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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:)	
)	
LBC Baton Rouge, LLC)	EPA Docket No. CAA-06-2022-3349
Baton Rouge, Louisiana)	
)	
RESPONDENT)	
)	
)	

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is an administrative penalty assessment proceeding brought under Section 113(d) of the Clean Air Act, (the "CAA" or "Act"), 42 U.S.C. § 7413(d), and Sections 22.13, 22.18, and 22.34 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permit ("Consolidated Rules"), as codified at 40 C.F.R. Part 22.

2. Complainant is the United States Environmental Protection Agency, Region 6 (the "EPA"). On the EPA's behalf, the Director of the Compliance Assurance and Enforcement Division has been delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

3. LBC Baton Rouge, LLC ("LBC" or "Respondent") is a limited liability company, doing business in the state of Louisiana. Respondent is a "person" as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this Consent Agreement along with the corresponding Final Order hereinafter known together as the “CAFO” without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this CAFO.

B. JURISDICTION

5. This CAFO is entered into under Section 113(d) of the Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules, 40 C.F.R. Part 22. The alleged violations in this CAFO are pursuant to Section 113(a)(3)(A) of the Act, 42 U.S.C § 7413(a)(3)(A).

6. The EPA and the United States Department of Justice jointly determined that this matter, although it involves alleged violations that occurred more than a year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

7. On December 17, 2021, EPA issued to Respondent a Notice of Potential Violation and Opportunity to Confer (“NOPVOC”) and provided a copy of the NOPVOC to the State of Louisiana. In the NOPVOC, EPA provided notice to both Respondent and the State of Louisiana that EPA found Respondent committed the alleged violations of the federal New Source Performance Standards (“NSPS”) and National Emission Standards for Hazardous Air Pollutants (“NESHAP”) described in Section E of this CAFO and provided Respondent an opportunity to confer with EPA. Representatives of Respondent and EPA initially discussed the violations alleged in the NOPVOC on January 13, 2022, and at various other subsequent times.

8. The Regional Judicial Officer is authorized to ratify this CAFO which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b).

9. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

C. GOVERNING LAW

10. The Act is designed “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).

11. EPA is authorized by Section 113 of the CAA, 42 U.S.C. § 7413, to take action to ensure that air pollution sources comply with all federally applicable air pollution control requirements.

New Source Performance Standards

12. Section 111 of the CAA, 42 U.S.C. § 7411, authorizes EPA to promulgate regulations establishing New Source Performance Standards (“NSPS”). Section 111(e) of the CAA, 42 U.S.C. § 7411(e), states that after the effective date of standards of performance promulgated under this section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

13. “New source” is defined as “any stationary source, the construction or modification of which is commenced after the publication of [the NSPS] regulations (or, if earlier, proposed regulations) prescribing a standard of performance under this section which will be applicable to such source.” 42 U.S.C. § 7411(a)(2).

14. “Stationary source” is defined as a “building, structure, facility, or installation which emits or may emit any air pollutant.” 42 U.S.C. § 7411(a)(3).

NSPS 40 C.F.R. Part 60, Subpart A

15. Pursuant to Section 111(b)(1)(B) of the CAA, 42 U.S.C. § 7411(b)(1)(B), EPA has

promulgated regulations that contain general provision applicable to all NSPS sources. 40 C.F.R. Part 60, Subpart A, §§ 60.1–60.19 (“NSPS Subpart A”).

16. NSPS Subpart A applies to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication in this part of any standard applicable to that facility. 40 C.F.R. § 60.1(a).

17. Owners and operators of “affected facilities” must submit to the Administrator “[a] notification of the actual date of initial startup of an affected facility postmarked within 15 days after such date.” 40. C.F.R. § 60.7(a)(3).

40 C.F.R. Part 60, Subpart Kb

18. Pursuant to Section 111(b)(1)(B) of the CAA, 42 U.S.C. § 7411(b)(1)(B), EPA promulgated regulations that apply to each storage vessel with a capacity greater than or equal to 75 cubic meters that is used to store volatile organic liquids (VOL) for which construction, reconstruction, or modification commenced after July 23, 1984. 40 C.F.R. Part 60, Subpart Kb, §§ 60.110b–60.117b (“NSPS Subpart Kb”).

19. Of relevance to this CAFO, NSPS Subpart Kb requires that after installing the control equipment required in 40 C.F.R. § 60.112(a)(1) (permanently affixed roof and internal floating roof (“IFR”)), each owner and operator shall:

- a. In accordance with 40 C.F.R. § 60.113b:
 - i. “Visually inspect the internal floating roof, the primary seal, and the secondary seal (if one is in service), prior to filling the storage vessel with VOL.” 40 C.F.R. § 60.113b(a)(1).
 - ii. “Visually inspect the internal floating roof, the primary seal, the secondary seal (if one is in service), gaskets, slotted membranes, and sleeve seals (if any) each time the storage vessel is emptied and degassed.” In no event will inspections occur at intervals greater than 10 years in the case of vessels conducting the annual visual inspection

as specified in paragraphs (a)(2) and (a)(3)(ii) of 40 C.F.R. § 60.113b. 40 C.F.R. § 60.113b(a)(4).

- iii. Notify the Administrator in writing at least thirty (30) days prior to the filling or refilling of each storage vessel for which an inspection is required by 40 C.F.R. § 60.113b(a)(1)-(4) to afford the Administrator the opportunity to have an observer present. If an inspection required by 40 C.F.R. § 60.113b(a)(4) is not planned and the owner or operator could not have known about the inspection 30 days in advance of refilling the tank, the owner or operator must notify the Administrator at least 7 days before the refilling of the storage vessel. 40 C.F.R. § 60.113b(a)(5).
- b. In accordance with 40 C.F.R. § 60.115b, “furnish the Administrator with a report that describes the control equipment and certifies that the control equipment meets the specifications of § 60.112b(a)(1) and § 60.113b(a)(1). This report shall be an attachment to the notification required by § 60.7(a)(3).” 40 C.F.R. § 60.115b(a)(1).

National Emission Standards for Hazardous Air Pollutants

20. Section 112 of the CAA, 42 U.S.C. § 7412, requires EPA to identify “categories and subcategories” of “major sources” of hazardous air pollutants (“HAPs”), and establish national emission standards for those hazardous air pollutants (“NESHAP”). After the effective date of any emission standard, limitation, or regulation promulgated pursuant to Section 112 of the CAA, no person may operate a source in violation of such standard, limitation, or regulation. 42 U.S.C. § 7412(i)(3).

21. “Major source” is defined as any “stationary source” or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAPs. 42 U.S.C. § 7412(a)(1).

NESHAP 40 C.F.R. Part 63, Subpart EEEE

22. Pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d), EPA promulgated the NESHAP for Source Categories for Organic Liquids Distribution (Non-Gasoline) (“OLD”) 40 C.F.R. §§ 63.2330 – 63.2406 (“NESHAP Subpart EEEE”).

23. NESHAP Subpart EEEE applies to the owner or operator of an OLD operation that is located at, or is part of, a major source of HAPs. 40 C.F.R. § 63.2334(a).

24. The “affected source is the collection of activities and equipment used to distribute organic liquids into, out of, or within a facility that is a major source of HAP. The affected source is composed of all storage tanks storing organic liquids.” 40. C.F.R. § 63.2338(b)(1).

25. A Notification of Compliance Status (“NOCS”) must be submitted by owners and operators that are required to conduct a performance test, design evaluation, or other initial compliance demonstration as specified in Table 5, 6, or 7 to Subpart EEEE. 40 C.F.R. § 63.2382(d)(1). The NOCS must include the information required in § 63.999(b) and in paragraphs (d)(2)(i) through (ix) of this section. 40 C.F.R. § 63.2382(d)(2).

D. FINDINGS OF FACT AND CONCLUSIONS OF LAW

26. LBC owns and/or operates the Sunshine Terminal located at 1725 Hwy 75, Sunshine, LA 70780, Iberville Parish (the “Facility”).

27. At all times relevant to this proceeding, Respondent has owned and/or operated the Facility.

28. Respondent is the owner and/or operator of the Facility within the meaning of Sections 111(a)(5) and 112(a)(9), 42 U.S.C. §§ 7411(a)(5) and 7412(a)(9) of the Act.

29. At all times relevant to this proceeding, Respondent owned and/or operated units that emit HAPs and Volatile Organic Compounds (“VOCs”) at the Facility.

30. The Facility is a bulk liquid storage terminal that leases storage tanks on a short-term and long-term basis. The Facility stores a wide range of liquid commodities including but not limited to petroleum products, VOCs, and various inorganic compounds.

31. The Facility is a “stationary source” as that term is defined in Sections 111(a)(3) and 112(a)(3) of the Act, 42 U.S.C. §§ 7411(a)(3) and 7412(a)(3).

32. At all times relevant to this proceeding, the Facility was a “major source” within the meaning of the CAA’s Title V program, Section 501(2) of the Act, 42 U.S.C. § 7661(2) and 40 C.F.R. § 70.2.

33. The Facility is subject to the CAA Title V Federal Operating Permit (“FOP”) program.

34. On or about October 17, 2018, Respondent was issued Permit No. 1280-00025-V9 (the “Permit”), an air permit issued under the Louisiana Permit Program. The Permit covers various emissions units at the Facility, including storage vessels.

35. Tank 55-14, Tank 55-15, Tank 80-1, Tank 80-2, Tank 110-1, Tank 110-4, Tank 120-1, and Tank 120-2 are affected facilities subject to NSPS Subpart Kb. Each tank is a storage vessel with a capacity greater than or equal to 75 cubic meters (m³) that is used to store volatile organic liquids (VOL) for which construction, reconstruction, or modification commenced after July 23, 1984. 40 C.F.R. § 60.110b(a).

36. As an affected facility subject to NSPS Subpart Kb, Tank 55-14 is also an affected facility subject to NSPS Subpart A.

37. Tank 110-2 and Tank 110-4 are affected facilities subject to NESHAP Subpart EEEE. Each tank stores organic liquids used to distribute organic liquids into, out of, or within the Facility. 40. C.F.R. § 63.2338(b)(1).

38. On April 22, 2019, through April 23, 2019, EPA conducted an on-site inspection of the Facility to determine compliance with the Facility's Title V Air Permit and the CAA. EPA issued a final inspection report to Respondent on June 20, 2019.

39. On August 24, 2020, EPA issued a CAA Section 114 Information Request and received the Respondent's response letter on October 5, 2020.

40. More than thirty (30) days before the issuance of this Consent Order, Respondent was notified of the violations alleged herein. On December 17, 2020, EPA sent Respondent the NOPVOC and provided a copy to the State of Louisiana.

41. On January 13, 2022, and on various other occasions, EPA conferred with Respondent regarding the violations alleged herein and provided an opportunity for Respondent to submit additional information or materials.

42. Between April 22, 2022, and May 3, 2022, Respondent provided information to EPA that it had taken the following corrective action measures at the Facility to address the compliance issues identified at the on-site inspection:

- a. In April 2021, Respondent issued a Tank Floating Roof Procedure detailing the requirements for IFR inspections. This procedure and specific requirements were reviewed with all relevant LBC employees.
- b. On April 22, 2022, Respondent (re) submitted to Louisiana Department of Environmental Quality ("LDEQ"):
 - i. Notification of Initial Startup for Tank 55-14 in accordance with 40 C.F.R. § 60.7(a)(3).
 - ii. A certification report for Tanks 55-14, 80-1, 80-2 and 55-15 in accordance with 40 C.F.R. § 60.115b(a)(1).
 - iii. Notification of Compliance Status ("NOCs") for Tanks 110-2 and 110-4 in accordance with 40 C.F.R. § 63.2382(d)(1).

43. EPA has conducted a comprehensive review of the facility-specific information gathered based upon the on-site inspection and the subsequent review of additional documents provided by Respondent. Based on this review, EPA identified alleged violations of the CAA at the Facility as described in Section E of this CAFO.

E. ALLEGED VIOLATIONS

Failure to Submit Notification as Required by 40 C.F.R. Part 60, Subpart A

44. Tank 55-14 is an “affected facility” under NSPS Subpart A, and therefore Respondent was and is required to “[f]urnish to the Administrator, a notification of the actual date of initial startup of an affected facility postmarked within 15 days after such date.” 40 C.F.R. § 60.7(a)(3).

45. Respondent violated 40 C.F.R. § 60.7(a)(3) by failing to furnish LDEQ with an initial notification for the startup of Tank 55-14 on January 18, 2017, within fifteen (15) days.

Failure to Submit Reports as Required by 40 C.F.R. Part 60, Subpart Kb

46. Tank 55-14, Tank 55-15, Tank 80-1, Tank 80-2, Tank 110-1, Tank 110-4, Tank 120-1, and Tank 120-2 are affected facilities subject to NSPS Subpart Kb and are therefore subject to requirements under 40 C.F.R. § 60.113b and § 60.115b.

47. In accordance with 40 C.F.R. § 60.113b(a)(5), Respondent was and is required to “[n]otify the Administrator in writing at least 30 days prior to the filling or refilling of each storage vessel for which an inspection is required by [§ 60.113b(a)(1)] and [§ 60.113b(a)(4)].”

48. Respondent violated 40 C.F.R. § 60.113b(a)(5), by failing to provide a 30-day notice for a planned internal inspection, in accordance with 40 C.F.R. § 60.113b(a)(1), on Tank 55-14 and Tank 55-15 in 2016.

49. Respondent violated 40 C.F.R. § 60.113b(a)(5), by failing to timely provide a 30-day notice of a planned internal inspection, in accordance with 40 C.F.R. § 60.113b(a)(4), after Tank 120-1, and Tank 120-2 were emptied and degassed in 2017.

50. In accordance with 40 C.F.R. § 60.115b(a)(1), Respondent was and is required to “[f]urnish the Administrator with a report that describes the control equipment and certifies that the control equipment meets the specifications of § 60.112b(a)(1) and § 60.113b(a)(1).”

51. Respondent violated 40 C.F.R. § 60.115b(a)(1), by failing to provide a report that describes the control equipment for Tank 55-14, Tank 55-15, Tank 80-1, and Tank 80-2 (constructed between 2013 and 2017) and certifies that the control equipment meets the specifications of § 60.112b(a)(1) and § 60.113b(a)(1).

52. In accordance with 40 C.F.R. § 60.113b(a)(4), Respondent must empty and degas its storage vessel to conduct a visual inspection at intervals no greater than 10 years.

53. Respondent violated 40 C.F.R. § 60.113b(a)(4), by failing to conduct internal inspections Tank 110-4 in 2019 at the initial 10-year interval.

Failure to Submit NOCS as Required by 40 C.F.R. Part 63, Subpart EEEE

54. Tank 110-2 and Tank 110-4 are “affected facilities” under NESHAP Subpart EEEE, and therefore Respondent was and is required by 40 C.F.R. § 63.2382(d)(1), to furnish to the Administrator, a NOCS meeting the applicable requirements of 40 C.F.R. § 63.2382(d)(2).

55. Respondent violated 40 C.F.R. § 63.2382(d)(2), by failing to furnish the required NOCS information for Tank 110-2 and Tank 110-4 constructed in 2008.

F. CIVIL PENALTY AND CONDITIONS OF SETTLEMENT

General

56. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2),

Respondent:

- a. admits that EPA has jurisdiction over the subject matter alleged in this CAFO;
- b. neither admits nor denies the specific factual allegations contained in the CAFO;
- c. consents to the assessment of a civil penalty, as stated below;
- d. consents to the issuance of any specified compliance or corrective action order¹;
- e. consents to the conditions specified in this CAFO;
- f. consents to any stated Permit Action²;
- g. waives any right to contest the alleged violations set forth in Section E of this CAFO; and
- h. waives its rights to appeal the Final Order included in this CAFO.

57. For the purpose of this proceeding, Respondent:

- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
- b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement action;
- c. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to

¹ Although 40 C.F.R. § 22.18(b)(2) requires each subbullet, d. and f. are not applicable to this particular case.

² See *id.*

- any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1);
- d. consents to personal jurisdiction in any action to enforce this CAFO in the United States District Court for the Middle District of Louisiana;
 - e. waives any right it may possess at law or in equity to challenge the authority of EPA 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; and
 - f. agrees that in any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other relief relating to these Facilities, 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 on any contention that the claims raised by the Complainant or the United States were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to this CAFO.

Penalty Assessment and Collection

58. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business, Respondent's full compliance history and good faith efforts to comply, the duration of the violation, payment by

the violator of any penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and other factors as justice may require, EPA has assessed a civil penalty in the amount of \$166,121.00 (the "EPA Penalty"). The EPA Penalty has been determined in accordance with Section 113 of the CAA, 42, U.S.C. § 7413, and at no time exceeded EPA's statutory authority.

59. Respondent agrees to:

- a. pay the EPA Penalty within 30 calendar days of the Effective Date of this CAFO, and
- b. pay the EPA Penalty by cashier's check, certified check, or wire transfer made payable to "Treasurer, United States of America, EPA – Region 6." Payment shall be remitted in one of five (5) ways: (1) regular U.S. Postal Service mail including certified mail; (2) overnight mail; (3) wire transfer; (4) Automated Clearinghouse for receiving U.S. currency; or (5) Online Payment.

For regular U.S. Postal Service mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, payment should be remitted to:

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

For overnight mail (non-U.S. Postal Service, e.g. FedEx), payment should be remitted to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Contact: Natalie Pearson

(314) 418-4087

For wire transfer, payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 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"

For Automated Clearinghouse (also known as REX or remittance express):

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: Jesse White
(301) 887-6548

For Online Payment:

<https://www.pay.gov/paygov/>
Enter sfo 1.1 in search field
Open form and complete required fields.

PLEASE NOTE: The docket number 06-2022-3349 should be clearly typed on the check to ensure proper credit. The payment shall also be accompanied by a transmittal letter that shall reference Respondent's name and address, the case name, and docket number 06-2022-3349. Respondent's adherence to this request will ensure proper credit is given when penalties are received for Region 6. Respondent shall also email a simultaneous notice of such payment, including a copy of the money order, or check, and the transmittal letter to the following email addresses:

Kevin J. Kim
U.S. EPA Region 6
Kim.Kevin@epa.gov

And

Region 6 Hearing Clerk
U.S. EPA Region 6
Vaughn.Lorena@epa.gov

60. Respondent agrees to pay the following on any overdue EPA Penalty:
- a. Interest. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any unpaid portion of a civil penalty must bear interest at the rates established pursuant to 26 U.S.C. § 6621(a)(2).
 - b. Nonpayment of Penalty. On any portion of a civil penalty more than ninety (90) calendar days delinquent, Respondent must pay a nonpayment penalty, pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), which shall accrue from the date the penalty payment became delinquent, and which shall be in addition to the interest which accrues under subparagraph (a) of this Paragraph.
61. Respondent shall pay a charge to cover the cost of processing and handling any delinquent penalty claim, pursuant to 42 U.S.C. § 7413(d)(5), including, but not limited to, attorneys' fees incurred by the United States for collection proceedings.
62. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may:
- a. refer the debt to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court (in which the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review) to secure payment of the debt, which may include the original

- penalty, enforcement and collection expenses, nonpayment penalty and interest, 42 U.S.C. § 7413(d)(5) and 40 C.F.R. §§ 13.13, 13.14, and 13.33;
- b. collect the above-referenced debt by administrative offset (*i.e.*, the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and
 - c. suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

Conditions of Settlement

63. Within sixty (60) days of the Effective Date this CAFO, Respondent shall review its permitting and operations in accordance with Section I of Attachment A.

64. Within sixty (60) days of the Effective Date of this CAFO, Respondent shall review its operation and maintenance procedures for inspecting storage tanks at the Facility, and update the procedures, as necessary, to ensure that inspections and the associated reporting requirements are completed in accordance with the applicable regulations. Respondent shall ensure that these procedures, at a minimum, meet the requirements in Section II of Attachment A. If Respondent does not have such procedures, it shall create such procedures in accordance with Section II of Attachment A.

65. Within thirty (30) days of completing the review of operation and maintenance procedures in Paragraph 64, Respondent shall commence implementation of the operation and maintenance procedures, in accordance with Paragraph 64, for all storage tanks at the Facility.

66. Within ninety (90) days from the review discussed in paragraph 63 and 64, Respondent shall send a letter report to EPA ("Letter Report") containing:

- a. a summary of any recurring non-compliance issues identified in accordance with Section I of Attachment A, and any corrective actions taken, or improvements made, or planned to be made, to address such non-compliance issues at the Facility.
- b. a summary of the operation and maintenance procedures for the Facility in accordance with Section II of Attachment A; and
- c. documentation from LDEQ confirming the submittal of any reports that pertain to compliance with this CAFO.

The Letter Report shall be emailed to:

Kevin J. Kim
U.S. EPA, Region 6
Kim.kevin@epa.gov

67. EPA reserves the right to pursue enforcement of any violations identified as a result of Paragraphs 63 – 66.

68. Respondent agrees that the time period from the Effective Date of this CAFO until all the conditions specified in Paragraphs 63 - 66 ("Conditions of Settlement") are completed (the "Tolling Period") shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by Complainant on any claims set forth in Section E of this CAFO (the "Tolled Claims").

Respondent shall not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolloed Claims.

69. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. From the Effective Date of this Agreement until the end of the Tolling Period, as set out in Paragraph 68 of this CAFO, Respondent must give written notice and a copy of this CAFO to any successors in interest prior to transfer of ownership or control of any portion or interest in the Facilities. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to EPA. In the event of any such transfer, assignment or delegation, Respondent shall continue to be bound by the obligations or liabilities of this CAFO until EPA has provided written approval

70. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information. See 40 C.F.R. Part 2, Subpart B (Confidentiality of Business Information).

71. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

72. EPA and Respondent agree to the use of electronic signatures for this matter. EPA and Respondent further agree to electronic service of this CAFO by email to the following addresses:

To EPA: Roland.Alexandrea@epa.gov

To Respondent: g-cotie@lbctt.com
m-piche@lbctt.com

73. Respondent specifically waives its right to seek reimbursement of its costs and attorneys' fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17. Except as qualified by Paragraph 61 of this CAFO, each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

G. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

74. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

75. If Respondent fails to timely and satisfactorily complete every condition stated in Paragraphs 63 – 66 of this CAFO (including payment of any stipulated penalties owed), then Complainant may compel Respondent to perform the conditions in Paragraphs 63 – 66, seek civil penalties that accrue from the Effective Date of this CAFO until compliance is achieved, and seek other relief in a civil judicial action pursuant to the Clean Air Act, pursuant to contract law, or both.

76. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

77. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2),

performance of Paragraphs 63 – 66 is restitution, remediation, or required to come into compliance with the law.

78. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

79. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

80. Any violation of the included Final Order may result in a civil judicial action for an injunction or civil penalties of up to \$109,024 per day of violation, or both, as provided in section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in section 113(c) of the Act, 42 U.S.C. § 7413(c). EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

81. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit.

82. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

H. EFFECTIVE DATE

83. Respondent and Complainant agree to the issuance of the included Final Order.

Upon filing, EPA will transmit a copy of the filed CAFO to Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Hearing Clerk.

The foregoing Consent Agreement In the Matter of LBC Baton Rouge, LLC, Docket No. 06-2022-3349, is Hereby Stipulated, Agreed, and Approved for Entry.

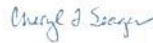
FOR RESPONDENT:

Date: 8.2.2022



Jeff Dewar
Senior Vice President, Americas
LBC Baton Rouge, LLC

FOR COMPLAINANT:



Digitally signed by CHERYL
SEAGER
Date: 2022.08.11 13:21:01
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Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

Attachment A

I. Permitting and Operations Review

The permitting and operations review shall consist, at a minimum, of the following:

1. For the Facility, review current permit representations (*i.e.*, applications), current equipment inventories, current reported production and emissions data (for all operating scenarios), and all maintenance and operating logs and repair/replacement work orders generated within the eighteen (18) months preceding the Effective Date, in order to evaluate and ascertain current or possible recurring non-compliance issues associated with equipment and process controls at the Facility.

II. Operation and Maintenance Procedures

The operation and maintenance procedures for storage tanks shall include, at a minimum, written Standard Operating Procedures (“SOPs”) for the following:

1. Inspections. Respondent shall develop an SOP for storage tank inspections to ensure compliance with applicable legal requirements to which it adheres. Such SOPs shall include, but not be limited to, the following actions:
 - a. The type and frequency of testing and inspection for each storage tank;
 - b. The appropriate qualifications of personnel performing the tests and inspections; and
 - c. A schedule for regulatory agency notifications.
2. Recordkeeping and Reporting. Respondent shall establish and implement requirements for documentation of compliance with operation and maintenance procedures, including documentation of the date of the inspection/maintenance activity, the observation of any observance or detection of VOC emissions from storage tanks and process equipment, and the performance of any corrective action.
3. Quality Control and Training. Respondent shall establish a quality control program that ensures the quality, efficiency, and performance of facility maintenance activities; and appropriate and regular training for personnel implementing the operation and maintenance procedures.
4. Documentation Protocol. Respondent shall establish document generation and retention protocols, personnel roles and responsibilities, safety protocols, and work order systems to ensure problems are timely identified and addressed.

FILED

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REGIONAL HEARING CLERK
EPA REGION VI

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF:

LBC Baton Rouge, LLC
Baton Rouge, Louisiana

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DOCKET NO. 06-2022-3349

RESPONDENT

FINAL ORDER

Pursuant to section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

LBC Baton Rouge, LLC is ORDERED to comply with all terms of the Consent Agreement. In accordance with 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: cn=US, o=U.S. Government,
ou=Environmental Protection Agency,
ou=THOMAS RUCKI,
0.9.2342.19200300.100.1.1+68001003655804
Date: 2022.08.15 13:24:00 -0400

Thomas Rucki
Regional Judicial Officer
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that on the 15 day of August, 2022, an electronic copy of the foregoing Consent Agreement and Final Order was electronically delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and a true and correct copy was delivered to the following individual by the method indicated below:

EMAIL - READ RECEIPT REQUESTED

g-cotie@lbctt.com
m-piche@lbctt.com

U.S. EPA, Region 6
Dallas, Texas