

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

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<b>In the Matter of:</b>	)	<b>EPA Docket No. CAA-03-2014-0215</b>
<b>Chevron Appalachia, LLC</b>	)	
<b>1550 Coraopolis Heights Road</b>	)	
<b>Moon Township, PA 15108</b>	)	
	)	<b>Proceedings Pursuant to Sections 112(r)</b>
<b>Respondent.</b>	)	<b>and 113 of the Clean Air Act,</b>
	)	<b>42 U.S.C. §§ 7412(r) and 7413</b>
	)	
<b>Chevron Appalachia, LLC</b>	)	
<b>715 Old Ridge Road</b>	)	
<b>Avella, PA 15312</b>	)	
	)	
<b>Facility.</b>	)	
<hr/>		

**CONSENT AGREEMENT**

**STATUTORY AUTHORITY**

This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA” or the “Agency”) by Section 113 of the Clean Air Act (“CAA”), as amended, 42 U.S.C. § 7413, and under the authority of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. The Administrator has delegated these authorities to the Regional Administrator, who has, in turn, delegated them to the Director, Hazardous Site Cleanup Division.

The parties agree to the commencement and conclusion of this cause of action by issuance of this Consent Agreement and Final Order (referred to collectively herein as “CA/FO”) as prescribed by the Consolidated Rules of Practice pursuant to 40 C.F.R. § 22.13(b), and having consented to entry of this CA/FO, agree to comply with the terms of this CA/FO.

**JURISDICTION**

1. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. §§ 22.1(a)(7) and 22.1(a)(8).

2. The Regional Judicial Officer has the authority to approve this settlement and conclude this proceeding pursuant to 40 C.F.R. §§ 22.4(b) and 22.18(b)(3).

3. For the purpose of this proceeding, Respondent admits to the jurisdictional allegations in this Consent Agreement and agrees not to contest EPA's jurisdiction with respect to the execution or enforcement of this Consent Agreement.

4. With the exception of Paragraph 3, above, for purposes of this proceeding, Respondent neither admits nor denies factual allegations set forth in this Consent Agreement, but expressly waives its rights to contest said allegations.

#### **EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW**

5. EPA's understanding based on information received from Respondent is that Chevron U.S.A. Inc. ("CUSA") acquired Atlas Energy, Inc. and several of its subsidiaries, including Atlas America, LLC effective February 17, 2011 pursuant to a merger agreement. Atlas America, LLC changed its name to Chevron Appalachia, LLC and is a Pennsylvania limited liability company with a main office at 1550 Coraopolis Heights Road, Moon Township, PA 15108. Prior to the merger, the Cowden 47H well was operated by Atlas Resources, LLC, which was not acquired by, and is unaffiliated with, CUSA or any of its affiliates.

6. At all times since February 17, 2011, Respondent has been the owner and/or operator of a natural gas production facility located at 715 Old Ridge Road, Avella, Pennsylvania 15312 (the "Facility").

7. On September 28, 2011, EPA conducted an inspection of the Facility to ensure compliance with Section 112(r)(1) of the CAA, 42 U.S.C. §7412(r)(1), also known as the "General Duty Clause."

8. EPA requested information from Respondent on October 20, 2011, January 31, 2012, February 13, 2012, February 15, 2012, April 30, 2012, May 2, 2012, June 13, 2012 and January 11, 2013.

9. Chevron submitted responses dated October 31, 2011, March 2, 2012, May 16, 2012, June 21, 2012 and March 8, 2013 detailing the actions it has taken since the inspection to bring the Facility into compliance with the CAA.

#### **EPA'S FINDINGS OF FACT RELATED TO THE VIOLATIONS OF SECTION 112(r)(1) OF THE CLEAN AIR ACT**

10. The findings of fact contained in Paragraphs 5 through 9 of this CA/FO are incorporated by reference herein as though fully set forth at length.

11. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Clean Air Act Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r).

12. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), the owners and operators of stationary sources producing, processing, handling or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur. Section 112(r)(1) is hereinafter referred to herein as the “General Duty Clause.”

13. An extremely hazardous substance is any chemical which may, as a result of short-term exposures because of releases to the air, cause death, injury or property damage due to its toxicity, reactivity, flammability, volatility or corrosivity. [Senate Comm. of Environment and Public Works, Clean Air Act Amendments of 1989, Senate Rep. No. 228, 101<sup>st</sup> Cong., 1<sup>st</sup> Sess. 211 (1989).] Extremely hazardous substances include, but are not limited to, regulated substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), at 40 C.F.R. § 68.130, and chemicals on the list of extremely hazardous substances published under the Emergency Planning and Community Right to Know Act, 42 U.S.C. § 11001 *et seq.*, at 40 C.F.R. Part 355, Appendices A and B.

14. Section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B), as amended by the Debt Collection Improvement Act of 1996, authorizes EPA to commence an administrative action to assess civil penalties of not more than \$37,500 per day for each violation of Section 112(r) of the CAA that occurs after January 12, 2009.

15. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines “stationary source,” in part, as 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.

16. The Facility consists of the Cowden 47H well, a gas production unit for the 47H well, and four 210-barrel storage tanks equipped with Enardo thief hatches. According to information provided by Respondent, three of the tanks stored natural gas condensate and one stored water/brine.

17. Natural gas condensate is a flammable mixture (CAS No. 00-11-11). According to information obtained from Respondent, natural gas liquid condensate from the Facility includes hexane, toluene, xylene, ethylbenzene and benzene. According to the observations of the inspectors, on the day of the inspection, the total amount of condensate in the three storage tanks designated as condensate totaled 63 barrels (17,848 pounds).

18. Complainant determined, based on its review of information obtained from Respondent pertaining to the Facility, that Respondent failed to satisfy the requirements of the General Duty Clause with respect to the storage and handling of its extremely hazardous

substances. Respondent failed to design and maintain a safe facility because the design was not as protective as industry codes and standards. Specifically, Respondent failed to comply with the General Duty Clause as follows:

a. Respondent failed to provide emergency venting in accordance with National Fire Protection Association (NFPA) 30, Section 22.7.1.1, and American Petroleum Institute (API) 12F, Section 6.2 or equivalent protections. The Facility had three 210-barrel condensate tanks co-located with two other tanks owned and operated by Atlas within an earthen berm. At the inspection, EPA observed that the condensate tanks had in-breathing/out-breathing 8-inch thief hatches and other vent piping but lacked pressure-relieving devices such as emergency vents designed for fire exposure.

b. Respondent failed to maintain venting devices on tanks storing Class IA liquids (i.e., condensate) in the normally-closed position when venting under pressure or vacuum conditions, in accordance with NFPA 30, Section 21.4.3.6, and failed to maintain the thief hatches in accordance with manufacturer's maintenance instructions.

i. Inspectors observed that the 2-inch blowdown line connected to the tank vent line was locked in the open position, venting to the atmosphere.

ii. Enardo Model 660 Spring Loaded Hatch Installation and Maintenance Instructions, Section II, states: "Scheduled maintenance should be performed every 3 months and more frequently in corrosive or dusty atmospheres. Normal maintenance requires the pressure gaskets and vacuum gaskets to be inspected. Under average operating conditions the pressure and vacuum gaskets should be replaced once a year. . . . If the hatch is continually relieving, the user should be alerted that there is a problem; at that time, a close inspection should be made to determine the cause." Inspectors observed that all top connector gaskets were cracked, torn or separated from the joint flange. Inspectors observed that the condensate tank thief hatches were leaking on all tanks, which the inspectors measured at 13,000 parts per million (ppm) at the vent piping at Tank 47-1.

c. Respondent failed to provide documentation which designates the hazardous classification areas around the tanks and process equipment, in accordance with NFPA 70, Section 500.4(a).

19. On March 8, 2013, Respondent submitted its response to EPA correspondence dated January 11, 2013. This response reiterated that the well at the Site has been shut in (no longer in operation) since May 18, 2011 and the tanks were emptied and all associated valves were closed on June 8, 2012. Further, the March 8, 2013 correspondence reported that, on June 20, 2012, Chevron contractors cleaned and flushed all four tanks, the Gas Processing Unit ("GPU") and associated piping. On February 15, 2013, Chevron contractors disconnected and installed blind flanges or plugs on the lines from the wellhead to the GPU and from the GPU to the tanks and to the sales line. Chevron currently has no plans to resume production at the Facility.

**EPA'S CONCLUSIONS OF LAW RELATED TO THE  
VIOLATION OF SECTION 112(r)(1) OF THE CLEAN AIR ACT**

20. The findings of fact contained in Paragraphs 5 through 19 of this CA/FO are incorporated by reference herein as though fully set forth at length.

21. Natural gas condensate is an extremely hazardous substance for purposes of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

22. At all times relevant to this Consent Agreement, natural gas condensate was present at the Facility and allowed to vent into the atmosphere.

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

24. At all times relevant to this Consent Agreement, Respondent has been the owner and/or operator of the Facility.

25. The Facility is a "stationary source," as the term is defined at 42 U.S.C. § 7412(r)(2)(C).

26. Respondent is subject to the requirements of Section 112(r)(1) of the CAA, 40 U.S.C. § 7412(r)(1), because it is the owner and/or operator of a stationary source.

27. Respondent has violated Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), by failing to design and maintain a safe facility. Respondent is, therefore, subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

**SETTLEMENT**

28. In full and final settlement and resolution of all allegations referenced in the foregoing Findings of Fact and Conclusions of Law, and in full satisfaction of all civil penalty claims pursuant thereto, for the sole purpose of this proceeding, Respondent consents to the assessment of a civil penalty for the violation of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), as set forth above, in the amount of **\$6,866.00**.

29. Respondent consents to the issuance of this Consent Agreement, and consents for purposes of settlement to the payment of the civil penalty cited in the foregoing paragraph.

**PAYMENT TERMS**

30. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with the civil penalties described in this CA/FO, Respondent shall pay the civil penalty of **\$6,866.00** no later than **thirty (30) days** after the effective date of the Final Order by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Numbers of this action, *i.e.*, **CAA-03-2014-0215**.
- b. All checks shall be made payable to **United States Treasury**;
- c. All payments made by check and sent by regular mail shall be addressed to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000  
Contact: Heather Russell, 513-487-2044

- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA, Fines & Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101  
Contact: 314-418-1028

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed 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

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver  
 ABA = 051036706  
 Account No.: 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 or REX, 1-866-234-5681

- h. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV  
 Enter sfo 1.1 in the search field. Open and complete the form.

- i. Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

31. Respondent shall submit copies of the check, or verification of wire transfer or ACH, to the following persons:

Lydia Guy  
 Regional Hearing Clerk (3RC00)  
 U.S. EPA, Region III  
 1650 Arch Street  
 Philadelphia, Pennsylvania 19103-2029

Suzanne Parent  
 Associate Regional Counsel (3RC42)  
 U.S. EPA, Region III  
 1650 Arch Street  
 Philadelphia, Pennsylvania 19103-2029

32. The CAA civil penalty stated herein is based upon Complainant’s consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and is consistent with 40 C.F.R. Part 19 and the *Combined Enforcement Response Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68* (June 2012).

33. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to 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, as more fully described below. Accordingly, Respondent’s failure to make timely payment by the final due date or to comply with the conditions of this CA/FO shall result in the assessment of late payment charges, including interest beyond that required by this CA/FO, penalties and/or administrative costs of handling delinquent debts.

34. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this CA/FO is mailed or hand-delivered to Respondent. 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).

35. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). Pursuant to Appendix B of EPA's *Resource Management Directives – Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the final due date and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid.

36. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days in accordance with 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent, in accordance with 31 C.F.R. § 901.9(d).

37. Failure of Respondent to pay the penalty assessed by the Final Order in full by the final due date may subject Respondent to a civil action to collect the assessed penalties, plus interest, pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

#### **GENERAL PROVISIONS**

38. By entering into this CA/FO, Respondent does not admit any liability for the civil claims alleged herein.

39. For purposes of this proceeding, Respondent expressly waives its right to hearing and to appeal the Final Order pursuant to Section 113 of the CAA, 42 U.S.C. § 7413.

40. Respondent certifies by the signing of this CA/FO that, to the best of its knowledge, the Facility is presently in compliance with all requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

41. The provisions of this CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this Consent Agreement on behalf of the Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind said Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.


42. This CA/FO does not constitute a waiver, suspension or modification of the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r) or any regulations promulgated thereunder.



43. This CA/FO is a complete and final settlement of all civil and administrative claims and causes of action set forth in this CA/FO for alleged violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). Nothing herein shall be construed to limit the authority of EPA to undertake action against any person, including the Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nothing in this CA/FO shall be construed to limit the United States' authority to pursue criminal sanctions.


44. Each party to this action shall bear its own costs and attorney's fees.

FOR CHEVRON APPALACHIA, LLC.

  
\_\_\_\_\_  
Signature  
Name: A. N. HEARNE  
Title: VP APPALACHIA MICHIGAN SU

8/11/2014  
\_\_\_\_\_  
Date

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION III

  
Cecil Rodrigues, Director  
Hazardous Substances Cleanup Division

3/20/2014  
Date

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

<b>In the Matter of:</b>	)	<b>EPA Docket No. CAA-03-2014-0215</b>
<b>Chevron Appalachia, LLC</b>	)	
<b>1550 Coraopolis Heights Road</b>	)	
<b>Moon Township, PA 15108</b>	)	
	)	<b>Proceedings Pursuant to Sections 112(r)</b>
<b>Respondent.</b>	)	<b>and 113 of the Clean Air Act,</b>
	)	<b>42 U.S.C. §§ 7412(r) and 7413</b>
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<b>Chevron Appalachia, LLC</b>	)	
<b>715 Old Ridge Road</b>	)	
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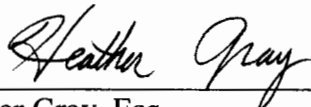
**FINAL ORDER**

Pursuant to Section 113 of the Clean Air Act, 42 U.S.C. § 7413, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," codified at 40 C.F.R. Part 22, and based on the representations in the Consent Agreement, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is ordered to comply with the terms of the referenced Consent Agreement.

**Effective Date**

This Final Order shall become effective upon the date of its filing with the Regional Hearing Clerk.

Date: 8-25-14

  
\_\_\_\_\_  
Heather Gray, Esq.  
Regional Judicial Officer/Presiding Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
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<b>Chevron Appalachia, LLC</b>	)	
<b>715 Old Ridge Road</b>	)	
<b>Avella, PA 15312</b>	)	
	)	
<b>Facility.</b>	)	
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**CERTIFICATE OF SERVICE**

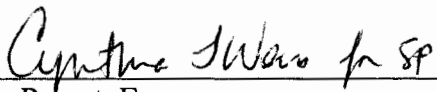
I hereby certify that the original and one copy of the foregoing Consent Agreement and Final Order ("CAFO") in the above-captioned matter have been filed with the EPA Region III Regional Hearing Clerk and that a copy of the CAFO was sent via UPS to:

David Kurland, Senior Counsel, Environmental & Safety Law Group  
Law Department  
Chevron, U.S.A. Inc.  
1400 Smith Street, 5<sup>th</sup> Floor  
Houston, TX 77002

I further certify that I have sent a copy of the CAFO by electronic pdf to Respondent's Counsel, David Kurland, on this day.

**AUG 25 2014**

Date

  
\_\_\_\_\_  
Suzanne Parent, Esq.  
U.S. Environmental Protection Agency, Region III

