

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

|                                     |   |   |
|-------------------------------------|---|---|
| <b>In the Matter of:</b>            | ) | <b>Docket No. CAA-05-2022-0025</b>                |
|                                     | ) |   |
| <b>Hartford Wood River Terminal</b> | ) | <b>Proceeding to Assess a Civil Penalty</b>       |
| <b>Hartford, Illinois,</b>          | ) | <b>Under Section 113(d) of the Clean Air Act,</b> |
|                                     | ) | <b>42 U.S.C. § 7413(d)</b>                        |
| <b>Respondent.</b>                  | ) |   |
| <hr/>                               | ) |   |

**Consent Agreement and Final Order**

**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Hartford Wood River Terminal (HWRT), a corporation doing business in Illinois.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

### **Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

### **Statutory and Regulatory Background**

9. Section 111(b) of the CAA, 42 U.S.C. § 7411(b), requires EPA to publish a list of categories of stationary sources and, within a year after the inclusion of a category of stationary sources in the list, to publish proposed regulations establishing federal standards of performance for new sources within the source category. These emission standards are known as the New Source Performance Standards (NSPS). EPA codified these standards at 40 C.F.R. Part 60.

10. On April 4, 1980, EPA promulgated the Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 19, 1978, and Prior to July 23, 1984 at 40 C.F.R. Part 60, Subpart Ka (NSPS Ka). See 45 Fed. Reg. 23,379 (Apr. 4, 1980).

11. On December 18, 1980, EPA amended NSPS Ka. See 45 Fed. Reg. 83,229 (Dec. 18, 1980).

12. NSPS Ka applies, in part, to each storage vessel with a storage capacity greater than 1,589,873 liters (420,000 gallons) that is used to store petroleum liquids for which construction, reconstruction, or modification is commenced after May 18, 1978, and before July 23, 1984.

13. NSPS Ka, at 40 C.F.R. § 60.112a(a), requires the owner or operator of each storage vessel which contains a petroleum liquid which, as stored, has a true vapor pressure

equal to or greater than 10.3 kPa (1.5 psia) but not greater than 76.6 kPa (11.1 psia) to equip the storage vessel with one of the following: (1) an external floating roof; (2) a fixed roof with an internal floating roof; (3) a vapor recovery system; or (4) an equivalent system to those described in 40 C.F.R. § 60.112a(a)(1)-(3).

14. NSPS Ka, at 40 C.F.R. § 60.112a(a)(1), specifies that an external floating roof consists of a pontoon-type or double-deck-type cover that rests on the surface of the liquid contents and is equipped with a closure device between the tank wall and the roof edge. Except at times when performing gap measurements or inspections of the primary seal, the closure device is to consist of two seals, one above the other. The lower seal is referred to as the primary seal, and the upper seal is referred to as the secondary seal. The roof is to be floating on the liquid at all times (i.e., off the roof leg supports) except during initial fill and when the tank is completely emptied and subsequently refilled. The process of emptying and refilling when the roof is resting on the leg supports shall be continuous and shall be accomplished as rapidly as possible.

15. Floating roof provisions at 40 C.F.R. § 60.112a(a)(1)(i)(A) require that the accumulated area of gaps between the tank wall and the metallic shoe seal shall not exceed 212 cm<sup>2</sup> per meter of tank diameter (10.0 in<sup>2</sup> per ft of tank diameter) and the width of any portion of any gap shall not exceed 3.81 cm (1.5 in).

16. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$51,796 per day of violation up to a total of \$414,364 for violations that occurred after November 2, 2015, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

17. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

18. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

### **Factual Allegations and Alleged Violations**

19. HWRT owns and operates a bulk petroleum terminal at 900 North Delmar Avenue, Hartford, Illinois.

20. HWRT owns and operates eleven petroleum product storage tanks at the address in paragraph 19, including a tank referred to as Tank 80-9.

21. Tank 80-9 was constructed, reconstructed, or modified after May 19, 1978, and prior to July 23, 1984.

22. Tank 80-9 has a storage capacity greater than 1,589,873 liters (420,000 gallons).

23. The petroleum liquid stored in Tank 80-9 has a true vapor pressure equal to or greater than 10.3 kPa (1.5 psia) but not greater than 76.6 kPa (11.1 psia).

24. Tank 80-9 is subject to the requirements at 40 C.F.R. § 60.112a(a)(1)(i)(A).

25. Pursuant to Section 114 of the CAA, EPA sent a request for information to HWRT on August 10, 2020 (114 Request).

26. The 114 Request required HWRT to perform Topside Inspections of the seals on tanks, including Tank 80-9.

27. The 114 Request required HWRT have a third-party inspect the integrity of the primary and secondary seals of Tank 80-9, as well as measure the gaps between the tank wall and the primary and secondary seals.

28. Results of the Topside Inspections demonstrate that the primary seal on Tank 80-9 had a maximum gap width of 1.75 inches and a total gap area of 2097.5 square inches.

29. Tank 80-9 has a tank diameter of 120 feet.

30. HWRT owns or operates an “emission source” within the meaning of Section 114 (a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). Therefore, HWRT is subject to the requirements of Section 114(a)(1).

31. On February 17, 2022, EPA issued to HWRT a finding of violation (2022 FOV) alleging that HWRT violated NSPS Ka by operating an external floating roof on tank 80-9 with primary seal gaps that did not meet the required specifications at 40 C.F.R. § 60.112a(a)(1)(i)(A).

32. As described by paragraph 28, HWRT violated NSPS Ka at 40 C.F.R. § 60.112a(a)(1)(i)(A).

33. On February 25, 2022, representatives from HWRT submitted an invoice to EPA that demonstrated that HWRT has replaced the primary seal on Tank 80-9.

34. On March 10, 2022, representatives of HWRT and EPA discussed the 2022 FOV.

### **Civil Penalty**

35. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, cooperation, and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$33,889.

36. Within 30 days after the effective date of this CAFO, Respondent must pay a \$33,889 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

37. Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Air Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency, Region 5  
[r5airenforcement@epa.gov](mailto:r5airenforcement@epa.gov)

Mary McAuliffe  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
[mcauliffe.mary@epa.gov](mailto:mcauliffe.mary@epa.gov)

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
[r5hearingclerk@epa.gov](mailto:r5hearingclerk@epa.gov)

38. This civil penalty is not deductible for federal tax purposes.

39. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

40. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established

by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

### **General Provisions**

41. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: [mcauliffe.mary@epa.gov](mailto:mcauliffe.mary@epa.gov) (for Complainant), and [wschoeneweis@piasa-hwrt.com](mailto:wschoeneweis@piasa-hwrt.com) (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

42. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

43. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

44. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 42, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

45. Respondent certifies that it is complying fully with NSPS Ka.

46. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

47. The terms of this CAFO bind Respondent, its successors and assigns.
48. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.
49. Each party agrees to bear its own costs and attorney's fees in this action.
50. This CAFO constitutes the entire agreement between the parties.

**Hartford Wood River Terminal, Respondent**

---

9/12/22

Date

*Matthew W. Schimpf*

Matthew W. Schimpf, President  
Hartford Wood River Terminal

**United States Environmental Protection Agency, Complainant**

**MICHAEL  
HARRIS**

Digitally signed by  
MICHAEL HARRIS  
Date: 2022.09.21  
12:01:23 -05'00'

---

Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order**  
**In the Matter of: Hartford Wood River Terminal**  
**Docket No. CAA-05-2022-0025**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

\_\_\_\_\_  
Date

**ANN COYLE** Digitally signed by ANN  
COYLE  
Date: 2022.09.23  
11:56:21 -05'00'

\_\_\_\_\_  
Ann L. Coyle  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
Region 5

