



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUN 23 2017

REPLY TO THE ATTENTION OF:

**VIA E-MAIL**  
**RETURN RECEIPT REQUESTED**

John Whittington, Responsible Corporate Officer and Vice President  
Integrity Biofuels, LLC  
780 Industrial Drive  
Morristown, Indiana 46161

Email: [g.herrell@integritybiofuels.com](mailto:g.herrell@integritybiofuels.com)

Dear Mr. Whittington:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Integrity Biofuels, LLC, docket no. CAA-05-2017-0029. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on June 23, 2017.

Pursuant to paragraph 28 of the CAFO, Integrity Biofuels, LLC must pay the civil penalty according to the schedule starting within 30 days of the filing date. Your check or electronic funds transfer must display the case name and case docket number.

Please direct any questions regarding this case to Nicole Cantello, Attorney, 312-886-2870.

Sincerely,

A handwritten signature in cursive script that reads "Brian Dickens".

Brian Dickens, Chief  
Air Enforcement and Compliance Assurance Section (OH/MN)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J  
Regional Hearing Clerk/E-19J  
N. Cantello/C-14J  
Phil Perry, Chief, Air Compliance Branch  
[PPERRY@idem.IN.gov](mailto:PPERRY@idem.IN.gov)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:  
Integrity Biofuels, LLC  
  
Morristown, Indiana,  
  
Respondent.



Docket No. CAA-05-2017-0029

Proceeding to Assess a Civil Penalty  
Under Section 113(d) of the Clean Air Act,  
42 U.S.C. § 7413(d)

**Consent Agreement and Final Order**

**Preliminary Statement**

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

2. The Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. The Respondent is Integrity Biofuels, LLC (Integrity), a corporation doing business in Indiana.

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

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

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

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

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

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

### **Statutory and Regulatory Background**

9. Under Section 111 of the CAA, 42 U.S.C. § 7411, EPA promulgated the Standards of Performance for New Stationary Sources (NSPS) for General Provisions at 40 C.F.R. §§ 60.1 through 60.19 (Subpart A); NSPS for Equipment Leaks of Volatile Organic Compounds (VOC) in the Synthetic Organic Chemicals Manufacturing Industry (SOCMI) for which construction, reconstruction, or modification commenced after November 7, 2006, at 40 C.F.R §§ 60.480a through 60.489a (Subpart VVa); Standards of Performance for VOC Emissions From SOCMI Distillation Operations at 40 C.F.R. §§ 60.660 through 60.668 (Subpart NNN); and Standards of Performance for VOC Emissions From SOCMI Reactor Processes at 40 C.F.R. §§ 60.700 through 60.708 (Subpart RRR).

10. The NSPS VVa at 40 C.F.R. § 60.480(a) requires any affected facility to implement and maintain the leak detection and repair (LDAR) requirements specified in 40 C.F.R. §§ 60.480 through 60.489.

11. The NSPS NNN and NSPS RRR rules apply to any facility that is part of a process unit that produces any of the chemicals listed in 40 C.F.R. §§ 60.667 (NNN) and 60.707 (RRR) as a product, co-product, by-product, or intermediate.

12. The NSPS NNN and NSPS RRR rules at 40 CFR §§ 60.662 and 60.702 require the owner or operator of any affected facility reduce total organic carbon (TOC) emissions (minus methane and ethane) from the vent streams of the facility's distillation units and reactor

processes by 98 weight-percent; limit TOC emissions (less methane and ethane) to a concentration of 20 ppmv, on a dry basis corrected to 3 percent oxygen; combust emissions in a flare; or maintain a Total Resource Effectiveness (TRE) index value greater than 1.0 without use of a VOC emission control device.

13. The NSPS NNN and NSPS RRR rules at 40 C.F.R. §§ 60.663(f) and 60.703(e) require the owner or operator of each combination of one or more distillation units or reactor processes and the associated recovery system(s) into which their vent streams are discharged to provide to the Administrator information describing the operation of any recovery device and associated process parameter(s) which would indicate proper operation and maintenance of the device. This requirement applies to combinations constructed, modified, or reconstructed after December 30, 1983 for which the final recovery device or control device is not an incinerator, boiler, process heater, flare, absorber, condenser, or carbon adsorber.

14. Under Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating the NSPS regulations. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

15. The Administrator of EPA may require any person who owns or operates an emission source to make reports; install, use and maintain monitoring equipment; sample emissions; and provide information required by the Administrator under Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

### **Findings**

16. Integrity owns and operates a biofuel manufacturing plant at 780 E. Industrial Drive, Morristown, Indiana (Facility).

17. Since 2006, the Facility has manufactured and continues to manufacture biodiesel with equipment constructed after December 30, 1983, and routes all distillation and reactor processes through a methanol scrubber as the final recovery device. Integrity is subject to NSPS NNN for all distillation units at the Facility. Because much of the Facility was either constructed or modified later than November 7, 2006, Integrity is also subject to NSPS VVa at the Facility.

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

19. On June 27, 2016, EPA issued to Integrity a finding of violation alleging that it violated the NSPS NNN rules in addition to the NSPS RRR rules by failing to prove that it complied with one of the three alternative emissions reduction requirements listed in 40 CFR §§ 60.662 (NNN) and 60.702 (RRR), failing to comply with the monitoring of emissions and operations specified in 40 C.F.R §§ 60.663 (NNN) and 60.703 (RRR), and failing to comply with the performance testing requirements specified in 40 C.F.R §§ 60.8, 60.664 (NNN) and 60.704 (RRR) that apply to each distillation unit and reactor process.

20. On September 20, 2016, representatives of Integrity and EPA discussed the June 27, 2016, Notice of Violation.

21. Subsequent to the September 20, 2016 discussion, EPA determined that Integrity also violated the NSPS VVa for failing to implement the LDAR requirements specified in 40 C.F.R. §§ 60.480(a) through 60.489(a).

22. Integrity violated the NSPS VVa for failing to implement an LDAR program according to the requirements specified in 40 C.F.R §§ 60.480a through 60.489a. Integrity violated the NSPS NNN by failing to prove that it complied with one of the three alternative emissions reduction requirements listed in 40 CFR §§ 60.662, failing to monitor emissions and

operations according to the requirements specified in 40 C.F.R § 60.663 and failing conduct a performance test according to the requirements specified in 40 C.F.R §§ 60.8 and 60.664.

23. On December 1, 2016, Integrity began implementing an LDAR program according to the NSPS VVa requirements specified in 40 C.F.R §§ 60.480(a) through 60.489(a).

24. On January 17, 2017, Integrity conducted a performance test according to the NSPS RRR requirements specified in 40 C.F.R §§ 60.8 and 60.664.

25. At the time of violation, the Facility was using a methanol condenser as the final recovery or emissions control device to which all distillation units and reactor processes were routed. On December 26, 2016, Integrity installed a methanol scrubber after the condenser as the final recovery or emissions control device. This device became operational on December 28, 2016.

26. Integrity has elected to comply with 40 C.F.R. § 60.662(a) by reducing emissions of TOC (less methane and ethane) by 98 weight-percent.

#### **Civil Penalty**

27. Complainant agrees to reduce the proposed civil penalty of \$88,329.00 to \$24,130.00. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondent's business, the effect on Respondent's ability to continue in business and the gravity of the alleged violation.

28. Respondent shall pay the \$24,130.00 civil penalty (with interest) as set forth in the table below:

| <b>SUMMARY:</b> |                  |                    |                    |                 |
|-----------------|------------------|--------------------|--------------------|-----------------|
|                 | <b>Due by:</b>   | <b>Payment</b>     | <b>Principal</b>   | <b>Interest</b> |
| Payment 1       | w/n 1st 30 days  | 2,020.00           | 2,000.00           | 20.00           |
| Payment 2       | 60 days of CAFO  | 2,018.33           | 2,000.00           | 18.33           |
| Payment 3       | 90 days of CAFO  | 2,016.67           | 2,000.00           | 16.67           |
| Payment 4       | 120 days of CAFO | 2,015.00           | 2,000.00           | 15.00           |
| Payment 5       | 150 days of CAFO | 2,013.33           | 2,000.00           | 13.33           |
| Payment 6       | 180 days of CAFO | 2,011.67           | 2,000.00           | 11.67           |
| Payment 7       | 210 days of CAFO | 2,010.00           | 2,000.00           | 10.00           |
| Payment 8       | 240 days of CAFO | 2,008.33           | 2,000.00           | 8.33            |
| Payment 9       | 270 days of CAFO | 2,006.67           | 2,000.00           | 6.67            |
| Payment 10      | 300 days of CAFO | 2,005.00           | 2,000.00           | 5.00            |
| Payment 11      | 330 days of CAFO | 2,003.33           | 2,000.00           | 3.33            |
| Payment 12      | 360 days of CAFO | 2,001.67           | 2,000.00           | 1.67            |
|                 | <b>TOTALS</b>    | <b>\$24,130.00</b> | <b>\$24,000.00</b> | <b>\$130.00</b> |

29. For checks sent by regular U.S. Postal Service mail, send a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

For checks sent by express mail (non-U.S. Postal Service which won't deliver mail to P.O. Boxes) send a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines and Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, Missouri 63101

The check must note Respondent's name and the docket number of this CAFO.

For electronic funds transfer, make payable to "Treasurer, United States of America," and send to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 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 Respondent's name and the docket number of this CAFO.

For Automated Clearinghouse (ACH) also known as REX or remittance express, make electronic funds transfer payable to "Treasurer, United States of America," and send to:

US Treasury REX/Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22-checking

In the comment area of the electronic funds transfer, state Respondent's name and the docket number of this CAFO.

For on-line payment, go to [www.pay.gov](http://www.pay.gov). Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields.



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

Attn: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Nicole Cantello (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604  
and  
Cantello.nicole@epa.gov

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

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

32. If Respondent does not pay timely the civil penalty under paragraph 27, EPA may request that the Attorney General of the United States bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and any United States enforcement expenses for a collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

33. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a

quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

### **General Provisions**

34. Consistent with the Standing Order Authorizing E-Mail Service of Orders and Other Documents Issued by the Regional Administrator or Regional Judicial Officer under the Consolidated Rules, dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: [Cantello.Nicole@epa.gov](mailto:Cantello.Nicole@epa.gov) (for Complainant); and [g.herrell@integritybiofuels.com](mailto:g.herrell@integritybiofuels.com) and [susanlafferty@eversheds-sutherland.com@Integrity.com](mailto:susanlafferty@eversheds-sutherland.com@Integrity.com) (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

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

36. The effect of the settlement described in paragraph 35, above, is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in paragraphs 16-26 of this CAFO.

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

38. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 35, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

39. Respondent certifies that, subject to the schedules and other requirements of the Administrative Order on Consent it has signed concurrently with this CAFO, it is complying

fully with 35 Ill. Admin. Code Part 212, Subpart K and its fugitive particulate matter operating program.

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

41. The terms of this CAFO bind Respondent, its successors and assigns.

42. 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.

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

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

**Consent Agreement and Final Order**  
**In the Matter of: Integrity Biofuels, LLC**  
**Docket No. CAA-05-2017-0029**

**Integrity Biofuels, LLC, Respondent**

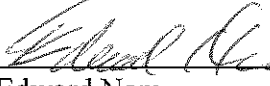
6/19/17  
Date

John S. Whittington  
John S. Whittington - owner

**Consent Agreement and Final Order**  
**In the Matter of: Integrity Biofuels, LLC**  
**Docket No. CAA-05-2017-0029**

**United States Environmental Protection Agency, Complainant**

6/21/17  
Date

  
\_\_\_\_\_  
Edward Nam  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order**  
**In the Matter of: Integrity Biofuels, LLC**  
**Docket No. CAA-05-2017-0029**

**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.

June 23, 2017

Date



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

Consent Agreement and Final Order  
In the matter of: Integrity Biofuels, LLC  
Docket Number: CAA-05-2017-0029

**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number [ CAA-05-2017-0029 ], which was filed on *June 23, 2017*, in the following manner to the following addressees:

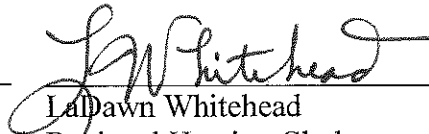
Copy by E-mail to Respondent: Guy Herrell  
g.herrell@integritybiofuels.com

Copy by E-mail to Attorney for Complainant: Nicole Cantello  
Cantello.nicole@epa.gov

Copy by E-mail to Attorney for Respondent: Susan G. Lafferty  
susanlafferty@eversheds-sutherland.com

Copy by E-mail to Regional Judicial Officer: Ann Coyle  
coyle.ann@epa.gov

Dated: *June 23, 2017*



L. Dawn Whitehead  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5