

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<p><b>In the Matter of:</b></p> <p><b>Gladieux Processing, LLC</b> <b>Fort Wayne, Indiana,</b></p> <p><b>Gladieux Trading and Marketing, L.P.</b> <b>Indianapolis, Indiana</b></p> <p><b>Respondents</b></p>	<p>)</p>	<p><b>Proceeding to Assess a Civil Penalty Under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d)</b></p> <p><b>Docket No.</b> <u>CAA-05-2023-0018</u></p>
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**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 Act), 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, for violations of Section 112(r) of the Act, 42 U.S.C. § 7412(r), and the implementing regulations at 40 C.F.R. Part 68.
  
2. Complainant is the Director of the Compliance Assurance and Enforcement Division, United States Environmental Protection Agency (EPA), Region 5, Chicago, Illinois.
  
3. The Respondents are Gladieux Processing, LLC, an Indiana limited liability company doing business in the State of Indiana; and Gladieux Trading and Marketing, L.P., an Indiana limited partnership doing business in the State of Indiana (Respondents).

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 respective interests and in the public interest.

6. Each 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. Each Respondent admits the jurisdictional allegations in this CAFO, and neither admits nor denies the factual allegations in the CAFO.

8. Each Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of review under Section 113(d)(4) of the Act, 42 U.S.C. § 7413(d)(4), and under 40 C.F.R. § 22.15(c), its right to seek federal judicial review of the CAFO pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-06, any right to contest the allegations in this CAFO, and its right to appeal this CAFO. Each Respondent also consents to the issuance of this CAFO without further adjudication.

9. The Administrator of the EPA (the Administrator) may assess a civil penalty of up to \$55,808 per day of violation up to a total of \$446,456 for each violation of Section 112(r) of the Act that occurred after November 2, 2015, where penalties are assessed on or after January 6, 2023. CAA Section 113(d)(1), 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

10. Section 113(d)(1) of the Act 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.

11. 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.

**Statutory and Regulatory Background**  
**Clean Air Act, Subsection 112(r)**

12. Section 112(r)(1) of the Act, 42 U.S.C. § 7412(r)(1), provides that it shall be the objective of the regulations and programs authorized under this subsection to prevent the accidental release and to minimize the consequences of any such release of any substance listed pursuant to Section 112(r)(3), or any other extremely hazardous substance.

13. Section 112(r)(3) of the Act, 42 U.S.C. § 7412(r)(3), provides that the Administrator shall promulgate, not later than 24 months after November 15, 1990, an initial list of 100 substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment.

14. Section 112(r)(7)(A) of the Act, 42 U.S.C. § 7412(r)(7)(A), provides that in order to prevent accidental releases of regulated substances, the Administrator is authorized to promulgate release prevention, detection, and correction requirements which may include monitoring, record-keeping, reporting, training, vapor recovery, secondary containment, and other design, equipment, work practice, and operational requirements.

15. Section 112(r)(7)(B)(i) of the Act, 42 U.S.C. § 7412(r)(7)(B)(i), provides that within 3 years after November 15, 1990, the Administrator shall promulgate reasonable regulations and appropriate guidance to provide, to the greatest extent practicable, for the prevention and detection of accidental releases of regulated substances and for response to such releases by the owners or operators of the sources of such releases.

16. Section 112(r)(7)(B)(ii) of the Act, 42 U.S.C. § 7412(r)(7)(B)(ii), provides that the regulations under this subparagraph shall require the owner or operator of stationary sources at which a regulated substance is present in more than a threshold quantity to prepare and implement a Risk Management Plan (RMP) to detect and prevent or minimize accidental releases of such substances from the stationary source, and to provide a prompt emergency response to any such releases in order to protect human health and the environment.

17. Pursuant to Section 112(r) of the Act, 42 U.S.C. § 7412(r), the Administrator initially promulgated a list of regulated substances, with threshold quantities for applicability, at 59 Fed. Reg. 4478 (January 31, 1994), which have since been codified, as amended, at 40 C.F.R. § 68.130.

#### **40 C.F.R. Part 68: Chemical Accident Prevention Provisions**

18. Pursuant to Section 112(r) of the Act, 42 U.S.C. § 7412(r), the Administrator promulgated “Accidental Release Prevention Requirements: Risk Management Programs Under Clean Air Act Section 112(r)(7),” 61 Fed. Reg. 31668 (June 20, 1996), which were codified, and amended, at 40 C.F.R. Part 68: Chemical Accident Prevention Provisions (“the CAPP”).

19. Section 112(r)(7)(E) of the Act, 42 U.S.C. § 7412(r)(7)(E), provides that after the effective date of any regulation or requirements promulgated pursuant to Section 112(r) of the

Act, it shall be unlawful for any person to operate any stationary source in violation of such regulation or requirement.

20. Section 68.10(a) of the CAPP provide, in part, that the owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined under 40 C.F.R. § 68.115, shall comply with the requirements of the CAPP no later than the date on which a regulated substance is first present above a threshold quantity in a process.

21. Section 112(a)(9) of the Act, 42 U.S.C. § 7412(a)(9), defines “owner or operator” as “any person who owns, leases, operates, controls or supervises a stationary source.”

22. Section 302(e) of the Act, 42 U.S.C. § 7602(e), provides that the term “person” includes an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

23. “Stationary source” is defined to mean “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.” 40 C.F.R. § 68.3.

24. Section 68.3 of the CAPP provides that “process” means “any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities.” For purposes of this definition, a single process includes “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... .” A “covered

process” means a process that has a regulated substance present in more than a threshold quantity as determined under 40 C.F.R. § 68.115. 40 C.F.R. § 68.3.

25. Section 68.3 of the CAPP provides that “regulated substance” means any substance listed pursuant to Section 112(r)(3) of the Act at 40 C.F.R. § 68.130.

26. Table 1 at Section 68.130(a) of the CAPP lists ammonia (anhydrous) as a regulated toxic substance with a threshold quantity of 10,000 pounds.

27. Under Section 112(r)(3) of the Act, 42 U.S.C. § 7412(r)(3), the Administrator has listed anhydrous ammonia, CAS No. 7664-41-7, as a substance which, in the case of an accidental release, is known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. The Administrator has further identified a threshold quantity of 10,000 lbs. of anhydrous ammonia for determining whether sources are subject to the Risk Management Program. 40 C.F.R. § 68.130, Table 1.

28. Table 1 at Section 68.130(a) of the CAPP lists sulfur dioxide as a regulated toxic substance with a threshold quantity of 5,000 pounds.

29. Under Section 112(r)(3) of the Act, 42 U.S.C. § 7412(r)(3), the Administrator has listed sulfur dioxide, CAS No. 7446-09-5, as a substance which, in the case of an accidental release, is known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. The Administrator has further identified a threshold quantity of 5,000 lbs. of sulfur dioxide for determining whether sources are subject to the Risk Management Program. 40 C.F.R. § 68.130, Table 1.

30. Table 3 at Section 68.130(a) of the CAPP lists hydrogen, butane, pentane, isopentane, and isobutane as regulated flammable substances with a threshold quantity of 10,000 pounds each.

31. Under Section 112(r)(3) of the Act, 42 U.S.C. § 7412(r)(3), the Administrator has listed hydrogen (CAS No. 1333-74-0), butane (CAS No. 106-97-8), pentane (CAS No. 109-66-0), isopentane (CAS No. 78-78-4), and isobutane (CAS No. 75-28-5) as substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. The Administrator has further identified a threshold quantity of 10,000 lbs. of each of these substances for determining whether sources are subject to the Risk Management Program. 40 C.F.R. § 68.130, Table 3.

32. A flammable substance is a “regulated substance” under the Program regulations as defined in 40 C.F.R. § 68.115 and 40 C.F.R. § 68.3.

33. 40 C.F.R. § 68.115 provides that a threshold quantity of a regulated substance listed in § 68.130 is present at a stationary source if the total quantity of the regulated substance contained in a process exceeds the threshold. With exceptions that do not apply here, § 68.115 also treats the entire weight of a flammable mixture as a regulated substance if the concentration of a flammable substance is one percent or greater by weight of the mixture unless there is a demonstration as set forth in that section that the mixture itself does not have a National Fire Protection Association flammability hazard rating of 4.

34. 40 C.F.R. § 68.12(a) requires that the owner or operator of a stationary source subject to 40 C.F.R. Part 68 shall submit a single RMP, as provided in 40 C.F.R. §§ 68.150 through 68.185.

35. Each process in which a regulated substance is present in more than a threshold quantity (a “covered process”) is subject to one of three risk management programs. See 40 C.F.R. § 68.10(g)-(i).

36. Section 68.10(i) of the CAPP provides, in part, that a covered process is subject to Program 3 requirements if the process does not meet the requirements of 40 C.F.R. § 68.10(g) and if either of the following conditions is met: The process is in NAICS codes 32211, 32411, 32511, 325188, 325192, 325199, 325211, or 32532; or the process is subject to the U.S. Occupational Safety and Health Administration (OSHA) process safety management standard, 29 C.F.R. § 1910.119.

37. 40 C.F.R. § 68.12(d) requires that, in addition to meeting the general requirements of 40 C.F.R. § 68.12(a), the owner or operator of a stationary source with a process subject to Program 3 shall meet additional requirements identified at 40 C.F.R. § 68.12(d).

38. The Program 3 requirements at 40 C.F.R. § 68.12(d) include developing and implementing a management system as provided in § 68.15; conducting a hazard assessment as provided in §§ 68.20 through 68.42; implementing the prevention requirements of §§ 68.65 through 68.87; coordinating response actions with local emergency planning and response agencies as provided in § 68.93; developing and implementing an emergency response program, and conducting exercises, as provided in §§ 68.90 to 68.96; and submitting as part of the RMP the data on prevention program elements for Program 3 processes as provided in § 68.175. See 40 C.F.R. § 68.12(d).

**Factual Allegations and Alleged Violations**

39. At all times relevant to this CAFO, Respondent Gladieux Processing, LLC has operated at a facility located at 4761 North United States Highway 24 East, Huntington, Indiana (“the Facility”).

40. The Facility consists of buildings, structures, equipment, installations or substances 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. The Facility is thus a Stationary Source as defined at 40 C.F.R. § 68.3 and Section 111(a)(3) of the Act, 42 U.S.C. § 7411(a)(3).

41. Respondent Gladieux Processing, LLC is an association and is therefore a “person,” as defined at Section 302(e) of the Act, 42 U.S.C. § 7602(e).

42. For purposes of the requirements at 40 C.F.R. Part 68, Respondent Gladieux Processing, LLC is an "owner or operator" of the Facility, as that term is defined at Section 112(a)(9) of the Act.

43. At all times relevant to this CAFO, Respondent Gladieux Trading and Marketing, L.P. has also operated at the Facility.

44. Respondent Gladieux Trading and Marketing, L.P. is a partnership and is therefore a “person,” as defined at Section 302(e) of the Act, 42 U.S.C. § 7602(e).

45. For purposes of the requirements at 40 C.F.R. Part 68, Respondent Gladieux Trading and Marketing, L.P. is an “owner or operator” of the Facility, as that term is defined at Section 112(a)(9) of the Act.

46. The Respondents are under common control.

47. At all times relevant to this CAFO, the Respondents refined transmix at the Facility. Transmix is a mixture of refined products such as gasoline, diesel and/or jet fuel that results when refined materials are transported in pipelines. The intermingling of products at portions of

a pipeline stream can result in material of uncertain quality that is collected and sent to a transmix refinery to be re-separated.

48. The Respondents store and use anhydrous ammonia, a “regulated substance” under Section 112(r)(3) of the Act and 40 C.F.R. § 68.3, at the facility as part of the refining operations at the Facility.

49. The Respondents store and use sulfur dioxide, a “regulated substance” under Section 112(r)(3) of the Act and 40 C.F.R. § 68.3, at the facility as part of the refining operations at the Facility.

50. Respondents store and use hydrogen, a “regulated substance” under Section 112(r)(3) of the Act and 40 C.F.R. § 68.3, at the Facility as part of the refining operations at the Facility.

51. Respondents also store and use a mixture of regulated flammable substances, which are a “regulated substance” under Section 112(r)(3) of the Act and 40 C.F.R. § 68.3, at the Facility as part of the refining operations at the Facility.

52. Respondents’ storage and use of anhydrous ammonia, sulfur dioxide, hydrogen, and the flammable mixture at the Facility are each a “process,” as that term is defined at 40 C.F.R. § 68.3.

53. The Respondents operated a refining process at the Facility that contains more than 10,000 pounds of anhydrous ammonia, 5,000 pounds of sulfur dioxide, and 10,000 pounds of hydrogen, at the Facility since prior to May 1, 2017; and that contains more than 10,000 pounds of a mixture of other flammable substances at the Facility seasonally since February 28, 2005.

54. The Risk Management Program regulations apply to Respondents' Facility as a stationary source with a process that contains more than a threshold quantity of a regulated substance. See 40 C.F.R. § 68.10(a).

55. Respondents' refining process does not meet the eligibility requirements for Program 1 under 40 C.F.R. § 68.10(g) and is subject to the OSHA process safety management standard. The process involves ammonia and sulfur dioxide above the threshold quantity in 29 C.F.R. § 1910.119 Appendix A, that meets the criteria at 29 C.F.R. § 1910.119(a)(1)(i); and also involves hydrogen as a flammable liquid that meets the criteria at 29 C.F.R. § 1910.119(a)(1)(ii), as well as a mixture of other flammable substances, which is a flammable liquid, that also meets that (a)(1)(ii) criteria. *See* 29 C.F.R. § 1910.119(a). Therefore, Respondents' refining process is subject to Program 3, pursuant to 40 C.F.R. § 68.10(i), and must meet the requirements of Program 3 set forth at 40 C.F.R. 68.12(d).

56. The Respondents submitted an initial RMP on May 1, 2017. The Respondents resubmitted an RMP on October 7, 2019 and February 28, 2022.

57. On July 11, 2018, an authorized representative of EPA conducted an inspection of the Facility to determine Respondents' compliance with the Risk Management Program regulations.

58. The inspection conducted by EPA confirmed that the Facility has more than a threshold amount of anhydrous ammonia, sulfur dioxide, hydrogen, and the mixture of flammable substances.

59. The inspection conducted by EPA also identified the alleged violations of CAPP requirements at the Facility described below in paragraphs 60–102 of this CAFO.

Process Safety Information (40 C.F.R. § 68.65)

60. The Facility failed to document safe upper and lower limits of the technology of the process as required under 40 C.F.R. § 68.65(c)(1)(iv).

61. The Facility failed to document the consequences of deviations of the technology of the process as required under 40 C.F.R. § 68.65(c)(1)(v).

62. The Facility failed to have accurate Piping and Instrumentation Diagrams, including block valves and safety relief valves, as required under 40 C.F.R. § 68.65(d)(1)(ii).

63. The Facility failed to document the design code and standards employed for the pressure relief valves on the sulfur dioxide storage tank as required under 40 C.F.R. § 68.65(d)(1)(iv).

64. The Facility failed to document the design codes and standards for the equipment in the process as required under 40 C.F.R. § 68.65(d)(1)(vi).

65. The Facility failed to document the safety systems for the equipment in the process as required under 40 C.F.R. § 68.65(d)(1)(viii).

Process Hazard Analysis (40 C.F.R. § 68.67)

66. The Facility failed to include the hazards in the process inherent in the standard operating procedures during the Process Hazard Analysis (PHA) as required under 40 C.F.R. § 68.67(c)(1).

67. The Facility failed to complete initial PHA recommendations in a timely manner of the Hydrotreater process as required under 40 C.F.R. § 68.67(e).

68. The Facility failed to complete initial PHA recommendations in a timely manner of the sulfur removal and conversion process developed by ThioSolv LLC known as the SWAATS process (the SWAATS process) as required under 40 C.F.R. § 68.67(e).

#### Operating Procedures (40 C.F.R. § 68.69)

69. The Facility failed develop and implement complete and accurate written operating procedures for conducting activities covered in the process including procedures for emergency shutdown and sampling hazardous streams as required under 40 C.F.R. § 68.69(a).

70. The Facility failed to include consequences of deviation from operating limits in operating procedures for the process as required under 40 C.F.R. § 68.69(a)(2).

71. The Facility failed to include safety and health considerations in operating procedures for the process as required under 40 C.F.R. § 68.69(a)(3).

#### Training (40 C.F.R. § 68.71)

72. The Facility failed to train each employee in an overview of the process and in the operating procedures including emergency shutdown and safe work practices as required under 40 C.F.R. § 68.71(a)(1).

73. The Facility failed to document employee training including ascertaining that the employee understood the training as required under 40 C.F.R. § 68.71(c).

#### Mechanical Integrity (40 C.F.R. § 68.73)

74. The Facility failed to include pressure vessels and storage tanks in the mechanical integrity program as required under 40 C.F.R. § 68.73(a)(1).

75. The Facility failed to include piping systems in the mechanical integrity program as required under 40 C.F.R. § 68.73(a)(2).

76. The Facility failed to include the anhydrous ammonia storage tank Pressure Safety Valves (PSVs) in the mechanical integrity program as required under 40 C.F.R. § 68.73(a)(3).

77. The Facility failed to include the emergency shutdown systems in the mechanical integrity program as required under 40 C.F.R. § 68.73(a)(4).

78. The Facility failed to include controls (including monitoring devices and sensors, alarms and interlocks) in the mechanical integrity program as required under 40 C.F.R. § 68.73(a)(5).

79. The Facility failed to include the hydrogen storage process in the mechanical integrity program as required under 40 C.F.R. § 68.73.

80. The Facility failed to train each employee involved in maintaining the on-going integrity of process equipment as required under 40 C.F.R. § 68.73(c).

81. The Facility failed to include the required information in the documentation of inspections performed on process equipment as required under 40 C.F.R. § 68.73(d)(4).

#### Management of Change (40 C.F.R. § 68.75)

82. The Facility failed to implement the written management of change (MOC) procedures as required under 40 C.F.R. § 68.75(a).

83. The Facility failed to address the technical basis for the changes addressed in the August 7, 2017 MOC as required under 40 C.F.R. § 68.75(b)(1).

84. The Facility failed to address the impact of the changes addressed in the August 7, 2017 MOC on safety and health as required under 40 C.F.R. § 68.75(b)(2).

85. The Facility failed to have proper authorization for the changes in the August 7, 2017 MOC prior to enacting those changes as required under 40 C.F.R. § 68.75(b)(5).

86. The Facility failed to inform employees and contractors in operating and maintenance affected by the change documented in the August 7, 2017 MOC prior to the start-up of the process as required under 40 C.F.R. § 68.75(c).

87. The Facility failed to update process safety information from the change documented in the August 7, 2017 MOC as required under 40 C.F.R. § 68.75(d).

88. The Facility failed to update operating procedures resulting from the change documented in the August 7, 2017 MOC as required under 40 C.F.R. § 68.75(e).

#### Pre-Startup Review (40 C.F.R. § 68.77)

89. The Facility failed to confirm safety, operating, maintenance and emergency procedures were in place prior to start-up of the process as required under 40 C.F.R. § 68.77(b)(2).

90. The Facility failed to confirm the recommendations from the PHA had been resolved prior to start-up of the process as required under 40 C.F.R. § 68.77(b)(3).

91. The Facility failed to confirm the training of each employee operating the SWAATS process has been completed prior to start-up of the SWAATS process as required under 40 C.F.R. § 68.77(b)(4).

92. The Facility failed to confirm the training of each employee operating the Hydrotreater process has been completed prior to start-up of the Hydrotreater process as required under 40 C.F.R. § 68.77(b)(4).

#### Hot Work (40 C.F.R. § 68.85)

93. The Facility failed to document the requirements of 29 C.F.R. § 1910.252(a) prior to conducting hot work as required under 40 C.F.R. § 68.85(b).

#### Contractors (40 C.F.R. § 68.87)

94. The Facility failed to obtain and evaluate information regarding the contractor owner or operator's safety performance and programs as required under 40 C.F.R. § 68.87(b)(1).

95. The Facility failed to inform the contractor owner or operator of the known potential fire, explosion, or toxic release hazards related to the contractor's work as required under 40 C.F.R. § 68.87(b)(2).

96. The Facility failed to explain to the contractor owner or operator the applicable provisions of the emergency action program as required under 40 C.F.R. § 68.87(b)(3).

97. The Facility failed to develop safe work practices to control the entrance, presence, and exit of contractors in the process area as required under 40 C.F.R. § 68.87(b)(4).

98. The Facility failed to evaluate the performance of the contractor owner or operator as required under 40 C.F.R. § 68.87(b)(5).

#### Light Gas Bullet (LGB) Storage Tanks

99. The Facility failed to file a Risk Management Plan for the LGB storage bullets as required under 40 C.F.R. Part 68 Subpart G.

100. The Facility failed to develop and implement an accident prevention program for the LGB storage bullets as required by 40 C.F.R. Part 68 Subpart D (§§ 68.65-68.87).

- a. The Facility failed to perform a PHA on the LGB storage process as required under 40 C.F.R. § 68.67.
- b. The Facility failed develop and implement written operating procedures for conducting activities covered in the LGB storage process as required under 40 C.F.R. § 68.69(a).
- c. The Facility failed to train each employee in an overview of the LGB storage process and in the operating procedures including shutdown and safe work practices as required under 40 C.F.R. § 68.71(a).
- d. The Facility failed to establish and implement written procedures to maintain the on-going integrity of the LGB storage process as required under 40 C.F.R. § 68.73.
- e. The Facility failed to conduct an audit on the prevention program to evaluate the compliance with the prevention program requirements and verify that procedures and practices are adequate and being followed on the LGB storage process as required by 40 C.F.R. § 68.79.

101. The Facility failed to conduct a hazard assessment of the LGB storage bullets as required by 40 C.F.R. Part 68 Subpart B (§§ 68.20 -68.42).

102. Section 112(r)(7)(E) of the Act, 42 U.S.C. § 7412(r)(7)(E), provides that after the effective date of any regulation or requirement promulgated pursuant to Section 112(r) of the Act, it shall be unlawful for any person to operate any stationary source in violation of such regulation or requirement.

103. Accordingly, the above-described violations of 40 C.F.R. Part 68 and Section 112(r) of the Act are subject to the assessment of a civil penalty under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

**Civil Penalty**

104. Based on an analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts and circumstances of this case, and other factors such as cooperation, EPA has determined that an appropriate civil penalty to settle this action is \$299,389.00.

105. Within 30 days after the effective date of this CAFO, Respondents must pay a \$299,389.00 civil penalty by electronic funds transfer, payable to the “Treasurer, United States of America,” and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account Number 68010727  
33 Liberty Street  
New York, New York 10045

Field Tag 4200 of the Fedwire message should  
read “D68010727 Environmental Protection Agency”

In the comment or description field of the electronic funds transfer, state Respondents’ names and the docket number of this CAFO.

106. Respondents must send a notice of payment that states Respondents’ names and the docket number of this CAFO to EPA at the following addresses when they pay the penalty:

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

Greg Chomycia (SC-5J)  
Chemical Emergency Preparedness and Prevention Section  
Superfund Division  
U.S. Environmental Protection Agency, Region 5  
[chomycia.greg@epa.gov](mailto:chomycia.greg@epa.gov)

Maria Gonzalez, (C-14J)  
Office of Regional Counsel  
[gonzalez.maria@epa.gov](mailto:gonzalez.maria@epa.gov)

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

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

109. Respondents 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). Respondents must pay the United States enforcement expense, including but not limited to attorney's fees and costs incurred by the United States for collection proceedings. In addition, Respondents 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

110. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: [gonzalez.maria@epa.gov](mailto:gonzalez.maria@epa.gov) (for Complainant), and [matthew.hager@sunoco.com](mailto:matthew.hager@sunoco.com) (for Respondents).

111. Respondents' full compliance with this CAFO resolves only Respondents' liability for federal civil penalties for the violations alleged in this CAFO.

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

113. This CAFO does not affect Respondents' responsibility to comply with the Act and other applicable federal, state, and local laws.

114. Each Respondent certifies that it is complying fully with 40 C.F.R. Part 68.

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

116. The terms of this CAFO bind Respondents, their successors, and assigns.

117. 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.

118. Each party agrees to bear its own costs and attorneys' fees in this action.

119. This CAFO constitutes the entire agreement between the parties.

120. The effective date of this CAFO is the date when this CAFO is filed with the Regional Hearing Clerk's office.

**CONSENT AGREEMENT AND FINAL ORDER**

**In the Matter of Gladieux Processing, LLC  
Docket No. CAA-05-2023-0018**

**Sunoco, LLC, as successor by merger with  
Gladieux Processing, LLC, Respondent**

Date: 02.22.2023

By:   
\_\_\_\_\_  
**Matthew D. Hager**  
**Vice President - Midstream Operations**

**Sunoco, LLC, as successor by merger with  
Gladieux Trading and Marketing, L.P., Respondent**

Date: 02.22.2023

By:   
\_\_\_\_\_  
**Matthew D. Hager**  
**Vice President - Midstream Operations**

**U. S. Environmental Protection Agency, Complainant**

\_\_\_\_\_  
Date

**MICHAEL  
HARRIS**

Digitally signed by  
MICHAEL HARRIS  
Date: 2023.03.08  
10:33:33 -06'00'

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

**CONSENT AGREEMENT AND FINAL ORDER**  
**In the Matter of Gladieux Processing, LLC**  
**Docket No. CAA-05-2023-0018**

**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: 2023.03.08  
14:57:30 -06'00'  
\_\_\_\_\_  
Ann L. Coyle  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
Region 5