 40 C.F.R. § 60.5411(c)(2): Ute Tribal 2-13A3, Ute Tribal 2-14A3, Ute Tribal 3-13A3, and Ute Tribal 4-34A1E.

103. By failing to comply with the storage vessel cover requirements of 40 C.F.R. § 60.5411(b) and the storage vessel closed vent system requirements of 40 C.F.R. § 60.5411(c), EP Energy has violated or continues to violate the standards for storage vessel affected facilities at 40 C.F.R. § 60.5395(e)(1). *See* Appendix B, Table 2.

104. Based on inspection findings, EP Energy failed to operate a continuous burning pilot flame in the combustors at the LB Ute 1-13A3, Ute Tribal 2-13A3, Ute Tribal 2-14A3, and Ute Tribal 3-13A3 facilities, in violation of the control device requirements for storage vessel affected facilities at 40 C.F.R. § 60.5412(d)(1)(ii) and the continuous compliance requirements for combustion control devices tested by the manufacturer at 40 C.F.R. § 60.5413(e)(2). *See* Appendix B, Table 2.

105. Based on inspection findings, at the following five facilities, identified in Appendix B, Table 2, EP Energy failed or continues to fail to maintain and operate its storage vessel affected facilities and associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions, in violation of the requirements at 40 C.F.R. § 60.5370(b): LB Ute 1-13A3, Ute Tribal 2-13A3, Ute Tribal 2-14A3, Ute Tribal 3-13A3, and Ute Tribal 4-34A1E.

106. EP Energy failed to submit initial or annual reports containing the required information for storage vessel affected facilities at the Ute Tribal 2-13A3 and Ute Tribal 2-14A3 facilities, in violation of 40 C.F.R. § 60.5420. *See* Appendix B, Table 2.

107. Each of the violations alleged in Paragraphs 101–106 are violations of section 111 of the Clean Air Act, 42 U.S.C. § 7411(e).

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108. Based on inspection findings, at the Murray 2-15A1E facility, identified in Appendix B, Table 2, EP Energy violated or continues to violate the storage vessel cover requirements of 40 C.F.R. § 60.5411a(b) because the covers and all openings on the covers (e.g., access hatches and pressure relief valves) do not form a continuous impermeable barrier over the entire surface area of the liquid in the storage vessel, as required by 40 C.F.R. § 60.5411a(b)(1), the storage vessel cover openings are not secured in a closed, sealed position, as required by 40 C.F.R. § 60.5411a(b)(2), or the storage vessel thief hatches are not maintained and operated to ensure that the lid remains properly seated and sealed, including such times when working, standing/breathing, and flash emissions are generated, as required by 40 C.F.R. § 60.5411a(b)(3).

109. Based on inspection findings, at the Murray 2-15A1E facility, identified in Appendix B, Table 2, EP Energy violated or continues to violate the storage vessel closed vent system requirements of 40 C.F.R. § 60.5411a(c) because the closed vent systems are not designed to route all gases, vapors, and fumes emitted from the material in the storage vessel to a control device that meets the requirements specified in 40 C.F.R. § 60.5412a(c) and (d), or to a process, as required by 40 C.F.R. § 60.5411a(c)(1), and the closed vent systems are not designed and operated with no detectable emissions as determined using OVA inspections, as required by 40 C.F.R. § 60.5411a(c)(2).

110. By failing to comply with the storage vessel closed vent system requirements of 40 C.F.R. § 60.5411a(c)(2), EP Energy has violated or continues to violate the VOC standards for storage vessel affected facilities at 40 C.F.R. § 60.5395a(b)(1). *See* Appendix B, Table 2.

111. Based on inspection findings, EP Energy failed to operate a continuous burning pilot flame in the combustors at the Murray 2-15A1E and Murray 3-27A1E facilities, in violation of the control device requirements for storage vessel affected facilities at 40 C.F.R. § 60.5412(d)(1)(ii) and the continuous compliance for combustion devices tested by the manufacturer at 40 C.F.R. § 60.5413a(e)(2). *See* Appendix B, Table 2.

112. By failing to operate the control device at Murray 3-27A1E with no visible emissions for a period exceeding one minute in a 15-minute period, as determined using EPA Method 22, EP Energy violated the storage vessel control device requirements at 40 C.F.R. § 60.5412a(d)(1)(iii) and the continuous compliance requirement for combustion control devices tested by the manufacturer at 40 C.F.R. § 60.5413a(e)(3). *See* Appendix B, Table 2.

113. Based on inspection findings, at the following three facilities, identified in Appendix B, Table 2, EP Energy failed or continues to fail to maintain and operate its storage vessel affected facilities and associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions, in violation of the requirements at 40 C.F.R. § 60.5370a(b): Murray 2-15A1E, Murray 3-27A1E, and Ute Tribal 3-34A1E.

114. Each of the violations alleged in Paragraphs 108–113 are violations of section 111 of the Clean Air Act, 42 U.S.C. § 7411(e).

UDAQ-Only Alleged Violations

Utah Air Quality Regulations for the Oil and Gas Industry

115. The following EP Energy facilities, identified in Appendix B, Table 3, are considered well production facilities, as defined at U.A.C. R307-501-2(2) and are subject to U.A.C. R307-501-1 through R307-501-4: DWR 3-22C6, El Paso 3-21B4, El Paso 4-21B4, Freeman 4-16B4, Hewett 2-6C4, Hunt 1-21B4, Kozar 2-5C4, Marquez 2-17C4, Moon 2-33C4, Moon 3-32C4, Thomas 3-4C4, Ute Tribal 1-28-B4³, and Wollman 2-23C4.

116. Based on inspection findings, at the following thirteen facilities, identified in Appendix B, Table 3, EP Energy violated or continues to violate U.A.C. R307-501-4(1), by failing to minimize emissions of VOC to the atmosphere to the extent reasonably practicable: DWR 3-22C6, El Paso 3-21B4, El Paso 4-21B4, Freeman 4-16B4, Hewett 2-6C4, Hunt 1-21B4,

³ Based on information available to the EPA and the UDAQ, the well site associated with the Ute Tribal 1-28-B4 facility is located in Indian country. The storage vessels associated with the Ute Tribal 1-28-B4 facility are co-located at the same well pad as the Hunt 1-21B4 facility, which is under State jurisdiction. On August 27, 2019, the UDAQ issued a compliance advisory to EP Energy regarding EP Energy's failure to register the Ute Tribal 1-28-B4 storage vessels with the UDAQ.

Kozar 2-5C4, Marquez 2-17C4, Moon 2-33C4, Moon 3-32C4, Thomas 3-4C4, Ute Tribal 1-28-B4, and Wollman 2-23C4.

117. Based on inspection findings, at the following thirteen facilities, identified in Appendix B, Table 3, EP Energy violated or continues to violate U.A.C. R307-501-4(1)(b), by failing to maintain and operate the installation (including storage vessels or overflow tanks) or air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions: DWR 3-22C6, El Paso 3-21B4, El Paso 4-21B4, Freeman 4-16B4, Hewett 2-6C4, Hunt 1-21B4, Kozar 2-5C4, Marquez 2-17C4, Moon 2-33C4, Moon 3-32C4, Thomas 3-4C4, Ute Tribal 1-28-B4, and Wollman 2-23C4.

118. Based on inspection findings, at the following four facilities, identified in Appendix B, Table 3, EP Energy violated or continues to violate U.A.C. R307-501-4(2)(a), by failing to operate and maintain air pollution control equipment pursuant to manufacturing specifications or equivalent to the extent practicable and consistent with technological limitations and good engineering and maintenance practices: DWR 3-22C6, Hewett 2-6C4, Marquez 2-17C4, and Moon 2-33C4.

119. EP Energy's Hunt 1-21B4, Thomas 3-4C4, and Ute Tribal 1-28-B4 facilities, are registered under Utah's permit-by-rule and are subject to the requirements at U.A.C. R307-506-1 through R307-506-5.

120. Hunt 1-21B4 and storage vessels at Ute Tribal 1-28-B4 are co-registered under the same site ID [PBR942] under Utah's permit-by-rule. According to information submitted in the registration, the site-wide throughput is greater than or equal to 8,000 barrels of crude oil per year on a rolling 12-month basis; therefore, the tank batteries at the Hunt 1-21B4 and Ute Tribal 1-28-B4 facilities are subject to the requirements at R307-506-4.

121. Based on inspection findings, EP Energy violated or continues to violate U.A.C. R307-506-4(1) at the Hunt 1-21B4 facility by failing to keep thief hatches closed and latched except during vessel unloading or other maintenance activities. *See* Appendix B, Table 3.

122. Based on inspection findings, EP Energy violated or continues to violate U.A.C. R307-506-4(2) at the Hunt 1-21B4, Thomas 3-4C4, and Ute Tribal 1-28B4 facilities by failing to route VOC emissions from storage vessels to a process unit or to a VOC control device. *See* Appendix B, Table 3.

III. ENFORCEMENT AUTHORITY

123. Section 113(a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a)(3), provides that whenever, on the basis of any information available to the EPA Administrator, the Administrator finds that any person has violated, or is in violation of, any requirement of prohibition of an applicable implementation plan, the Administrator may issue an order requiring such person comply with the requirements or prohibition of such plan, issue an administrative penalty order in accordance with section 113(d) of the Act, or bring a civil action in accordance with section 113(b) of the Act for injunctive relief or civil penalties.

124. Section 19-2-107(a)(xiii) of the Utah Code authorizes the Director of the UDAQ (subject to the provisions of the Utah Air Conservation Act) to

enforce rules through the issuance of orders, including: (A) prohibiting or abating discharges of wastes affecting ambient air; (B) requiring the construction of new control facilities or any parts of new control facilities or the modification, extension, or alteration of existing control facilities or any parts of new control facilities; or (C) adopting other remedial measures to prevent, control, or abate air pollution

a. Section 19-2-110(1) of the Utah Code provides that whenever the Director “has reason to believe that a violation of any provision of this chapter [Utah Air Conservation Act, Title 19, Chapter 2] or any rule issued under it has occurred, the director may serve a written notice of the violation upon the alleged violator.”

b. For the UDAQ-only alleged violations, civil penalties may be imposed under Section 19-2-115(2)(a) of the Utah Code. Declaratory and injunctive relief may be sought under Section 19-2-116 of the Utah Code.

125. The issuance of this Notice of Violation does not in any way limit or preclude the EPA or the UDAQ from pursuing additional enforcement options concerning inspections or review referenced in this Notice of Violation. Also, this Notice of Violation does not preclude enforcement action for violations not specifically addressed in this Notice of Violation.

Date Issued: 03/20/2020

Suzanne J. Bohan, Director
Enforcement and Compliance Assurance
Division

Date Issued: 03/19/2020



Bryce Bird, Director
Utah Division of Air Quality
Utah Department of Environmental Quality