

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF:

TARGA PIPELINE MID-CONTINENT
WESTTEX LLC

DOCKET NO. CAA-06-2020-3382

RESPONDENT

CONSENT AGREEMENT AND FINAL ORDER

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

I. PRELIMINARY STATEMENT

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

2. For the purposes of this proceeding, the Respondent admits the jurisdictional allegations contained herein; however, the Respondent neither admits nor denies the specific factual allegations contained in this CAFO. This CAFO resolves the violations observed in the January 29, 2020 inspection and the associated records review.

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

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

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

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

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

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. PRELIMINARY ALLEGATIONS

8. Respondent is a corporation authorized to do business in the State of Texas.

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

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

11. The Respondent operates a natural gas plant at 38003 FM 1379, Midland, Texas 79706.

12. "Stationary source" is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3 as meaning:

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

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

14. The Respondent is the owner and/or operator of the stationary source identified in Paragraph 11.

15. The following substances are each a “regulated substance”, as set forth in 40 C.F.R. § 68.130: flammable mixtures, propane, butane, pentane, isopentane, isobutane, methane, and ethane.

16. “Process” is defined in 40 C.F.R. § 68.3 as meaning any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of activities. For the purpose of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

17. 40 C.F.R. § 68.130 specifies the following threshold quantities for the regulated substances:

Substance	Threshold Quantity
Flammable Mixture	10,000 lbs.
Propane	10,000 lbs.
Butane	10,000 lbs.

Pentane	10,000 lbs.
Isopentane	10,000 lbs.
Isobutane	10,000 lbs.
Methane	10,000 lbs.
Ethane	10,000 lbs.

18. The Respondent lists one process in its Risk Management Plan with the process number 1000088895.
19. The Respondent has exceeded the threshold quantity for one or more of the regulated flammable substances, which are identified in paragraph 17.
20. “Covered process” is defined in 40 C.F.R. § 68.3 as meaning “a process that has a regulated substance present in more than a threshold quantity as determined under § 68.115.”
21. The process identified in Paragraph 18 is a “covered process” as that term is defined by 40 C.F.R. § 68.3.
22. The covered process identified in Paragraph 18 is subject to the “Program 3” requirements of the RMP regulations and must, among other things, comply with the Program 3 Prevention Program of 40 C.F.R. Part 68, Subpart D.
23. Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d), authorizes EPA to bring an administrative action for penalties that exceed \$369,532¹ and/or the first alleged date of violation occurred more than twelve (12) months prior to the initiation of the action, if the Administrator

¹ The maximum penalty that can be assessed (without a waiver) under Section 113 of the Clean Air Act was increased on January 15, 2020 by the Civil Monetary Penalty Inflation Adjustment Rule codified at 40 C.F.R. Part 19 to \$385,535.

and the United States Attorney General jointly determine that the matter is appropriate for administrative action.

24. EPA and the U.S. Department of Justice have jointly determined that this matter is appropriate for administrative action.

B. VIOLATIONS

Count One – Failure to timely address findings from the Process Hazard Analysis

25. Paragraphs 1 through 24 are incorporated by reference in full.

26. 40 C.F.R. § 68.67(e) provides the owner or operator shall establish a system to promptly address the team's findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible; developed a written schedule of when these actions are to be completed; communicate the actions to the operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.

27. During the inspection and the review of the Process Hazard Analysis (PHA) conducted on August 29, 2017, and September 12-13, 2017, the EPA inspector identified that 6 out of 57 findings and recommendations had not been resolved in a timely manner.

28. Therefore, the Respondent violated 40 C.F.R. § 68.67(e) by failing to resolve in a timely manner the PHA findings and recommendations.

Count Two – Failure to develop and implement a written operation procedure

29. Paragraphs 1 through 24 above are incorporated by reference in full.

30. 40 C.F.R. § 68.69(d) provides that the owner or operator shall develop and

implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process.

31. During the inspection, the EPA inspector identified that the Respondent failed to provide a written operating procedure for flare (FL-900).

32. Therefore, the Respondent violated 40 C.F.R. § 68.69(d) by failing to develop and implement a written operating procedure that provided clear instruction for safely conducting activities involved in a covered process.

Count Three – Failure to annually certify operating procedures

33. Paragraphs 1 through 24 above are incorporated by reference in full.

34. 40 C.F.R. § 68.69(c) provides that the owner or operator shall certify annually that operating procedures are current and accurate.

35. During the inspection, the EPA inspector identified that the Respondent failed to annually certify that operating procedures were current and accurate for 2016, 2017, and 2018.

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

Count Four – Failure to conduct refresher training

37. Paragraphs 1-24 are incorporated by reference in full.

38. 40 C.F.R. § 68.71(b) provides that refresher training shall be provided at least every three years to each employee involved in operating a process.

39. During the inspection, the EPA inspector noted that Respondent failed to conduct refresher training at least every three years for two operators who had worked at the facility for more than three years.

40. Therefore, the Respondent violated 40 C.F.R. § 68.71(b) by failing to conduct refresher training at least every three years to employees involved in operating a process.

III. TERMS OF SETTLEMENT

A. CIVIL PENALTY

41. For the reasons set forth above, the Respondent has agreed to pay a civil penalty of **Eighty-Seven Thousand Two Hundred and Twenty-Two Dollars (\$87,222)**.

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

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

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

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

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 68010727

SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency" with a phone number of (412)
234-4381".

PLEASE NOTE: Docket Number CAA-06-2020-3382 shall be clearly typed on the check or other method of payment to ensure proper credit. If payment is made by check, the check shall also be accompanied by a transmittal letter and shall reference the Respondent's name and address, the case name, and docket number of the CAFO. If payment is made by wire transfer, the wire transfer instructions shall reference the Respondent's name and address, the case name, and docket number of the CAFO. The Respondent shall also send a simultaneous notice of such payment, including a copy of the check and transmittal letter, or wire transfer instructions to the following:

Tony Robledo
Enforcement Officer
Chemical Accident Prevention Section (6ECDAC)
U.S. EPA, Region 6
1201 Elm Street
Dallas, TX 75270

Lorena Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1201 Elm Street
Dallas, TX 75270

The Respondent's adherence to this request will ensure proper credit is given when penalties are received in the Region. The Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States

Treasurer.

43. If the Respondent fails to submit payment within thirty (30) days of the effective

date of this CAFO, the Respondent may be subject to a civil action to collect any unpaid portion of the assessed penalty, together with interest, handling charges, and nonpayment penalties as set forth below.

44. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. *See* 40 C.F.R. § 13.11(b).

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

46. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses,

including but not limited to, attorneys fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent (10%) of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

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

48. The EPA may, in its unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this CAFO.

B. NOTIFICATION

49. Unless otherwise specified elsewhere in this CAFO, whenever notice is required to be given, whenever a report or other document is required to be forwarded by one party to another, or whenever a submission or demonstration is required to be made, it shall be directed to the individuals specified below at the addresses given (in addition to any action specified by law or regulation), unless these individuals or their successors give notice in writing to the other party that another individual has been designated to receive the communication:

Complainant:

Tony Robledo
Enforcement Officer
Chemical Accident Prevention Section (6ECDAC)
U.S. EPA, Region 6
1201 Elm Street
Dallas, TX 75270
Robledo.tony@epa.gov

Respondent:

Targa Pipeline Mid-Continent WestTex LLC
110 W. 7th Street
Suite 2300
Tulsa, Oklahoma 74119

C. COMPLIANCE

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

D. MODIFICATION

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

E. RETENTION OF ENFORCEMENT RIGHTS

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

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

54. Nothing in this CAFO shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate or minimize an actual or threatened release of hazardous substances, pollutants, contaminants, hazardous substances on, at or from the Respondent's facility whether related to

the violations addressed in this CAFO or otherwise. Furthermore, nothing in this CAFO shall be construed or to prevent or limit EPA's civil and criminal authorities, or that of other Federal, State, or local agencies or departments to obtain penalties or injunctive relief under other Federal, State, or local laws or regulations.

55. The Complainant reserves all legal and equitable remedies available to enforce the provisions of this CAFO. In any such action to enforce the provisions of this CAFO, the Respondent shall not assert, and may not maintain, any defense of laches, statute of limitations, or any other equitable defense based on the passage of time. This CAFO shall not be construed to limit the rights of the EPA or United States to obtain penalties or injunctive relief under the Clean Air Act or its implementing regulations, or under other federal or state laws, regulations, or permit conditions.

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

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

Respondent also consents to personal jurisdiction in any action to enforce this CAFO in the appropriate Federal District Court.

58. With respect to this proceeding and with respect to the validity of this CAFO, the Respondent also waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that the Respondent may have with respect to any issue of law or fact set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1).

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

F. COSTS

60. Each party shall bear its own costs and attorney's fees. Furthermore, the Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17.

G. TERMINATION

61. At such time as the Respondent believes it is in compliance with all of the requirements of this CAFO, it may request that EPA concur whether all of the requirements of this CAFO have been satisfied. Such request shall be in writing and shall provide the necessary

documentation to establish whether there has been full compliance with the terms and conditions of this CAFO. EPA will respond to said request in writing within ninety (90) days of receipt of the request. This CAFO shall terminate when all actions required to be taken by this CAFO have been completed, and the Respondents have been notified by the EPA in writing that this CAFO has been satisfied and terminated.

H. General Provisions

62. By signing this Consent Agreement, the undersigned representative of Respondent certifies that it is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party it represents to this Consent Agreement.

63. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon filing of the Final Order by the Regional Hearing Clerk for EPA, Region 6. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

64. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State, and local taxes.

65. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities action for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and

Final Order.

66. The EPA and Respondent agree to the use of electronic signatures for this matter.

The EPA and Respondent further agree to electronic service of this Consent Agreement and Final Order, pursuant to 40 C.F.R. § 22.6, by email to the following addresses:

To EPA:

Trawick.Matthew@epa.gov


To Respondent:

JPabon@targaresources.com

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

FOR THE RESPONDENT:

Date: 1-29-2021



Targa Pipeline Mid-Continent WestTex LLC JP
Clark White
Executive Vice President

FOR THE COMPLAINANT:

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
EPA – Region 6

FINAL ORDER

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

Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order was delivered to the Regional Hearing Clerk, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270-2102, and that a true and correct copy was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

Trawick.Matthew@epa.gov

Copy via Email to Respondent:

JPabon@targaresources.com

Office of Regional Counsel
U.S. EPA Region 6, Dallas, Texas