

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

IN THE MATTER OF:

TARGA MIDSTREAM SERVICES LLC

DOCKET NO. CAA-06-2021-3309

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 Midstream Services 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 April 9-11, 2019 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.

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 limited liability company authorized to do business in the State of New Mexico.

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 gas plant at 8201 West Highway 322, Monument, NM 88265.

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 and propane.

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.

18. The Respondent lists one process in its Risk Management Plan (RMP) with the process number 1000054282.

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 Paragraphs 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 \$369,532<sup>1</sup> and the first alleged date of violation occurred more than twelve (12) months prior to the initiation of the action, if the Administrator 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.

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<sup>1</sup> The maximum penalty that can be assessed (without a waiver) under Section 113 of the Clean Air Act was increased on February 6, 2019 by the Civil Monetary Penalty Inflation Adjustment Rule codified at 40 C.F.R. Part 19 to \$369,532.

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; develop 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), the EPA inspector identified that some of the due dates assigned in the Action Items list were outside of the two-year resolution timeframe set in the PHA Procedure.

28. Therefore, the Respondent violated 40 C.F.R. § 68.67(e) by failing to timely address the Action items according to the timeframe set in Respondent's PHA Procedure.

**Count Two – Failure to fully develop operating procedures**

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

30. 40 C.F.R. §§ 68.69(a) 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 consistent with the process safety information and shall address at least the following elements:

(1) Steps for each operating phase:

[...]

(iv) Emergency shutdown including the conditions under which emergency shutdown is required, and the assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in a safe and timely manner

[...]

(vii) Startup following a turnaround, or after an emergency shutdown.

31. During the inspection described in Paragraph 2 above and the review of the Process Safety Management (PSM) Operating Procedure's Introduction, the EPA inspector identified that the operating procedures for emergency shutdown and startup following a turnaround or emergency shutdown did not make clear in the PSM Operating Procedure's Introduction what steps need to be taken to conduct those activities.

32. Therefore, the Respondent violated 40 C.F.R. §§ 68.69(a) by failing to fully develop the operating procedures for emergency shutdown and startup following a turnaround or emergency shutdown.

**Count Three – Failure to timely conduct refresher training**

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

34. 40 C.F.R. § 68.71(b) provides that refresher training shall be provided at least every three years, and more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process. The owner or operator, in consultation with the employees involved in operating the process, shall determine the appropriate frequency of refresher training.

35. During the inspection described in Paragraph 2 above and the review of the employee training recertifications, the EPA inspector identified that of the nine employee recertifications reviewed, five employee recertifications were longer than three years.

36. Therefore, the Respondent violated 40 C.F.R. § 68.71(b) by failing to conduct refresher trainings for certain employees within three years.

**Count Four – Failure to document corrections of equipment deficiencies**

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

38. 40 C.F.R. § 68.73(e) provides that the owner or operator shall correct deficiencies in equipment that are outside acceptable limits (defined by the process safety information in §68.65) before further use or in a safe and timely manner when necessary means are taken to assure safe operation.

39. During the inspection described in Paragraph 2 above and the review of the mechanical integrity inspections, the EPA inspector noted that corrections of equipment deficiencies were not always documented with a work order.

40. Therefore, the Respondent violated 40 C.F.R. § 68.73(e) by failing to document equipment deficiencies identified from mechanical integrity inspections.

**Count Five - Failure to properly conduct Management of Change (MOC)**

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

42. 40 C.F.R. § 68.75 provides that:

(a) the owner or operator shall establish and implement written procedures to manage changes (except for “replacements in kind”) to process chemicals, technology, equipment, and procedures; and, changes to stationary sources that affect a covered process.

(b) the procedures shall assure that the following considerations are addressed prior to any change:

[...]

(3) Modifications to operating procedures; [...]

(c) Employees involved in operating a process and maintenance and contract employees whose job tasks will be affected by a change in the process shall be informed of, and trained in, the change prior to start-up of the process or affected part of the process.

43. During the inspection described in Paragraph 2 above and the review of the MOC documentation, the EPA inspector noted that, in one instance, a change in the type of relief valve from pressure relief valve to pilot control valve on two tanks at the facility did not have a MOC, nor was it shown with the updated type of valve on the Piping & Instrumentation Diagram.

44. In another instance, documentation of the changes in operating procedures was not included in the MOC and documentation showing that the employees involved in the operation of the process was not signed by all employees listed.

45. Therefore, the Respondent violated 40 C.F.R. § 68.75 by failing to conduct MOCs properly on two occasions.

**Count Six - Failure to document requirements of Hot Work Permits**

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

47. 40 C.F.R. § 68.85(b) provides that the permit shall document that the fire prevention and protection requirements in 29 C.F.R. § 1910.252(a) have been implemented prior to beginning the hot work operations; it shall indicate the date(s) authorized for hot work; and identify the object on which hot work is to be performed. The permit shall be kept on file until completion of the hot work operations.

48. During the inspection described in Paragraph 2 above and the review of the Hot Work Permits, the EPA inspector identified two instances that the hot work permits did not include the atmospheric testing for the fire prevention and protection requirements.



49. Therefore, the Respondent violated 40 C.F.R. § 68.85(b) by failing to document all the requirements of Hot Work Permits on two occasions.

### **III. TERMS OF SETTLEMENT**

#### **A. CIVIL PENALTY**

50. For the reasons set forth above, the Respondent has agreed to pay a civil penalty of **Seventy-Four Thousand Seven Hundred and Fifty Dollars (\$74,750.00)**.

51. 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-06-2021-3309 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:

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

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

The Respondent’s adherence to this request will ensure proper credit is given when penalties are

received in the Region.

52. 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.

53. 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.

54. 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.

55. 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).

56. 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.

57. 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 of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

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

## **B. NOTIFICATION**

59. 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:

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

Respondent:

Targa Midstream Services LLC  
811 Louisiana, Suite 2100  
Houston, Texas 77002  
[JPabon@targaresources.com](mailto:JPabon@targaresources.com)

**C. COMPLIANCE**

60. 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**

61. 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**

62. 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.

63. 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.

64. 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.

65. 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 CAA or its implementing regulations, or under other federal or state laws, regulations, or permit conditions.

66. 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.

67. 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. 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 CAA, 42 U.S.C. § 7607(b)(1).

68. 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 aver in any manner that the Respondent's compliance with any aspect of this CAFO will result in compliance with provisions of the CAA or with any other provisions of

federal, State, or local laws, regulations, or permits.

**F. COSTS**

69. 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**

70. 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.

71. This EPA and Respondent agree to the use of electronic signatures for any and all deliverables under this CAFO. The EPA and Respondent further agree to electronic service of



this CAFO by electronic mail to the following:

If to EPA:

[Trawick.Matthew@epa.gov](mailto:Trawick.Matthew@epa.gov)

If to Respondent:

[JPabon@targaresources.com](mailto:JPabon@targaresources.com)


**H. EFFECTIVE DATE**

72. This CAFO, and any subsequent modifications, become effective upon filing with the Regional Hearing Clerk.

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

**FOR THE RESPONDENT:**

Date: 1/29/2021

Clark White   
Targa Midstream Services, LLC  
Clark White  
Executive Vice President

**FOR THE COMPLAINANT:**

Date: \_\_\_\_\_

\_\_\_\_\_  
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 or 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.

Date: 2/3/2021

\_\_\_\_\_  
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

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