

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	CAA-05-2023-0044
)	
Petro Chem Processing Group of Nortru, LLC)	
)	
)	Proceeding to Assess a Civil Penalty
)	Under Section 113(d) of the Clean Air Act,
)	42 U.S.C. § 7413(d)
Detroit, Michigan,)	
Respondent.)	
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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 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. Complainant is the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Petro Chem Processing Group of Nortru, LLC (Petro Chem), a corporation doing business in Michigan.

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 and alleged violations 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 112 of the CAA, EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Off-site Waste and Recovery Operations, 40 C.F.R. Part 63, Subpart DD, at 40 C.F.R. §§ 63.680 through 63.698.

10. Under Section 112 of the CAA, EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Benzene Waste Operations, 40 C.F.R. Part 61, Subpart FF, at 40 C.F.R. §§ 61.340 through 61.358.

11. The owner or operator of an existing affected facility that commenced construction or reconstruction before October 13, 1994 and received off-site material for the first time before February 1, 2000, was required to comply with the requirements of 40 C.F.R. Part 63 Subpart DD by February 1, 2000, unless an extension has been granted by the Administrator as provided in 40 C.F.R. § 63.6(i). 40 C.F.R. § 63.680(e)(1)(i).

12. The NESHAP for Off-Site Waste and Recovery Operations (Subpart DD) applies to the owner and operator of a plant site that is a major source of HAP emissions as defined in 40 C.F.R. § 63.2, is a waste management operation that received off-site material, and is an

operation that is regulated as a hazardous waste treatment, storage, and disposal facility (TSDF) under either 40 C.F.R. Part 264 or 265. 40 C.F.R. § 63.680(a)(1), (a)(2)(i).

13. The NESHAP for Benzene Waste Operations (Subpart FF) applies to the owner or operator of a hazardous waste treatment, storage, and disposal facility, as defined in 40 C.F.R. § 61.340(b), that treats, stores, or disposes of hazardous waste generated by any facility listed in 40 C.F.R. § 61.340(a). The waste streams at hazardous waste treatment, storage, and disposal facilities subject to the provisions of this subpart are the benzene-containing hazardous waste from any facility listed in 40 C.F.R. § 61.340(a).

14. Subpart DD, at 40 C.F.R. § 63.683(d), requires the owner or operator of Petro Chem to control equipment leaks by implementing leak detection and control measures in accordance with the standards specified in 40 C.F.R. § 63.691.

15. Subpart DD, at 40 C.F.R. § 63.694(k)(3), requires “[t]he detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 8.1.1 of Method 21 shall be for the weighted average composition of the organic constituents in the material placed in the unit at the time of monitoring, not for each individual organic constituent.”

16. EPA Method 21, at 6.1, states that the VOC instrument detector shall respond to the compounds being processed. Detector types that may meet this requirement include, but are not limited to, catalytic oxidation, flame ionization, infrared absorption, and photoionization.

17. Subpart DD, at 40 C.F.R. § 63.694(k)(5)(ii), requires the calibration gas used be “[z]ero air (less than 10 ppmv [parts per million by volume] hydrocarbon in air)” and “[a] mixture of methane or n-hexane in air at a concentration of approximately, but less than, 10,000 ppmv.”

18. Subpart DD, at 40 C.F.R. § 63.691(c)(1), states that, “[e]xcept during a pressure release event, [the owner or operator shall] operate each pressure relief device in gas/vapor service with an instrument reading of less than 500 ppm above background as detected by Method 21 of 40 CFR Part 60, Appendix A.”

19. Subpart FF, at 40 C.F.R. § 61.343(a)(1), states that for each tank in which the waste stream is placed in accordance with 40 C.F.R. § 61.342(c)(1)(ii), “[t]he cover and all openings (e.g., access hatches, sampling ports, and gauge wells) shall be designed to operate with no detectable emissions as indicated by an instrument reading of less than 500 ppmv above background, as determined initially and thereafter at least once per year by the methods specified in § 61.355(h) of this subpart.”

20. Subpart FF, at 40 C.F.R. § 61.349(a)(1)(i), states that the closed-vent system shall be designed to operate with no detectable emissions as indicated by an instrument reading of less than 500 ppmv above background.

21. Subpart FF, at 40 C.F.R. § 61.349(a)(1)(ii), states that “[a]ll gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.”

22. Subpart FF, at 40 C.F.R. § 61.349(a)(2)(ii), states that “[a] vapor recovery system (e.g., a carbon adsorption system or a condenser) shall recover or control the organic emissions vented to it with an efficiency of 95 weight percent or greater or shall recover or control the benzene emissions vented to it with an efficiency of 98 weight percent or greater.”

23. Subpart FF, at 40 C.F.R. § 61.355(h), states that “[a]n owner or operator shall test equipment for compliance with no detectable emissions as required in §§ 61.343 through 61.347, and § 61.349 of this subpart in accordance with the following requirements.”

24. Subpart FF, at 40 C.F.R. § 61.355(h)(2), states that “[t]he detection instrument shall meet the performance criteria of Method 21.”

25. Subpart FF, at 40 C.F.R. § 61.355(h)(4)(ii), states that calibration gases shall be “[a] mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppm methane or n-hexane.”

26. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$48,762 per day of violation up to a total of \$390,092 for violations that occurred after November 2, 2015 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

27. Section 113(d)(1) 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.

28. 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.

Title V Permit Program

29. Title V of the CAA, 42 U.S.C. § 7661-7661f, establishes an operating permit program for major sources of air pollution.

30. In accordance with Section 502(b) of the CAA, 42 U.S.C. § 7661a(b), EPA promulgated regulations establishing the minimum elements of a Title V permit program to be administered by any air pollution control agency. See 57 Fed. Reg. 32250 (July 21, 1992). Those regulations are codified at 40 C.F.R. Part 70.

31. Section 502(d) of the CAA, 42 U.S.C. § 7661a(d), provides that each state must submit to EPA a permit program meeting the requirements of Title V.

32. EPA granted interim approval of the Michigan Title V permit program on January 10, 1997. See 62 Fed. Reg. 1387 (effective on February 10, 1997). EPA granted source category limited interim approval of Michigan's Title V program on June 18, 1997. See 62 Fed. Reg. 34010 (effective on July 19, 1997). EPA fully approved the Michigan Title V program on December 4, 2001. See 66 Fed. Reg. 62949 (effective on November 30, 2001).

33. The Michigan regulations governing the Title V permit program, also known as the "Renewable Operating Permit Program," are codified at Michigan Administrative Code (MAC) R 336.1210 - R 336.1219.

34. Michigan Department of Environment, Great Lakes, and Energy (EGLE) issued a Renewable Operating Permit (ROP), No. MI-ROP-N0731-2009 to Nortru, LLC (d/b/a Petro-Chem Processing Group of Nortru, LLC), an indirect subsidiary of Stericycle Environmental Solutions, Inc. on August 19, 2009. Stericycle subsequently underwent a name change to Clean Earth Environmental Solutions, Inc.

35. The ROP in section FG – TRUCK TRANSFER IV.1.c states: “Hatch and other openings on the delivery vessel shall be closed and vapor-tight to prevent emission of displaced vapor during transfer operations, except under emergency conditions.”

36. The ROP in section FG – TRUCK TRANSFER IV.2. states: “The permittee shall not unload any delivery vessel unless the regenerative thermal oxidizer (RTO) and acid gas scrubber (in series), or vapor balance system are installed, maintained, and operated in a satisfactory manner. The permittee shall use the MVRS [mechanical vapor recompression

system] to control emissions while unloading during maintenance, and as back-up, to the RTO and acid gas scrubber (in series) or vapor balance system.”

37. The ROP in section FG – TS1 Blending Tanks IV.1. states: “The permittee shall not load or unload FG-PCPG Tanks 16-30 unless the regenerative thermal oxidizer (RTO) and acid gas scrubber (in series), conservation vents, and vapor balance system are installed, maintained, and operated in a satisfactory manner.”

38. The ROP in section FG – TS2 Blending Tanks IV.1. states: “The permittee shall not load or unload FG-PCPG Tanks 16-30 unless the regenerative thermal oxidizer (RTO) and acid gas scrubber (in series), conservation vents, and vapor balance system are installed, maintained, and operated in a satisfactory manner.”

39. The ROP in section FG – MVRS Tanks IV.1. states: “The permittee shall not load or unload FG-PCPG Tanks 16-30 unless the regenerative thermal oxidizer (RTO) and acid gas scrubber (in series), conservation vents, and vapor balance system are installed, maintained, and operated in a satisfactory manner.”

Factual Allegations and Alleged Violations

40. On June 18, 2018, EPA issued to Petro Chem a finding of violation (FOV) alleging that it violated the NESHAP for Benzene Waste Operations at 40 C.F.R. §§ 61.340 – 61.359, Subpart FF, and the NESHAP for Off-site Waste and Recovery Operations at 40 C.F.R. §§ 63.680 – 63.698, Subpart DD, and certain requirements of its renewable operating permit (ROP).

41. On July 26, 2018, representatives of Petro Chem and EPA discussed the June 18, 2018 FOV.

42. On March 28, 2018, Petro Chem owned and/or operated an off-site waste management facility located at 421 Lycaste Street, Detroit, Wayne County, Michigan (the “facility”). In 2020, Stericycle, Inc., an indirect parent of Petro Chem, sold its Stericycle Environmental Solutions, Inc. business group (which included Petro Chem) to CEI Holdings, LLC. Subsequent to the sale, Stericycle Environmental Solutions, Inc., changed its name to Clean Earth Solutions, Inc. Ownership and operation of the facility remains Petro Chem.

43. The facility operates, among other things, tanker truck loading and unloading pads, fifteen waste fuel storage/blending tanks in Tank Farm TS1, and six waste fuel storage/blending tanks in the Tank Farm TS2.

44. The tanker truck loading and unloading pads, as well as the tanks at both the West Tank Farm and the Northwest Tank farm, are subject to 40 C.F.R. Part 63, Subpart DD. Petro Chem’s ROP lists these tank farms as FG-TS1BlendingTanks and FG-TS2Blending Tanks (Blending Tanks).

45. All tanks at Tank Farms TS1 and TS2, including the Blending Tanks, are subject to 40 C.F.R. Part 61, Subpart FF.

46. On March 28, 2018, EPA conducted an unannounced Clean Air Act inspection of the facility (2018 Inspection).

47. During the 2018 Inspection, Petro Chem staff stated that the facility had used and continued to use a photo ionization detector (PID) to monitor equipment, including the Blending Tanks, for leaks at the facility.

48. During the 2018 Inspection, Petro Chem was unable to confirm with its PID any of the leaks identified by the EPA during the March 28, 2018 inspection.

49. During the 2018 Inspection, Petro Chem provided calibration records for its detection instrument.

50. The calibration records indicate that the facility used PIDs with voltages of 11.7eV and 10.6eV.

51. The calibration records also indicated that the PID calibration gas used was hexane and that the calibration gas was calibrated at zero and 100 ppm before each use of the PID.

52. During the 2018 inspection, EPA recorded a forward looking infrared (FLIR) video of a truck unloading hazardous waste at a transfer pad at the facility.

53. The FLIR video shows an open hatch and active venting of hydrocarbons to the atmosphere at the top of the tank during transfer loading at the facility.

54. Petro Chem failed to meet the performance criteria of Method 21 while monitoring the applicable components at the facility from March 28, 2018, to June 1, 2019, in violation of 40 C.F.R. § 63.694(k)(3) and § 61.355(h)(2).

55. During the 2018 Inspection, Petro Chem failed to monitor applicable components with a VOC-detection instrument that responds to the compounds processed.

56. Petro Chem failed to calibrate the facility's VOC detection instrument with zero air (less than 10 ppmv hydrocarbon in air) and a mixture of methane or n-hexane in air at a concentration of approximately, but less than, 10,000 ppmv, from January 15, 2014, to June 1, 2019, in violation of 40 C.F.R. § 63.694(k)(5)(ii) and § 61.355(h)(4)(ii).

57. During the 2018 Inspection, Petro Chem failed to operate each pressure relief device in gas or vapor service with an instrument reading of less than 500 ppm above

background, as detected in accordance with Method 21 of 40 CFR Part 60, Appendix A, in violation of 40 C.F.R. § 63.691(c)(1).

58. During the 2018 Inspection, Petro Chem failed to maintain all gauging and sampling devices as gas-tight except when gauging or sampling was taking place, in violation of 40 C.F.R. § 61.343(a)(1).

59. During transfer operations at the time of the 2018 Inspection, Petro Chem failed to close the hatch or hatches and other openings of delivery vessels, maintain vapor-tight seals, and operate the vapor balance system in a satisfactory manner, which allowed emissions of displaced vapor, in violation of the facility's ROP at FG – Truck Transfer IV.1.c). and FG – Truck Transfer IV.2.

60. During the 2018 Inspection, Petro Chem failed to maintain the vapor balance system in a satisfactory manner and failed to prevent the leaking of emergency valves, in violation of 40 C.F.R. § 61.349(a)(2)(ii) and its ROP at FG – TS1 Blending Tanks IV.1., FG – TS2 Blending Tanks IV.1., and EU – MVRSCOND Tanks IV.1.

61. Pursuant to Section 112 of the CAA, the above-described violations of the regulations and requirements of 40 C.F.R. Part 61 and Part 63 are violations of the CAA.

Civil Penalty

62. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, Complainant has determined that an appropriate civil penalty to settle this action is \$270,000.

63. Within 30 days after the effective date of this CAFO, Respondent must pay a \$270,000 civil penalty by sending via the U.S. Postal Service 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

or if using an express mail courier sending 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, payable to "Treasurer, United States of America," and sent 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 ACH electronic funds transfer, payable to "Treasurer, United States of America," and sent 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 an on-line payment. To pay on-line, go to 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.

64. 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:

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
r5airenforcement@epa.gov

Steven P. Kaiser
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
kaiser.steven@epa.gov

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

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

66. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the 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.

67. 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 attorney's 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

68. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: kaiser.steven@epa.gov (for Complainant), and Ms. Sarah Kowalczyk, skowalczyk@harsco.com, and Mr. Allen Jones, ajones2@harsco.com (for Respondent).

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

70. 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.

71. 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 69, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

72. Respondent certifies that it is complying fully with the Permit to Install, No. 6-19, that was issued by EGLE on June 18, 2019, which has requirements to ensure that the facility operates as a synthetic minor source under Subpart DD. The June 18, 2019 Permit to Install still requires the facility to comply with the provisions of Subpart FF.

73. 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).

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

75. 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.
76. Each party agrees to bear its own costs and attorney's fees in this action.
77. This CAFO constitutes the entire agreement between the parties.

Petro Chem Processing Group of Nortru, LLC, **Respondent**

09/15/23 | 12:00 PM PDT

Date

DocuSigned by:
Allen Jones
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Allen Jones, Regional Operations Manager
Petro Chem Processing Group of Nortru, LLC

United States Environmental Protection Agency, Complainant

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

Consent Agreement and Final Order

In the Matter of: Petro Chem Processing Group of Nortru, LLC

Docket No.

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