

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

**FILED**  
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REGIONAL HEARING CLERK  
EPA REGION VI

IN THE MATTER OF: )  
)  
)  
ENBRIDGE OFFSHORE FACILITIES, LLC ) DOCKET NO. CAA-06-2022-3308  
VENICE LIQUID HANDLING )  
FACILITY )  
VENICE, LOUISIANA )  
)  
RESPONDENT )  
\_\_\_\_\_ )

**CONSENT AGREEMENT AND FINAL ORDER**

The Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency (EPA), Region 6 (Complainant) and Enbridge Offshore Facilities, LLC, (Respondent) in the above-referenced proceeding, hereby agree to resolve this matter through the issuance of this Consent Agreement and Final Order (CAFO).

**I. PRELIMINARY STATEMENT**

1. This proceeding for the assessment of civil penalties is brought by EPA pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and is simultaneously commenced and concluded through the issuance of this CAFO pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and (3), and 22.34.

2. For the purposes of this proceeding, the Respondent admits the jurisdictional allegations contained herein; however, the Respondent neither admits nor denies the specific factual allegations contained in this CAFO.

3. The Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed Final Order set forth therein and waives all defenses which have been raised

or could have been raised to the claims set forth in the CAFO.

4. Compliance with all the terms and conditions of this CAFO shall only resolve the Respondent's liability for Federal civil penalties for those violations and facts which are set forth herein.

5. The Respondent consents to the issuance of the CAFO, to the assessment and payment of the civil penalty in the amount and by the method set forth in this CAFO, and to the conditions specified in the CAFO.

6. Each undersigned representative of the parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement, to execute it, and to legally bind that party to it.

7. This CAFO shall apply to and be binding upon the Respondent, its officers, directors, servants, employees, agents, authorized representatives, successors, and assigns.

## **II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

### **A. PRELIMINARY ALLEGATIONS**

8. Enbridge Offshore Facilities, LLC, Venice Liquid Handling facility (Respondent) is a limited liability company authorized to do business in the State of Louisiana.

9. "Person" is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), as "an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency of the United States and any officer, agent, or employee thereof."

10. The Respondent is a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

11. The Respondent operates an onshore facility at the endpoint of the Mississippi Canyon Gas Offshore Pipeline (MCGP) and located inside the Targa facility located at 1565

Tidewater Road, Venice, Louisiana 70091.

12. "Stationary source" is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C.

§ 7412(r)(2)(C), and 40 C.F.R. § 68.3 as meaning:

any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

13. The Respondent's facility identified in Paragraph 11 is a "stationary source" as that term is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3.

14. The Respondent is the operator of the stationary source identified in Paragraph 11.

15. Butane, Isopentane (Butane,2 methyl), Isobutane (Propane, 2 methyl) and Pentane are "regulated substance", as set forth in 40 C.F.R. § 68.130.

16. "Process" is defined in 40 C.F.R. § 68.3 as meaning:

any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of activities. For this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

17. The Respondent receives gas and liquids from the Mississippi Canyon Gas Offshore Pipeline (MCGP). The liquids are separated from the gas, which is piped to Targa for processing and sale at the stationary source identified in Paragraph 11.

18. 40 C.F.R. § 68.130 specifies a 10,000-lb quantity threshold for Butane.

19. The Respondent exceeded the threshold quantity for Butane, Isopentane (Butane,2 methyl), Isobutane (Propane, 2 methyl) and Pentane for processing and sale identified in Paragraph 17.

20. “Covered process” is defined in 40 C.F.R. § 68.3 as meaning “a process that has a regulated substance present in more than a threshold quantity as determined under § 68.115.”

21. The Butane, Isopentane (Butane,2 methyl), Isobutane (Propane, 2 methyl) and Pentane process identified in Paragraph 17 is a “covered process” as that term is defined by 40 C.F.R. § 68.3.

22. The gas and liquids used for processing and sale identified in Paragraph 17 is subject to the “Program 3” requirements of the Risk Management Plan (RMP) regulations and must, among other things, comply with the Program 3 Prevention Program of 40 C.F.R. Part 68, Subpart D.

23. Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d), authorizes EPA to bring an administrative action for penalties that exceed \$385,535<sup>1</sup> and/or the first alleged date of violation occurred more than twelve (12) months prior to the initiation of the action, if the Administrator and the United States Attorney General jointly determine that the matter is appropriate for administrative action.

24. EPA and the U.S. Department of Justice have jointly determined that the Complainant can administratively assess a civil penalty even though the alleged violations occurred more than twelve (12) months prior to the initiation of the administrative action.

25. On July 8, 2020 thru August 6, 2020, the U.S. Environmental Protection Agency conducted a Virtual Partial Compliance Evaluation (VPCE) at the Enbridge Venice Condensate

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<sup>1</sup> The maximum penalty that can be assessed (without a waiver) under Section 113 of the Clean Air Act was increased by the Civil Monetary Penalty Inflation Adjustment Rule codified at 40 C.F.R. Part 19 to \$385,535 for violations that occurred after November 2, 2015 and assessed on or after January 13, 2020.

Stabilization facility.

26. EPA submitted to Respondent on May 26, 2021, a Notice of Potential Violation and Opportunity to Confer.

27. On or about June 29, 2021, the Venice Station Condensate Stabilization sent its written response to the information requested by the Complainant.

**B. VIOLATIONS**

**Count One – Failure to provide documentation of adequate management of the Risk Management Plan (RMP) Program**

28. 40 C.F.R. § 68.15(b) provide the following:

The owner or operator shall assign a qualified person or position that has the overall responsibilities for the development, implementation, and integration of the risk management program elements.

29. 40 C.F.R. § 68.15(c) provide the following:

When responsibility for implementing individual requirements of this part is assigned to persons other than the person identified under paragraph (b) of this section, the names or positions of these people shall be documented, and the lines of authority defined through an organization chart or similar document.

30. The organizational chart provided only provided a high-level organizational chart. The chart did not identify the overall person responsible for implementing RMP as well as the individual requirements.

31. Therefore, the Respondent violated 40 C.F.R. § 68.15(c) by failing to document and/or assign a qualified person or position with overall facility of the Risk Management Program.

**Count Two - Inadequate Process Hazard Analyses (PHA)**

32. 40 C.F.R. § 68.67(e) provide the following:

The owner or operator shall establish a system to promptly address the team’s findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.”

33. The 2019 PHA recommendations did not provide evidence that the recommendations were tracked and completed in a timely manner and that the resolution was documented.

34. Therefore, the Respondents violated 40 C.F.R. § 68.67(e) by failing to provide an adequate PHA in a timely manner and that the resolution were documented.

**Count Three - Inadequate Operating Procedure**

35. 40 C.F.R. § 68.69(c) provides the following:

The operating procedure shall be reviewed as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to stationary sources. The owner or operator shall certify annually that these operating procedures are current and accurate.

36. EPA noted the operating procedure certifications were completed on March 13, 2017; December 20, 2018; and December 16, 2019. The time between the 2017 and 2018 certifications were approximately 21 months apart.

37. Therefore, the Respondent violated 40 C.F.R. § 68.69(c) by failing to certify annually that their operating procedures are current and accurate.

**Count Four – Inadequate Refreshers Training**

38. 40 C.F.R. § 68.71(b) provides the following:

Refresher training shall be provided at least every three years, and more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process. The owner or operator, in consultation with the employees involved in operating the process, shall determine the appropriate frequency of refresher training. Respondent did not provide refresher training at least every three years, for two operators in an onshore processing facility.

39. Therefore, the Respondent violated 40 C.F.R. § 68.71(b) by failing to document and/or certify refresher training every three years to each employee involved in operating a process.

**III. TERMS OF SETTLEMENT**

**A. CIVIL PENALTY**

40. Without admitting or denying the foregoing factual allegations, the Respondent has agreed to pay a civil penalty of FIFTY-EIGHT THOUSAND ONE HUNDRED TWENTY-FIVE DOLLARS (\$58,125).

41. Within thirty (30) days of the Effective Date of this CAFO, the Respondent shall pay the assessed civil penalty by certified check, cashier's check, or wire transfer, made payable to "Treasurer, United States of America, EPA - Region 6". Payment shall be remitted in one of three (3) ways: regular U.S. Postal mail (including certified mail), overnight mail, or



wire transfer. For regular U.S. Postal mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, the check should be remitted to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

For overnight mail (non-U.S. Postal Service, e. g. Fed Ex), the check should be remitted to:

U.S. Bank  
Government Lockbox 979077  
US EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
Phone No. (314) 418-1028

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account No. 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read  
“D 68010727 Environmental Protection Agency” with a phone number of  
(412) 234-4381”.

**PLEASE NOTE: Docket Number CAA-06-2022-3308 shall be clearly typed on the check or other method of payment to ensure proper credit.** If payment is made by check, the check shall also be accompanied by a transmittal letter and shall reference the Respondent’s name and address, the case name, and docket number of the CAFO. If payment is made by wire transfer, the wire transfer instructions shall reference the Respondent’s name and address, the case name, and docket number of the CAFO. The Respondent shall also send a simultaneous notice of such



payment, including a copy of the check and transmittal letter, or wire transfer instructions to the following:

Elizabeth Rogers  
Enforcement Officer  
Chemical Accident Prevention Section (ECDAC)  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, TX 75270  
rogers.elizabeth@epa.gov

Lorena Vaughn  
Regional Hearing Clerk (ORCD)  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, TX 75270

The Respondent's adherence to this request will ensure proper credit is given when penalties are received in the Region.

42. The Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

43. If the Respondent fails to submit payment within thirty (30) days of the Effective Date of this CAFO, the Respondent may be subject to a civil action to collect any unpaid portion of the assessed penalty, together with interest, handling charges, and nonpayment penalties as set forth below.

44. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the Effective Date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not

paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. *See* 40 C.F.R. § 13.11(b).

45. EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent (6%) per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. *See* 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. *See* 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

46. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including but not limited to, attorneys fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent (10%) of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

47. This CAFO is considered a "prior violation" for the purpose of demonstrating a "history of noncompliance" under the Clean Air Act Stationary Source Penalty Policy, and the Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68 (June 2012).

**B. COMPLIANCE**

48. The Respondent hereby certifies that as of the date of the execution of this CAFO, that it has corrected the violations alleged herein, and is now, to the best of its knowledge, in compliance with all applicable requirements of Section 112(r) of the CAA, 42 U.S.C § 7412(r) and 40 C.F.R. Part 68.

**C. MODIFICATION**

49. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except as otherwise specified in this CAFO, or upon the written agreement of the Complainant and the Respondent, and approved by the Regional Judicial Officer, and such modifications or amendment being filed with the Regional Hearing Clerk.

**D. RETENTION OF ENFORCEMENT RIGHTS**

50. EPA does not waive any rights or remedies available to EPA for any other violations by the Respondent of Federal or State laws, regulations, or permitting conditions.

51. Nothing in this CAFO shall relieve the Respondent of the duty to comply with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68.

52. Nothing in this CAFO shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, contaminants, hazardous substances on, at or from the Respondent's facility whether related to the violations addressed in this CAFO or otherwise. Furthermore, nothing in this CAFO shall be construed or to prevent or limit EPA's civil and criminal authorities, or that of other Federal, State, or local agencies or departments to obtain penalties or injunctive relief under other Federal, State, or local laws or regulations.

53. The Complainant reserves all legal and equitable remedies available to enforce the provisions of this CAFO. In any such action to enforce the provisions of this CAFO, the Respondents shall not assert, and may not maintain, any defense of laches, statute of limitations, or any other equitable defense based on the passage of time. Other than with respect to the claims for civil penalties specifically resolved pursuant to this CAFO, this CAFO shall not be construed to limit the rights of the EPA or United States to obtain penalties or injunctive relief under the CAA or its implementing regulations, or under other federal or state laws, regulations, or permit conditions.

54. In any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, to enforce the provisions of this CAFO, or other appropriate relief relating to this Facility, the Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the Complainant or the United States in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims for civil penalties that have been specifically resolved pursuant to this CAFO.

55. The Respondent waives any right it may possess at law or in equity to challenge the authority of the EPA or the United States to bring a civil action in a United States District Court to compel compliance with this CAFO and to seek an additional penalty for such noncompliance and agrees that federal law shall govern in any such civil action. The Respondent also consents to personal jurisdiction in any action to enforce this CAFO in the appropriate Federal District Court.

56. The Respondent also waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that the Respondent may have with respect to

any issue of law or fact set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1).

57. This CAFO is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. The Respondent is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits. The Respondent's compliance with this CAFO shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The Complainant does not warrant or aver in any manner that the Respondent's compliance with any aspect of this CAFO will result in compliance with provisions of the Clean Air Act or with any other provisions of federal, State, or local laws, regulations, or permits.

**E. SERVICE OF CAFO**

58. The Complainant and Respondent agree to the use of electronic signatures for this matter. The Respondent further agrees to electronic service of this CAFO pursuant to 40 C.F.R § 22.6, by email to the following address:

To EPA:

[Salinas.amy@epa.gov](mailto:Salinas.amy@epa.gov)

To the Respondent:

[Ali.kasrai@enbridge.com](mailto:Ali.kasrai@enbridge.com)

**F. COSTS**

59. Except as provided in Paragraph 54, each party shall bear its own costs and attorney's fees. Furthermore, the Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17.

**G. EFFECTIVE DATE**

60. This CAFO, and any subsequent modifications, become effective upon filing with the Regional Hearing Clerk.



**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:**

**FOR THE RESPONDENT:**

Date: November 10, 2021



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Steve Nyland, Vice President  
Enbridge Offshore Facilities, LLC - Venice  
LiquidHandling Facility

**FOR THE COMPLAINANT:**

**STEPHEN  
GILREIN**

Digitally signed by STEPHEN GILREIN  
DN: cn=US, o=U.S. Government,  
ou=Environmental Protection Agency,  
cn=STEPHEN GILREIN,  
0.9.2342.19200300.100.1.1+68001003651794  
Date: 2021.11.16 11:03:21 -0600

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Cheryl T. Seager  
Director  
Enforcement and  
Compliance Assurance Division  
U. S. EPA Region 6,



**FINAL ORDER**

Pursuant to the Section 113 of the CAA, 42 U.S.C. § 7413, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right or EPA or the United States to pursue appropriate injunctive relief or other equitable relief for criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect the Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

**THOMAS  
RUCKI**

Digitally signed by THOMAS RUCKI  
DN: c=US, o=U.S. Government,  
ou=Environmental Protection Agency,  
cn=THOMAS RUCKI,  
0.9.2342.19200300.100.1.1+68001003655804  
Date: 2021.11.16 13:31:14 -0600

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Thomas Rucki  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Consent Agreement and Final Order (CAFO) was electronically delivered to the Regional Hearing Clerk, U.S. EPA-Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that a true and correct copy of the CAFO was sent to the following via email:

Copy via email to Complainant:

Salinas.amy@epa.gov

Copy via email to Respondent:

Ali.kasrai@enbridge.com

Enbridge Offshore Facilities, LLC -  
VeniceLiquid Handling Facility  
5400 Westheimer Court  
Houston, TX 77056

Copy via email to Regional Hearing Clerk:

Vaughn.lorena@epa.gov

**AMY SALINAS**

Digitally signed by AMY SALINAS  
DN: cn=US, o=U.S. Government, ou=Environmental Protection Agency,  
c=US, email=AMY.SALINAS.0.9.2342.19200300.1001.1+4800100365531  
Date: 2021.11.16 14:42:48 -0500

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Signed  
Office of Regional Counsel  
U.S. EPA, Region 6