

EPA Audit Program for Upstream Oil & Gas Facility Existing Owners

Article By:

Madeleine Boyer

Laura L. LaValle

On December 19, 2019, the U.S. Environmental Protection Agency (EPA) announced a [self-audit program](#) that will be available to existing owners of upstream oil and gas facilities for a limited sign-up period of twelve months. The program is modeled after and expands the self-audit program for *new* owners of such facilities that EPA initiated in March 2019. EPA is offering this temporary audit opportunity as part of its National Compliance Initiative based on finding that many upstream facilities have significant excess emissions and noncompliant vapor control systems, and many are located in national ambient air quality standard (NAAQS) nonattainment or near-nonattainment areas.

Consistent with the audit program for new owners, EPA will not impose civil penalties for violations that are discovered, disclosed, and corrected by existing owners that enter into and fulfill all obligations in an Audit Program Agreement (APA) with EPA. EPA has provided an APA template that specifies the program's requirements for technical analyses, corrective action, reporting, and recordkeeping.

The audit process kicks off with the owner submitting for EPA review a proposed audit protocol within 60 days of the effective date of the APA. The protocol must conform to detailed vapor control system engineering and design analysis, field survey, and corrective action requirements. The owner must complete corrective action for a violation within 180 days of its discovery pursuant to the audit, submit semiannual reports during the course of the audit, and provide a Final Report no later than 60 days following the completion of the Audit Program and all corrective actions.

EPA invites existing owners of upstream oil and gas facilities to utilize state audit policies or equivalent self-disclosure programs, either in lieu of or in parallel with this EPA program. Parallel participation with one or more states that have an audit or self-disclosure program is not required for participation in EPA's program. EPA signals that it will defer to the immunity provided by such state programs in cautioning that EPA "may take enforcement action with respect to violations that were not disclosed to the state or that were disclosed but not corrected."

Existing owners evaluating whether and how to utilize this temporary EPA audit program and should take into consideration the availability and relative merits of state audit programs prior to beginning

any auditing. Some states, such as Texas, require notice prior to the audit start to be eligible for programmatic privileges and immunities. Further, executing multiple audits under multiple state audit programs and a federal analog for multiple upstream facilities can be logistically complex and requires significant advanced planning to ensure that audit findings and corrective actions are timely submitted. With a one year federal sign-up period that is already ticking, companies considering taking advantage of EPA's new audit program may wish to begin organizing their strategic approach now.

Additional Sources:

[Audit Program Agreement](#)

[EPA Audit Policy](#)

[Texas EHS Audit Privilege Act](#)

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