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BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:) DOCKET NO. CAA-10-2018-0305
COLVILLE, INC.)
Prudhoe Bay, Alaska)
Respondent.)

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 113(d) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(d).

1.2. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA issues, and Colville, Inc. ("Respondent") agrees to issuance of, the Final Order attached to this Consent Agreement ("Final Order").

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), to sign consent agreements between EPA and the party against whom an administrative penalty for violations of the CAA is proposed to be assessed.

2.3. EPA and the United States Department of Justice jointly determined, pursuant to 42 U.S.C. § 7413(d), that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty action.

2.4. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of the CAA together with the specific provisions of the CAA and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

A. STATUTORY AND REGULATORY BACKGROUND

i. New Source Performance Standards

3.1. Pursuant to Section 111(b) of the CAA, 42 U.S.C. § 7411(b), EPA has promulgated New Source Performance Standards (“NSPS”) for specified categories of stationary sources of air pollutants that are “new sources.” A “new source” is defined as “a stationary source, the construction or modification of which is commenced after the publication of NSPS

regulations or proposed regulations that are applicable to such source.” 42 U.S.C. § 7411(a)(2). A “stationary source” is defined as including “buildings, structures, facilities or installations that emit or may emit any air pollutant.” 42 U.S.C. § 7411(a)(3). The term “modification” means “any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted.” 42 U.S.C. § 7411(a)(4).

3.2. NSPS regulations apply to the owner or operator of any stationary source that contains an “affected facility,” the construction or modification of which is commenced after the date of publication of an NSPS (or, if earlier, the date of publication of any proposed standard) applicable to that facility. 40 C.F.R. § 60.1. “Affected facility” is defined, with reference to a stationary source, as any apparatus to which an NSPS is applicable. 40 C.F.R. § 60.2.

3.3. Section 111(e) of the CAA, 42 U.S.C. § 7411(e), prohibits the operation of any “new source” of air pollutants in violation of an NSPS applicable to such source. Thus, a violation of an NSPS requirement is a violation of Section 111(e) of the CAA.

3.4. EPA has promulgated general provisions for the NSPS at 40 C.F.R. Part 60, Subpart A (“NSPS Subpart A”), which contain general provisions that apply to the owner or operator of any stationary source subject to an NSPS. 40 C.F.R. § 60.1(a).

1. Standards of Performance for Volatile Liquid Storage Vessels

3.5. EPA promulgated NSPS Subpart Kb – Standards of Performance for Volatile Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced After July 23, 1984, codified at 40 C.F.R. §§ 60.110b-117b, which applies to each 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 is commenced after July 23, 1984.

3.6. In accordance with 40 C.F.R. § 60.112b(a), the owner or operator of each storage vessel either with a design capacity greater than or equal to 151 m³ containing a VOL that, as stored, has a maximum true vapor pressure equal to or greater than 5.2 kilopascals (“kPa”) but less than 76.6 kPa or with a design capacity greater than or equal to 75 m³ but less than 151 m³ containing a VOL that, as stored, has a maximum true vapor pressure equal to or greater than 27.6 kPa but less than 76.6 kPa, shall equip each storage vessel with one of the following: A fixed roof in combination with an internal floating roof meeting the requirements of 40 C.F.R. § 60.112b(a)(1); an external floating roof meeting the requirements of 40 C.F.R. § 60.112b(a)(2); a closed vent system and control device meeting the requirements of 40 C.F.R. § 60.112b(a)(3); or an equivalent system.

2. Standards of Performance for Stationary Spark Ignition Internal Combustion Engines

3.7. On January 18, 2008, EPA promulgated NSPS Subpart JJJJ – Standards of Performance for Stationary Spark Ignition Internal Combustion Engines, codified at 40 C.F.R. §§ 60.4230-60.4248, which apply to (1) owners and operators of stationary spark ignition (“SI”) internal combustion engines (“ICE”) that commence construction after June 12, 2006, where the stationary SI ICE are manufactured on or after July 1, 2008, for engines with a maximum engine power less than 500 horsepower (“HP”), and (2) owners and operators of stationary SI ICE that are modified or reconstructed after June 12, 2006, and (3) any person that modifies or reconstructs any stationary SI ICE after June 12, 2006.

3.8. In accordance with 40 C.F.R. § 60.4246 and Table 3 of 40 C.F.R. Part 40, Subpart JJJJ, the general provisions in 40 C.F.R. Part 60, Subpart A, included 40 C.F.R. § 60.8 regarding

performance tests, apply to manufacturers, owners, and operators of SI ICE subject to 40 C.F.R. Part 60, Subpart JJJJ.

3.9. In accordance with 40 C.F.R. §§ 60.4230(a)(6) and 60.4236(a), after July 1, 2010, owners and operators may not install a stationary SI ICE with a maximum engine power of less than 500 HP that does not meet the applicable requirements in 40 C.F.R. § 60.4233.

3.10. In accordance with 40 C.F.R. § 60.4233(e), owners and operators of stationary SI ICE with a maximum engine power greater than or equal to 75 kilowatts (“KW”) (100 HP) (except gasoline and rich burn engines that use liquified petroleum gas (“LPG”)) must comply with the emission standards in Table 1 to Subpart JJJJ for their stationary SI ICE.

3.11. In accordance with 40 C.F.R. § 60.4233(f)(4)(ii), owners and operators of stationary SI natural gas and lean burn LPG engines with a maximum engine power greater than 19 KW (25 HP), that are modified or reconstructed after June 12, 2006, must comply with the same emission standards as those specified in 40 C.F.R. § 60.4233(d) or (e), except that such owners and operators of non-emergency engines and emergency engines greater than or equal to 130 HP must meet a nitrogen oxides (“NO_x”) emission standard of 3.0 grams per HP-hour (g/HP-hr), a carbon monoxide (“CO”) emission standard of 4.0 g/HP-hr (5.0 g/HP-hr for non-emergency engines less than 100 HP), and a volatile organic compounds (“VOC”) emission standard of 1.0 g/HP-hr, or a NO_x emission standard of 250 parts per million by volume, dry basis (“ppmvd”) at 15 percent oxygen (“O₂”), a CO emission standard 540 ppmvd at 15 percent O₂ (675 ppmvd at 15 percent O₂ for non-emergency engines less than 100 HP), and a VOC emission standard of 86 ppmvd at 15 percent O₂, where the date of manufacture of the engine is prior to July 1, 2008, for non-emergency engines with a maximum engine power less than 500 HP.

3.12. In accordance with 40 C.F.R. § 60.4243(b), owners or operators of a stationary SI ICE that must comply with the emission standards specified in 40 C.F.R. § 60.4233(d) or (e), must demonstrate compliance by either (1) Purchasing an engine certified according to procedures specified in Subpart JJJJ, for the same model year and demonstrating compliance according to one of the methods specified in 40 C.F.R. § 60.4243(a) or (2) Purchasing a non-certified engine and demonstrating compliance with the emission standards specified in 40 C.F.R. § 60.4233(d) or (e) and according to the requirements specified in 40 C.F.R. § 60.4244, as applicable, and according to 40 C.F.R. § 60.4243(b)(2)(i) and (ii).

3.13. In accordance with 40 C.F.R. § 60.4243(c), owners or operators of a stationary SI ICE that must comply with the emission standards specified in 40 C.F.R. § 60.4233(f), must demonstrate compliance according to 40 C.F.R. § 60.4243(b)(2)(i) or (ii), except that if the owner or operator complies according to 40 C.F.R. § 60.4243(b)(2)(i), the owner or operator must demonstrate that the non-certified engine complies with the emission standards specified in 40 C.F.R. § 60.4233(f).

3.14. In accordance with 40 C.F.R. § 60.4243(b)(2)(i), if the owner or operator of a stationary SI ICE greater than 25 HP and less than or equal to 500 HP must keep a maintenance plan and records of conducted maintenance and must, to the extent practicable, maintain and operate the engine in a manner consistent with good air pollution control practice for minimizing emissions. In addition, the owner or operator must conduct an initial performance test to demonstrate compliance.

3.15. In accordance with 40 C.F.R. § 60.4243(i), the owner or operator of a modified or reconstructed stationary SI internal combustion engine that must comply with the emission standards specified in 40 C.F.R. § 60.4233(f) must demonstrate compliance by conducting a performance test within 60 days after the engine commences operation after reconstruction.

ii. National Emissions Standards for Hazardous Air Pollutants

3.16. Sections 112(c), (d) and (k) of the CAA require EPA to publish a list of categories of “stationary sources” of hazardous air pollutants (“HAPs”), and to promulgate regulations establishing emission standards for major sources and certain area sources within those categories. 42 U.S.C. §§ 7412(c), (d) and (k). These standards are known as the National Emissions Standards for Hazardous Air Pollutants (“NESHAP”) for Source Categories, and are codified at 40 C.F.R. Part 63.

3.17. “Stationary source” under Section 112 of the CAA has the same meaning as the term has under Section 111(a)(3) of the CAA. 42 U.S.C. § 7412(a)(3). Section 112 of the CAA defines “major source” 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, more than 10 tons per year of any single HAP or 25 tons per year or more of any combination of HAPs. 42 U.S.C. § 7412(a)(1). An “area source” is any source that is not a “major source.” 42 U.S.C. § 7412(a)(2).

3.18. HAPs are defined at 40 C.F.R. § 63.2 to mean pollutants listed in, or pursuant to, Section 112(b) of the CAA.

3.19. “New source” is defined as a stationary source the construction or reconstruction of which is commenced after the Administrator first proposes regulations under Section 112 of the CAA establishing an emission standard applicable to such source. 42 U.S.C. § 7412(a)(4); see also 40 C.F.R. § 63.2.

3.20. “Existing Source” means any stationary source other than a new source. 42 U.S.C. § 7412(a)(10); see also 40 C.F.R. § 63.2.

3.21. EPA has promulgated general provisions for the NESHAPs at 40 C.F.R. Part 63, Subpart A (“NESHAP Subpart A”), which contain general provisions that apply as specified in the relevant NESHAP. 40 C.F.R. § 63.1(a)(4)(i). In particular, the regulation at 40 C.F.R. § 63.9(b) requires the affected source to submit an initial notification no later than 120 calendar days after the effective date of the relevant standard. In addition, the regulation at 40 C.F.R. § 63.9(h) requires the affected source to submit a notification of compliance status before the close of business on the 60th day following the completion of the relevant compliance demonstration activity specified in the relevant standard.

3.22. Pursuant to 40 C.F.R. § 63.4(a), no “owner or operator” shall operate any “affected source” in violation of an applicable NESHAP, except under an extension of compliance or exemption from compliance as provided in that section or in CAA Section 112(i)(4), 42 U.S.C. § 7412(i)(4). An “affected source” is defined as a “collection of equipment, activities, or both within a single contiguous area and under common control that is included in a section 112(c) source category or subcategory for which a section 112(d) standard or other relevant standard is established pursuant to section 112 of the [CAA].” 40 C.F.R. § 63.2.

1. NESHAP for Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities

3.23. Pursuant to Sections 112(c) and (k) of the CAA, on January 10, 2008, EPA promulgated Part 63, Subpart BBBBBB (“NESHAP 6B”) for Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities, codified at 40 C.F.R. §§ 63.11080-11100. 73 Fed. Reg. 1933. NESHAP 6B applies to the owner or operator of each bulk gasoline terminal, pipeline breakout station, pipeline pumping station, and bulk gasoline plant, as those terms are defined at 40 C.F.R. §§ 63.11081 and 63.11100, that is located at, or is part of, an area source of HAPs.

3.24. In accordance with 40 C.F.R. § 63.11083, new affected sources that start up after January 10, 2008, are required to comply with NESHAP 6B upon startup. In accordance with 40 C.F.R. § 63.11082(b), an affected source is a new affected source if construction is commenced on the affected source after November 9, 2006, and the affected source meets the applicability criteria in 40 C.F.R. § 63.11081 at the time construction is commenced.

3.25. The NESHAP Subpart A provisions that apply to NESHAP 6B are specified in Table 3 of 40 C.F.R. Part 63, Subpart BBBBBB, and include the definitions in 40 C.F.R. § 63.2 and the prohibition in 40 C.F.R. § 63.4(a).

3.26. The term "bulk gasoline terminal" is defined at 40 C.F.R. § 63.11100 to mean any gasoline storage and distribution facility that receives gasoline by pipeline, ship or barge, or cargo tank and has a gasoline throughput of 20,000 gallons per day or greater. Gasoline throughput shall be the maximum calculated design throughput as may be limited by compliance with an enforceable condition under Federal, State, or local law and discoverable by the Administrator and any other person.

3.27. In accordance with 40 C.F.R. § 63.11087, owners and operators of gasoline storage tanks at bulk gasoline terminals must, inter alia, meet each emission limit and management practice in Table 1 to Subpart BBBBBB that applies to the gasoline storage tank.

3.28. In accordance with Table 1 to NESHAP 6B and 40 C.F.R. § 63.11087(a), the owner or operator a gasoline storage tank with capacity of greater than or equal to 75 cubic meters must "reduce emissions of total organic HAP or total organic compounds ("TOC") by 95 weight-percent with a closed vent system and control device, as specified in 40 C.F.R. § 60.112b(a)(3), or install floating roofs in compliance with Sections 2.(b)-(d) of Table 1.

3.29. In accordance with 40 C.F.R. §§ 63.11087(d) and 63.11093(a), each owner or operator of an affected source subject to NESHAP 6B must submit an Initial Notification as specified in 40 C.F.R. § 63.9(b).

3.30. In accordance with 40 C.F.R. §§ 63.11087(d) and 63.11093(b), each owner or operator of an affected source subject to NESHAP 6B must submit a Notification of Compliance Status as specified in 40 C.F.R. § 63.9(h).

3.31. In accordance with 40 C.F.R. §§ 63.11087(e) and 63.11095(a), each owner or operator of bulk terminal subject to the control requirements of NESHAP 6B must submit to EPA semiannual compliance reports which include, as applicable, for storage vessels, information on compliance depending on the control equipment installed, and for equipment leak inspections, the number of equipment leaks not repaired within 15 days after detection.

2. NESHAP for Gasoline Dispensing Facilities

3.32. Pursuant to Section 112(c) and (k) of the CAA, on January 10, 2008, EPA promulgated Part 63, Subpart CCCCCC ("NESHAP 6C") for Gasoline Dispensing Facilities (GDF), codified at 40 C.F.R. §§ 63.11110-11132. 73 Fed. Reg. 1916. NESHAP 6C applies to the owner or operator of each gasoline dispensing facility, as defined in 40 C.F.R. § 11132, that is located at, or is part of, an area source of HAPs. In accordance with 40 C.F.R. § 63.11113(f)(1), an existing gasoline dispensing facility that is subject to NESHAP 6C only because it loads gasoline into fuel tanks other than those in motor vehicles must comply with applicable standards by January 24, 2014.

3.33. The NESHAP Subpart A provisions that apply to NESHAP 6C are specified in Table 3 of 40 C.F.R. Part 63, Subpart 6C and include the definitions in 40 C.F.R. § 63.2 and the prohibition in 40 C.F.R. § 63.4(a).

3.34. In accordance with 40 C.F.R. §§ 63.11113, 63.11117(e), 63.11124(a)(1), and 63.9(b), the owner or operator of a new or reconstructed GDF subject to NESHAP 6C that commences construction after January 10, 2008, must “submit an Initial Notification that you are subject to [NESHAP 6C]” upon startup of the GDF.

3.35. In accordance with 40 C.F.R. §§ 63.11113, 63.11117(e), 63.11124(a)(2), and 63.9(h), the owner or operator of a new or reconstructed GDF subject to NESHAP 6C must “submit a Notification of Compliance Status to the applicable EPA Regional Office and the delegated State authority” within 60 days of initial startup of the GDF.

3. NESHAP for Stationary Reciprocating Internal Combustion Engines

3.36. Pursuant to Sections 112(c) and (k) of the CAA, on June 15, 2004, EPA promulgated 40 C.F.R. Part 63, Subpart ZZZZ, (“RICE NESHAP”) for Stationary Reciprocating Internal Combustion Engines. 69 Fed Reg. 33,506. The RICE NESHAP applies to the owner or operator of a stationary reciprocating internal combustion engine located at a major or area source of HAP emissions.

3.37. The term “stationary reciprocating internal combustion engine” is defined at 40 C.F.R. § 63.6675 to mean, “any reciprocating internal combustion engine which uses reciprocating motion to convert heat energy into mechanical work and which is not mobile. Stationary RICE differ from mobile RICE in that a stationary RICE is not a non-road engine as defined at 40 C.F.R. § 1068.30, and is not used to propel a motor vehicle or a vehicle used solely for competition.”

3.38. In accordance with 40 C.F.R. § 63.6590(a), the affected source subject to the RICE NESHAP is any existing, new, or reconstructed stationary RICE located at a major or area

source of HAP emissions, excluding stationary RICE being tested at a stationary RICE test cell/stand.

3.39. In accordance with 40 C.F.R. § 63.6590(a)(2)(iii), a stationary RICE located at an area source of HAP emissions is new if you commenced construction of the stationary RICE on or after June 12, 2006.

3.40. In accordance with 40 C.F.R. § 63.6590(a)(3)(iii), a stationary RICE located at an area source of HAP emissions is reconstructed if you meet the definition of reconstruction in 40 C.F.R. § 63.2 and reconstruction is commenced on or after June 12, 2006.

3.41. In accordance with 40 C.F.R. § 63.6590(c), an affected source that is a new or reconstructed stationary RICE located at an area source must meet the requirements of the RICE NESHAP by meeting the requirements of 40 C.F.R. Part 60, Subpart JJJJ, for spark ignition engines. No further requirements apply for such engines under the RICE NESHAP.

B. GENERAL ALLEGATIONS

3.42. Respondent is a corporation doing business in the state of Alaska. Respondent is a "person" as defined in Section 302(c) of the Act, 42 U.S.C. § 7602(c).

i. Bulk Gasoline Distribution Terminal

3.43. At all times relevant to this Consent Agreement, Respondent has owned and operated the Main Tank Farm, located at 100 Sag River Road, Prudhoe Bay, Alaska.

3.44. The Main Tank Farm 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), 7412(a)(3).

3.45. The Main Tank Farm is an "area source" of HAPs as that term is defined in NESHAP 6B, NESHAP 6C, and the RICE NESHAP.

3.46. Respondent commenced operation of a bulk gasoline terminal (“BGT”) at the Main Tank Farm on December 18, 2014.

3.47. Between December 18, 2014, and December 14, 2017, Respondent stored gasoline in eight fixed-roof gasoline storage tanks within the BGT at the Main Tank Farm: Tanks 805A, 805B, 805C, 805D, 806A, 806B, 806C, and 806D. All of the eight tanks were constructed in 2012. All of the eight tanks have a capacity greater than 75 cubic meters, but less than 151 cubic meters.

3.48. Gasoline, as stored in the eight tanks, had a maximum true vapor pressure equal to or greater than 27.6 kPa but less than 76.6 kPa.

3.49. At all times relevant to this Consent Agreement, the BGT had a maximum calculated design throughput for gasoline of greater than 20,000 gallons per day.

3.50. At all times relevant to this Consent Agreement, the BGT received gasoline by cargo tank.

3.51. Gasoline is a volatile organic liquid (“VOL”) as that term is defined by 40 C.F.R. § 60.111b.

3.52. Therefore, at all times relevant to this Consent Agreement, the BGT met the definition of bulk gasoline terminal in 40 C.F.R. § 63.11100 and Respondent operated the BGT at an area source for the purposes of the applicability of 40 C.F.R. Part 63, Subpart 6B.

3.53. Each of the eight tanks were affected facilities subject to the New Source Performance Standard for Volatile Organic Liquid Storage Vessels codified at 40 C.F.R. Part 60, Subpart Kb.

ii. Gasoline Dispensing Facility

3.54. At all times relevant to this Consent Agreement, Respondent has owned and operated a GDF at the Main Tank Farm.

3.55. The GDF is comprised of two gasoline tanks: Tank 703 and Tank 714.

3.56. Tank 703 and Tank 714 were constructed in 1985 and reconstructed in 2011.

3.57. The initial startup of the GDF is November 28, 2011.

3.58. The GDF has a monthly throughput of over 10,000 gallons and less than 100,000 gallons.

3.59. Therefore, the GDF is an affected source subject to the requirement in NESHAP 6C, including the initial notification requirement in 40 C.F.R. §§ 63.11117(e), 63.11124(a)(1), and 63.9(b), and the notification of compliance status requirement in 40 C.F.R. §§ 63.11117(e), 63.11124(a)(2), and 63.9(h).

iii. Stationary Internal Combustion Engines

3.60. At all times relevant to this Consent Agreement, Respondent owned and operated a "Fixed-Base Operator" facility ("FBO") at the Deadhorse Airport in Deadhorse, Alaska. The FBO 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), 7412(a)(3) and an "area source" of HAPs as that term is defined in the RICE NESHAP.

3.61. At all times relevant to this Consent Agreement, Respondent has owned and operated the following three stationary SI ICE: No. 500, No. 506, and No. 507.

3.62. No. 500 is located at the FBO. No. 506 and No. 507 are located at the Main Tank Farm.

3.63. All three engines fire natural gas.

3.64. No. 500 was manufactured in 2000 and reconstructed in 2008. No. 500 has a power output rating of 168 brake horse power. Respondent commenced operation of No. 500 on April 13, 2009.

3.65. No. 506 was manufactured in 2006 and reconstructed in 2014. No. 506 has a power output rating of 292 brake horse power. Respondent commenced operation of No. 506 on January 3, 2010.

3.66. No. 507 was manufactured in 2010 and has a power output rating of 292 brake horse power. Respondent commenced operation of No. 507 on February 9, 2017.

3.67. Therefore, No. 500, No. 506, and No. 507 are subject to the RICE NESHAP and 40 C.F.R. Part 60, Subpart JJJJ.

C. VIOLATIONS

i. New Source Performance Standards

1. Count 1: Standards of Performance for Volatile Liquid Storage Vessels

3.68. Between December 18, 2014 and December 14, 2017, Respondent failed to equip Tanks 805A, 805B, 805C, 805D, 806A, 806B, 806C, and 806D at the BGT with a fixed roof in combination with an internal floating roof meeting the requirements of 40 C.F.R. § 60.112b(a)(1); an external floating roof meeting the requirements of 40 C.F.R. § 60.112b(a)(2); a closed vent system and control device meeting the requirements of 40 C.F.R. § 60.112b(a)(3); or an equivalent system.

3.69. Therefore, Respondent violated 40 C.F.R. 60.112b between December 18, 2014, and December 14, 2017.

2. Counts 2 through 7: Standards of Performance for Stationary Spark Ignition Internal Combustion Engines

3.70. At all times relevant to this Consent Agreement, engines No. 500, No. 506, and No. 507 were subject to the emissions standards in 40 C.F.R. § 60.4233 and the compliance requirements in 40 C.F.R. § 60.4243.

3.71. At no time relevant to this Consent Agreement were engines No. 500, No. 506, or No. 507, certified to the emission standards in 40 C.F.R. § 60.4231(a) through (c).

3.72. Therefore, in accordance with 40 C.F.R. §§ 60.4243(b) and (c) and 60.8(a), engines No. 500, No. 506, and No. 507 were required to comply with the emissions standards in 40 C.F.R. § 60.4233.

3.73. In accordance with 40 C.F.R. §§ 60.4243(c) and (i) and 60.8(a), Respondent was required to conduct an initial performance test on engines No. 500 and No. 506 by no later than 60 days after the engine commenced operation after reconstruction.

3.74. In accordance with 40 C.F.R. §§ 60.4243(b) and 60.8(a), Respondent was required to conduct an initial performance test on engine No. 507 by no later than 180 days after engine startup to demonstrate compliance.

3.75. Between at least October 31, 2013, and January 9, 2018, engine No. 500 failed to meet the emission standards in 40 C.F.R. § 60.4233(f) in violation of 40 C.F.R. §§ 60.4233(f) and 60.4234.

3.76. Between at least October 31, 2013, and January 9, 2018, engine No. 506 failed to meet the emission standards in 40 C.F.R. § 60.4233(f) in violation of 40 C.F.R. §§ 60.4233(e) and 60.4234.

3.77. Between February 9, 2017, and January 9, 2018, engine No. 507 failed to meet the emissions standards in 40 C.F.R. § 60.4233(e) in violation of 40 C.F.R. §§ 60.4233(e) and 60.4234.

3.78. In accordance with 40 C.F.R. §§ 60.4243(c) and (i) and 60.8(a), Respondent was required to conduct an initial performance test on engine No. 500 by no later than 60 days after April 13, 2009.

3.79. Respondent did not conduct an initial performance test on engine No. 500 until February 6, 2018, in violation of 40 C.F.R. § 60.4243(c) and (i) and 60.8(a).

3.80. In accordance with 40 C.F.R. §§ 60.4243(c) and (i) and 60.8(a), Respondent was required to conduct an initial performance test on engine No. 506 by no later than 60 days after 2014.

3.81. Respondent did not conduct an initial performance test on engine No. 506 until February 6, 2018, in violation of 40 C.F.R. § 60.4243(c) and (i) and 40 C.F.R. § 60.8(a).

3.82. In accordance with 40 C.F.R. §§ 60.4243(b) and 60.8(a), Respondent was required to conduct an initial performance test on engine No. 507 by no later than 180 days after February 9, 2017.

3.83. Respondent did not conduct an initial performance test on engine No. 507 until February 6, 2018, in violation of 40 C.F.R. § 60.4243(c) and 40 C.F.R. § 60.8(a).

ii. National Emissions Standards for Hazardous Air Pollutants

1. Counts 8 through 11: NESHAP for Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities

3.84. In accordance with Table 1 to NESHAP 6B and 40 C.F.R. § 63.11087(a), by December 18, 2014, Respondent was required to “reduce emissions of total organic HAP or TOC by 95 weight-percent with a closed vent system and control device, as specified in 40 C.F.R. § 60.112b(a)(3) . . .” or install floating roofs in compliance with Sections 2.(b)-(d) of Table 1 for Tanks 805A, 805B, 805C, 805D, 806A, 806B, 806C, and 806D at the BGT.

3.85. Between December 18, 2014 and December 14, 2017, Respondent failed to reduce emissions of total organic HAP or TOC by 95 weight-percent with a closed vent system and control device, as specified in 40 C.F.R. § 60.112b(a)(3) or install floating roofs in compliance with Sections 2.(b)-(d) of Table 1 for Tanks 805A, 805B, 805C, 805D, 806A, 806B, 806C, and 806D at the BGT in violation of Table 1 to NESHAP 6B and 40 C.F.R. § 63.11087(a).

3.86. In accordance with 40 C.F.R. §§ 63.11087(d), 63.11093(a), and 63.9(b), Respondent was required to submit an Initial Notification for the BGT by January 2, 2015.

3.87. Respondent failed to submit an initial notification until October 10, 2017, in violation of 40 C.F.R. §§ 63.11087(d), 63.11093(a), and 63.9(b).

3.88. In accordance with 40 C.F.R. §§ 63.11087(d), 63.11093(b), and 63.9(h), Respondent was required to submit a Notification of Compliance Status by August 18, 2015

3.89. Respondent failed to submit a notification of compliance status prior to taking Tanks 805A, 805B, 805C, 805D, 806A, 806B, 806C, and 806D out of gasoline service on December 14, 2017.

3.90. In accordance with 40 C.F.R. §§ 63.11087(e) and 63.11095(a), Respondent was required to submit semiannual compliance reports.

3.91. Between December 18, 2014 and December 14, 2017, Respondent failed to submit semiannual compliance reports in violation of 40 C.F.R. §§ 63.11087(e) and 63.11095(a).

2. Counts 12 through 13: NESHAP for Gasoline Dispensing Facilities

3.92. In accordance with 40 C.F.R. §§ 63.11113, 63.11117(e), 63.11124(a)(1), and 63.9 Respondent was required to submit an Initial Notification that the GDF at the Main Tank Farm is subject to NESHAP 6C by November 28, 2011.

3.93. Respondent did not submit an Initial Notification that the GDF at the Main Tank Farm is subject to NESHAP 6C until October 10, 2017 in violation of 63.11113, 63.11117(e), 63.11124(a)(1), and 63.9.

3.94. In accordance with 40 C.F.R. §§ 63.11113, 63.11117(e), 63.11124(a)(2), and 63.9, Respondent was required to submit a Notification of Compliance Status for the GDF at the Main Tank Farm to the applicable EPA Regional Office and the delegated State authority within 60 days of November 28, 2011.

3.95. Respondent did not submit a Notification of Compliance Status for the GDF at the Main Tank Farm until October 10, 2017, in violation of 40 C.F.R. §§ 63.11113, 63.11117(e), 63.11124(a)(2), and 63.9.

3. Counts 14 through 16: NESHAP for Stationary Reciprocating Internal Combustion Engines

3.96. At all times relevant to this Consent Agreement, in accordance with 40 C.F.R. § 63.6590(c), engines No. 500, No. 506, and No. 507 must meet the requirements of the RICE NESHAP by meeting the requirements of 40 C.F.R. Part 60, Subpart JJJJ, for stationary SI ICE.

3.97. The allegations in Paragraphs 3.70 through 3.83 are incorporated by reference and realleged herein.

3.98. Between at least October 31, 2013, and February 6, 2018, engine No. 500 failed to meet the requirements of 40 C.F.R. Part 60, Subpart JJJJ, for stationary SI ICE, and therefore violated 40 C.F.R. § 63.6590(c).

3.99. Between at least October 31, 2013, and February 6, 2018, engine No. 506 failed to meet the requirements of 40 C.F.R. Part 60, Subpart JJJJ, for stationary SI ICE, and therefore violated 40 C.F.R. § 63.6590(c).

3.100. Between February 9, 2017, and February 6, 2018, engine No. 507 failed to meet the requirements of 40 C.F.R. Part 60, Subpart JJJJ, for stationary SI ICE, and therefore violated 40 C.F.R. § 63.6590(c).

Enforcement Authority

3.101. Under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$37,500 per day of violation for violations that occurred after December 6, 2013, through November 2, 2015. Under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$46,192 per day of violation for violations that occurred after November 2, 2015.

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), EPA has taken into account 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 violations as established by any credible evidence, payment by Respondent of penalties previously assessed for the same violations, the economic benefit of noncompliance, the seriousness of the violations, and such other factors as justice may require. After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$171,054 (the "Assessed Penalty").

4.4. Pursuant to 31 U.S.C. § 3717(a)(1) and 40 C.F.R. § 13.11(a)(1), Respondent must pay an annual rate of interest that is equal to the rate of the current value of funds to the United

States Treasury on any portion of the penalty agreed to in Paragraph 4.3 not paid within 30 days of the effective date of this Consent Agreement and Final Order.

4.5. The rate of the current value of funds to the United States Treasury is 1%.

Pursuant to 40 C.F.R. § 13.11(a)(3), the rate of interest, as initially assessed, remains fixed for the duration of the indebtedness.

4.6. Respondent agrees to pay the Assessed Penalty set forth in Paragraph 4.3 in three installments. The first installment of \$57,018 must be paid within 30 days of the effective date of this Consent Agreement and the Final Order. The second installment of \$57,588.18 (consisting of \$57,018 plus \$570.18 in accrued interest) must be paid by April 1, 2019. The third installment of \$57,588.18 (consisting of \$57,018 plus \$570.18 in accrued interest) must be paid by October 1, 2019.

4.7. Payments under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

Respondent must note on the check the title and docket number of this action.

4.8. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.7 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

In the Matter of: Colville, Inc.
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Consent Agreement
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U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 155, ORC-113
Seattle, Washington 98101
(206) 553-1037

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
young.teresa@epa.gov

John Pavitt
U.S. Environmental Protection Agency
Region 10, Alaska Operations Office
Federal Building Room 537
222 West 7th Avenue #19,
Anchorage, Alaska 99513-7588
pavitt.john@epa.gov

4.9. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), to collect the Assessed Penalty under the CAA. In any collection action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

4.10. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, Respondent shall be responsible for payment of the following amounts:

a. Interest. Any unpaid portion of the Assessed Penalty shall bear interest at the rate established pursuant to 26 U.S.C. § 6621(a)(2) from the effective date of the Final Order, provided, however, that no interest shall be payable on any portion of the Assessed Penalty that is paid within 30 days of the effective date of the Final Order contained herein.

b. Attorneys' Fees, Collection Costs, Nonpayment Penalty. Pursuant to 42 U.S.C. § 7413(d)(5), should Respondent fail to pay the Assessed Penalty and interest on a timely basis, Respondent shall also be required to pay 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 ten

percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties accrued from the beginning of such quarter.

4.11. The Assessed Penalty and accrued interest described in Paragraphs 4.3 through 4.6, including any additional costs incurred under Paragraph 4.10, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.12. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.13. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violation(s) alleged in Part III.

4.14. Except as described in Paragraph 4.10, each party shall bear its own costs and attorneys' fees in bringing or defending this action.

4.15. For the purposes of this proceeding, Respondent expressly waives any right to contest the allegations contained in this Consent Agreement and to appeal the Final Order.

4.16. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.17. Respondent consents to the issuance of any specified compliance or corrective action order, to any conditions specified in this Consent Agreement, and to any stated permit action.

4.18. The above provisions in Part IV are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

September 26, 2018

FOR RESPONDENT:




DAVID PFEIFER, President
Colville, Inc.

DATED:

9/26/2018

FOR COMPLAINANT:



EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. CAA-10-2018-0305
)	
COLVILLE, INC.)	FINAL ORDER
)	
Prudhoe Bay, Alaska)	
)	
Respondent.)	
)	

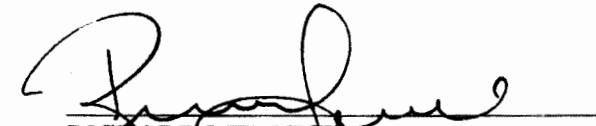
1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has re delegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under the CAA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the CAA and regulations promulgated or permits issued thereunder and any applicable implementation plan requirements.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 27 day of September, 2018.


RICHARD MEDNICK
Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Colville, Inc., Docket No.: CAA-10-2018-0305**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

Brett S. Dugan
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101


Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

David Pfeifer
President
Colville, Inc.
4300 B Street, Suite 308
Anchorage, Alaska 99503

Rachel H. Cox, Esq.
Stoel Rives LLP
600 University Street, Suite 3600
Seattle, Washington 98101

Teresa B. Clemmer, Esq.
Bessenyey & Van Tuyn, LLC
310 K Street, Suite 200
Anchorage, AK 99501

DATED this 27 day of September 2018.



TERESA YOUNG
Regional Hearing Clerk
EPA Region 10