

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

FILED

Mar 27, 2025

10:41 am

U.S. EPA REGION 5
HEARING CLERK

In the Matter of:)	Docket No. CAA-05-2025-0022
)	
BP Products North America Inc. and)	Proceeding to Assess a Civil Penalty
Ohio Refining Company LLC)	Under Section 113(d) of the Clean Air Act,
Oregon, Ohio)	42 U.S.C. § 7413(d)
)	
Respondents.)	
)	
_____)	

Consent Agreement and Final Order

A. Preliminary Statement

1. This is an administrative penalty assessment proceeding 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. §§ 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3).

2. Complainant is the U.S. Environmental Protection Agency (“EPA”). The EPA Administrator has delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the CAA to the Division Director of the Region 5 Enforcement and Compliance Assurance Division.

3. Respondent 1 is BP Products North America Inc. (“BPPNA”), a Maryland corporation doing business in the State of Ohio. Respondent 1 is a “person,” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

4. Respondent 2 is Ohio Refining Company LLC (“Ohio Refining”), a Delaware limited liability company doing business in the State of Ohio. Ohio Refining is a “person,” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

5. The EPA and Respondents agree that settling this action is in the public interest and consent to the entry of this Consent Agreement and Final Order (“CAFO”) without the adjudication of any issues of law or fact.

6. Respondents agree to comply with the terms of this CAFO.

B. Jurisdiction

7. The alleged violations in this CAFO are pursuant to Section 113(a)(3)(A) of the CAA.

8. The EPA and the United States Department of Justice have jointly determined that this matter, although it involves a penalty assessment above \$460,926 and alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

9. On December 21, 2022, the EPA issued to Respondents (then as BP-Husky, LLC, hereafter “BP-Husky”) a Finding of Violation (“FOV”) and provided a copy of the FOV to the Ohio EPA (“OEPA”), providing notice to BP-Husky and OEPA that the EPA found BP-Husky committed the alleged violations described in Section E of this CAFO and providing BP-Husky an opportunity to confer with the EPA. On January 25, 2023, representatives of BP-Husky and the EPA conferred regarding the December 21, 2022, FOV.

10. On May 2, 2024, the EPA issued to Ohio Refining a FOV and provided a copy of the FOV to the OEPA, providing notice to Ohio Refining and OEPA that the EPA found Ohio Refining committed the alleged violations described in Section E of this CAFO and providing Ohio Refining an opportunity to confer with the EPA. On June 11, 2024, representatives of Ohio Refining and the EPA conferred regarding the May 2, 2024, FOV.

11. The Regional Judicial Officer of Region 5 is authorized to ratify the consent agreement memorializing the settlement between the EPA and Respondents and to issue the attached Final Order. 40 C.F.R. §§ 22.4(b) and 22.18(b).

C. Statutory and Regulatory Background

MACT Subpart CC

12. Under Section 112 of the CAA, 42 U.S.C. § 7412, EPA promulgated the National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries at 40 C.F.R. §§ 63.640 through 63.679 (“MACT Subpart CC”). MACT Subpart CC applies to petroleum refining process units that are located at a major source of Hazardous Air Pollutants (“HAP”) emissions and emit or have equipment containing or contacting one or more HAPs listed in Table 1 of MACT Subpart CC. See 40 C.F.R. § 63.640(a).

13. Pursuant to 40 C.F.R. § 63.640(c)(1), the affected source shall comprise all emission points, including all miscellaneous process vents from petroleum refining process units meeting the criteria of 40 C.F.R. § 63.640(a).

14. A “petroleum refining process unit” means a process unit used in an establishment primarily engaged in petroleum refining as defined in the Standard Industrial Classification code for petroleum refining (2911) and used primarily for (1) Producing transportation fuels, heating fuels, lubricants; (2) Separating petroleum; or (3) Separating, cracking, reacting, or reforming intermediate petroleum streams. See 40 C.F.R. § 63.641.

15. The MACT: Petroleum Refinery Sector Rule Amendments that became effective on February 1, 2016, (“RSR Amendments”) revised Table 13 of MACT Subpart CC to include additional accuracy and calibration requirements for continuous parameter monitoring system (“CPMS”) parameters such as flare vent gas flow rates, temperature, pressure, and hydrogen analyzers. 80 Fed.

Reg. 75177 (December 1, 2015). The RSR Amendments also added 40 C.F.R. § 63.670 to MACT Subpart CC and established that owners or operators are required to comply with the new operating and monitoring requirements for existing flares no later than 3 years after the effective date of the final rule.

MACT Subpart CC – Flare Requirements

16. Pursuant to 40 C.F.R. § 63.670, on or before January 30, 2019, the owner or operator of a flare used as a control device for an emission point subject to MACT Subpart CC shall meet the applicable requirements for flares as specified in paragraphs (a) through (q) of 40 C.F.R. § 63.670 and the applicable requirements in 40 C.F.R. § 63.671.

17. Pursuant to 40 C.F.R. § 63.670(e)(1), for all flares other than pressure-assisted flares, the owner or operator shall operate the flare to maintain the net heating value of flare combustion zone (“NHVcz”) gas at or above 270 British thermal units per standard cubic feet (Btu/scf) determined on a 15-minute block period basis when regulated material is routed to the flare for at least 15-minutes.

18. Pursuant to 40 C.F.R. § 63.670(h), the owner or operator shall conduct an initial visible emissions demonstration using an observation period of 2 hours using Method 22 at 40 C.F.R. part 60, appendix A-7. The initial visible emissions demonstration should be conducted the first time regulated materials are routed to the flare. Subsequent visible emissions observations must be conducted using either the methods in 40 C.F.R. §§ 63.670(h)(1) or 63.670(h)(2).

19. Pursuant to 40 C.F.R. § 63.670(h)(2), the owner or operator may use a video surveillance camera to continuously record (at least one frame every 15 seconds with time and date stamps) images of the flare flame and a reasonable distance above the flare flame at an angle suitable for visual emissions observations.

20. Pursuant to 40 C.F.R. § 63.670(i), if assist air or assist steam is used, the owner or operator shall install, operate, calibrate, and maintain a monitoring system capable of continuously measuring, calculating, and recording the volumetric flow rate of assist air and/or assist steam used with the flare.

21. Pursuant to 40 C.F.R. § 63.671(a)(1), for each CPMS, the owner or operator is required to install, operate, calibrate, and maintain the CPMS to meet the applicable minimum accuracy, calibration and quality control requirements specified in Table 13 of MACT Subpart CC.

MACT Subpart CC – Fenceline Monitoring Requirements

22. Pursuant to 40 C.F.R. § 63.658(a), the owner or operator shall conduct sampling along the facility property boundary and analyze the samples in accordance with Methods 325A and 325B of Appendix A of MACT CC and 40 C.F.R. § 63.658(b) through 40 C.F.R. § 63.658(k).

23. Pursuant to 40 C.F.R. § 63.658(b), the target analyte for the fenceline monitoring is benzene.

24. Pursuant to 40 C.F.R. § 63.658(e), the owner or operator shall use a 14-day sampling period and a sample collection frequency of once for each contiguous 14-day sampling period.

25. Pursuant to 40 C.F.R. 63.658(j), the owner or operator shall comply with the applicable recordkeeping and reporting requirements in 40 C.F.R. § 63.655(h).

26. Pursuant to 40 C.F.R. § 63.655(h)(8), the owner or operator shall submit quarterly fenceline monitoring reports, which shall include the individual sample results for benzene reported in units of $\mu\text{g}/\text{m}^3$.

MACT Subpart UUU

27. Under Section 112 of the CAA, 42 U.S.C. § 7412, EPA promulgated the National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic

Reforming Units, and Sulfur Recovery Units at 40 C.F.R. §§ 63.1560 through 63.1579 (“MACT Subpart UUU”). MACT Subpart UUU applies to petroleum refineries that are located at a major source of HAP emissions.

28. A “petroleum refinery” means an establishment engaged primarily in petroleum refining as defined in the Standard Industrial Classification code 2911 and the North American Industry Classification code 32411, and used mainly for producing transportation fuels, heating fuels, or lubricants; separating petroleum; or separating, cracking, reacting or reforming an intermediate petroleum stream, or recovering a by-product(s) from the intermediate petroleum stream. 40 C.F.R. § 63.1561(1).

29. Pursuant to 40 C.F.R. § 63.1562(a), MACT Subpart UUU applies to each new, reconstructed, or existing affected source at a petroleum refinery.

30. Pursuant to 40 C.F.R. § 63.1562(b)(1), the process vent or group of process vents on fluidized catalytic cracking units that are associated with regeneration of the catalyst used in the unit (i.e., the catalyst regeneration flue gas vent) are affected sources.

31. Pursuant to 40 C.F.R. § 63.1572(c)(1), the owner and operator of petroleum refineries located at a major source of HAP emissions is required to install, operate, and maintain each CPMS according to the requirements in Table 41 of MACT Subpart UUU.

32. The RSR Amendments revised Table 41 of MACT Subpart UUU to include additional accuracy and maintenance requirements for CPMS such as air and gas flow rate sensors. 80 Fed. Reg. 75177 (December 1, 2015).

33. On July 13, 2016, U.S. EPA published the Technical Corrections Rule, clarifying that an 18-month transition period for meeting the new CPMS quality assurance requirements in Table 41 of

MACT Subpart UUU would apply from the effective date of the RSR Amendments. 81 Fed. Reg. 45232 (July 13, 2016).

Title V Permits

34. U.S. EPA promulgated full approval of Ohio's Title V program on August 15, 1995. Ohio's Title V program became effective on October 1, 1995. 60 Fed. Reg. 42045 (August 15, 1995).

35. On July 13, 2017, OEPA issued a Title V Operating Permit (ID P0104782) for BP-Husky (now known as Ohio Refining), Ohio Facility ID 0448020007. The effective date of this Title V Permit was August 3, 2017 ("2017 Title V Permit").

36. On November 18, 2021, OEPA issued a Title V Operating Permit (ID P0128721) for BP-Husky (now known as Ohio Refining), Ohio Facility ID 0448020007. The effective date of this Title V Permit was November 18, 2021 ("2021 Title V Permit").

D. Stipulated Facts

37. Prior to February 28, 2023, the petroleum refinery and petroleum refining process units at 4001 Cedar Point Road, Oregon, Ohio 43616 ("the Toledo Refinery") were owned by BP-Husky and operated by BPPNA.

38. At noon Eastern Standard Time ("EST") on February 28, 2023, the Toledo Refinery became owned and operated solely by BP-Husky, which changed its name to Ohio Refining.

39. The Toledo Refinery is a major source as defined in 40 C.F.R. § 63.2.

40. Relevant to this matter, Ohio Refining owns and operates the following emissions units at the Toledo Refinery: the East Hydrocarbon flare ("P003"), West Hydrocarbon flare ("P004"), and the Fluid Catalytic Cracking ("FCC") and CO Boiler Units (collectively, "P007"); these emissions units are listed in 2017 Title V Permit and the 2021 Title V Permit (collectively, "Title V Permits"). Respondent 1 previously operated these emissions units prior to noon EST on February 28, 2023.

41. Emissions from P003, P004, and P007 were at all relevant times subject to the terms of the Title V Permits.

42. The Title V Permits identify that the East Hydrocarbon flare and West Hydrocarbon flare are subject to MACT Subpart CC, and specifically identify that these emissions units are subject to 40 C.F.R. §§ 63.640-679. The Title V Permits also identify that the West Hydrocarbon flare is steam-assisted.

43. The East Hydrocarbon flare and West Hydrocarbon flare are equipped with, among other things, CPMS and various gas flow meters.

44. P007 consists of an FCC Reactor, Catalyst Regenerator, Fractionator, Strippers and Absorbers.

45. The Title V Permits identify that P007 is subject to MACT Subpart UUU, and specifically identify that the emissions unit is subject to 40 C.F.R. §§ 63.1560-63.1579.

46. The Catalyst Regenerator associated with P007 is equipped with flow meters and sensors to demonstrate continuous compliance with a nickel emission limit from the catalyst regenerator vent (0.001 lb/1,000 lb of coke burn-off).

47. From April 23, 2022, to October 8, 2024, Respondents completed the following actions:

- a. installed a new thermal mass flow meter at the FCCU to replace the FCCU Regeneration flow meter cited in the December 21, 2022, FOV;
- b. replaced, supplemented, or enhanced its flare flow meters cited in the December 21, 2022, FOV, with control logic to meet the requirements in Table 13 of MACT Subpart CC;
- c. contracted a third-party to conduct an audit at its laboratory on September 25, 2023, and ensured implementation of all recommendations of this audit;

- d. changed the camera angle of its video surveillance to ensure that it captures images of the flare flame at the East Hydrocarbon flare and West Hydrocarbon flare; and,
- e. implemented an alarm that is triggered when a steam control valve at P003 or P004 is open, but the flow meter associated with the valve is recording a zero value.

E. EPA Allegations

Title V Deviation Reports - Flares

48. On November 1, 2018, OEPA granted the Toledo Refinery a one-year extension of compliance related to the installation of the flare monitoring systems required by the RSR Amendments. This extension required the Toledo Refinery to demonstrate compliance with 40 C.F.R. §§ 63.670 and 63.671 by January 30, 2020.

49. Beginning with the Title V Quarterly Deviation Report for the third quarter of 2020, the Toledo Refinery reported that there were “two flow meters to the hydrocarbon flare system that do not meet the accuracy requirement of 40 CFR 63.671 of Subpart CC that were promulgated as part of the Refinery Sector Rule updates, during low flow events.” This deviation was reported for emissions unit P003/P004.

50. In the Title V Quarterly Deviation Report for the second quarter of 2022 (“Q2 2022 Title V Report”), the Toledo Refinery reported that “as they have operated, additional flare instrumentation has been identified that does not meet the MACT CC - Table 13 requirements.” It further stated that a project has been initiated “to bring six natural gas system flow meters and one hydrogen gas flow meter into compliance.” This deviation was reported for emissions unit P003/P004.

51. In the Title V Quarterly Deviation Report for the third quarter of 2022, the Toledo Refinery reported that between July 13, 2022, and September 29, 2022, “the [West Flare Ring steam flow] instrument was not set up with the correct low flow cut-off point. The minimum should have been between 5,000-6,000 lbs/hr, but it was set at 16,000 lbs/hr.”

52. In its Title V Quarterly Deviation Report for the fourth quarter of 2022 (“Q4 2022 Title V Report”), the Toledo Refinery reported that between October 8, 2022, to December 29, 2022, “the volumetric flow rate of the assist steam used for the West Flare was intermittently not accurately measured, calculated, and recorded for a total of seven hundred and eighty (780) hours while the flare was in use.”

53. In its Q4 2022 Title V Report, the Toledo Refinery reported that on October 8, 2022, from 11:45 to 12:15 and 15:15 to 15:30, the combustion zone net heating value of P004 had measured less than the required 270 Btu/scf.

54. On January 4, 2024, Ohio Refining provided to EPA estimated NHVcz values at P004 for the period July 1, 2022, to December 31, 2022, and records of P004 taken pursuant to 40 C.F.R. § 63.670(h)(2) from September 20, 2022, to December 19, 2022.

55. In several instances between July 13, 2022, to December 19, 2022, the NHVcz of P004 was less than the required 270 Btu/scf.

56. The Toledo Refinery’s video surveillance camera did not always record a reasonable distance above the flare flame at an angle suitable for visual emissions observations. At several times, for example on September 20, 2022, from 7:39 am to 8:19 am and 8:44 am to 1:49 pm, part of the flare flame and/or the area above the flare flame necessary to determine the presence of visual emissions were not visible in the recorded images.

Quarterly Fenceline Monitoring Report

57. In its third quarter 2022 fenceline monitoring report, the Toledo Refinery stated that samples were missing from sample stations 21-28 due to being corrupted by moisture in the sample tubes (“the 2022 samples”). This was for the 14-day sampling period of August 25, 2022, to September 9, 2022.

Compliance Reports – FCCU

58. In the Refinery MACT UUU Compliance Report for the second half of 2020, the Toledo Refinery reported that “the FCCU instrumentation used to demonstrate compliance with the Nickel Coke Burn emission limit may not be in compliance with all the installation, operation, and maintenance requirements of MACT UUU Table 41.” The Nickel Coke Burn emission limit in this report refers to the nickel limit set forth at 40 C.F.R. § 63.1564(a)(1)(vi) and applies to the FCCU Regenerator CO Boiler Exhaust Vent and the FCCU Regenerator Vent Bypass Line.

59. Beginning in the Title V Quarterly Deviation Report for the fourth quarter of 2020, the Toledo Refinery similarly reported that the “FCCU Instrumentation used to demonstrate compliance may not be in compliance with all the installation, operation and maintenance requirements of MACT UUU Table 41.” The Toledo Refinery reported the start date of the violation as January 1, 2019.

60. The Toledo Refinery continued to report the FCCU instrumentation deviation in its Title V Quarterly Deviation Reports until the Q2 2022 Title V Report, in which it reported the end date of the violation as April 23, 2022, and stated it had achieved compliance with the FCCU instrumentation requirements of MACT Subpart UUU.

Findings of Violations

61. The December 21, 2022, FOV alleged that BP-Husky violated MACT Subpart CC by failing to maintain two flare gas flow meters, six natural gas system flow meters, and one hydrogen gas flow

meter according to requirements in Table 13 of MACT Subpart CC and by failing to analyze samples for benzene in accordance with 40 C.F.R. § 63.658(a). Additionally, EPA alleged that BP-Husky failed to install, operate, and maintain the FCCU Regeneration flow meter in accordance with the requirements in Table 41 of MACT Subpart UUU.

62. On April 22, 2024, Ohio Refining submitted information about the audit it had conducted on the laboratory that had performed the benzene analysis cited in the December 21, 2022, FOV. The audit report and corrective actions were submitted to EPA on April 22, 2024, and September 27, 2024, respectively.

63. The audit report included a non-conformance report, which provided that a disproportionate amount of internal standard had been added to the 2022 samples and that reanalysis had not been possible. The internal standard addition is a requirement of U.S. EPA Method 325B of Appendix A of MACT Subpart CC.

64. The May 2, 2024, FOV alleged that Ohio Refining violated MACT Subpart CC by failing to accurately measure, calculate, and record the volumetric flow rate of the assist steam used for the West Hydrocarbon flare while the flare was in use, failing to operate the West Hydrocarbon flare to maintain the NHVcz at or above 270 Btu/scf, and by failing to use a video surveillance camera to continuously record images a reasonable distance above the flare flame at an angle suitable for visual emissions observations.

F. Alleged Violations of Law

65. EPA alleges that, from January 31, 2020, to January 31, 2023, Respondents violated 40 C.F.R. § 63.671(a)(1) of MACT Subpart CC by failing to maintain two flare gas flow meters (one of which was a hydrogen gas flowmeter) and six natural gas system flow meters according to requirements in Table 13 of MACT Subpart CC.

66. EPA alleges that, for the sampling period of August 25, 2022, to September 9, 2022, Respondents violated 40 C.F.R. § 63.658(a) of MACT Subpart CC by failing to ensure that its laboratory analyzed the 2022 samples in accordance with Method 325B of Appendix A of MACT Subpart CC.

67. EPA alleges that on 76 days from July 13, 2022, to December 29, 2022, Respondents violated 40 C.F.R. § 63.670(e)(1) by failing to operate P004 to maintain the NHVcz at or above 270 Btu/scf.

68. EPA alleges that on September 20, 2022, Respondents violated 40 C.F.R. § 63.670(h)(2) by failing to use a video surveillance camera to continuously record images a reasonable distance above the West flare flame at an angle suitable for visual emissions observations.

69. EPA alleges that, from July 13, 2022, to December 29, 2022, Respondents violated 40 C.F.R. § 63.670(i) by failing to accurately measure, calculate, and record the volumetric flow rate of the assist steam used for P004 while the flare was in use.

70. EPA alleges that, from January 1, 2019, to April 23, 2022, Respondents violated 40 C.F.R. § 63.1572(c)(1) by failing to install, operate, and maintain the FCCU inlet air (regeneration) flow meter according to the requirements in Table 41 of MACT Subpart UUU.

G. Terms of Consent Agreement

71. For the purposes of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondents:
- a. admit to the jurisdictional allegations in this CAFO;
 - b. admit to the stipulated facts stated in Section D of this CAFO and neither admit nor deny the allegations stated in Sections E and F of this CAFO;
 - c. consent to the assessment of a civil penalty as stated below;
 - d. consent to any conditions specified in this CAFO;
 - e. waive their right to request a hearing as provided at 40 C.F.R. § 22.15(c);

- f. waive any right to contest the alleged violations of law set forth in Section F of this CAFO; and
- g. waive their right to appeal this CAFO.

72. For the purposes of this proceeding, Respondents:

- a. agree this CAFO states a claim upon which relief may be granted against Respondents;
- b. acknowledge this proceeding constitutes an enforcement action for purposes of considering Respondents' compliance history in any subsequent enforcement actions;
- c. waive any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondents may have with respect to any issue of fact or law alleged in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);
- d. waive any rights or defenses that Respondents have or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waive any right to challenge the lawfulness of the final order accompanying the consent agreement; and
- e. waive any rights they may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for noncompliance, and agree that federal law shall govern in any such civil action.

73. 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, and Respondents' cooperation, the EPA has determined that an appropriate civil penalty to settle this action is \$675,000.

74. Respondents agree to pay a civil penalty in the amount of \$675,000 ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

75. Respondents shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website:

<https://www.epa.gov/financial/makepayment>. For additional instructions see:

<https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

76. When making a payment, Respondents shall:

- a. Identify every payment with Respondents' names and the docket number of this Agreement, CAA-05-2025-0022,
- b. Concurrently with any payment or within 24 hours of any payment, Respondents shall serve proof of such payment to the following person(s):

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

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
R5airenforcement@epa.gov

Christopher Grubb
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
grubb.christopher@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondents' name.

77. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31

C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondents fail to timely pay the full amount of the Assessed Penalty per this Agreement, the EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS large corporate underpayment rate, any lower rate would fail to provide Respondents adequate incentive for timely payment.
- b. Handling Charges. Respondents will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondents fail to pay the Assessed Penalty in accordance with this Agreement, the EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.
- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Filing Date.

78. Late Penalty Actions. In addition to the amounts described in the prior paragraph, if

Respondents fail to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.

- c. Suspend or revoke Respondents' licenses or other privileges, or suspend or disqualify Respondents from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

79. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

80. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

81. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondents to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondents herein agree, that:

- a. Each Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Each Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Each Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at wise.milton@epa.gov, within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that a Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, the Respondent shall provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

82. By signing this CAFO, Respondents consent to the release of any information in this CAFO to the public and agrees this CAFO does not contain business information that is entitled to confidential treatment under 40 C.F.R. Part 2.

83. By signing this CAFO, the undersigned representative of the EPA and the undersigned representatives of Respondents each certify that they are fully authorized to execute and enter into the terms and conditions of this CAFO and have the legal capacity to bind the party they represent to this CAFO.

84. By signing this CAFO, Respondents certify, based on information and belief, that the information they respectively supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondents acknowledge that, under 18 U.S.C. § 1001, there are significant penalties for knowingly and willfully submitting materially false, fictitious, or fraudulent information as set forth therein, including the possibility of fines and imprisonment for knowing and willful submission of such information.

85. Each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding, except in the case of a civil action brought by the Attorney General of the United States to recover unpaid penalties as described above.

H. Effect of Consent Agreement and Attached Final Order

86. The parties consent to service of this CAFO by e-mail at the following e-mail addresses: grubb.christopher@epa.gov (for the EPA), jessica.gonzalez@bp.com (for Respondent 1), and twebster@sidley.com (for Respondent 2).

87. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondents' liability for federal civil penalties for the violations and facts specifically alleged in this CAFO.

88. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to this matter with the exception of the administrative compliance order, docket number EPA-5-25-113(a)-OH-2 issued concurrently.

89. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties and approval of the Regional Judicial Officer.

90. Any violation of this CAFO may result in a civil judicial action for an injunction or civil penalties of up to \$121,275 per day per violation, or both, as provided in Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and 40 C.F.R. § 19.4, as well as criminal sanctions as provided in Section 113(c) of the CAA, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

91. Nothing in this CAFO relieves Respondents of the duty to comply with all applicable provisions of the CAA and other federal, state, or local laws or statutes, nor does it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor is it a ruling on, or determination of, any issue related to any federal, state, or local permit.

92. Nothing in this CAFO limits the power of the EPA to undertake any action against Respondents or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

93. The EPA reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondents was materially false or inaccurate at the time such information was provided to the EPA, and to assess and collect any civil penalties permitted by statute for any violation described herein. The EPA will give Respondents written notice of its intent to revoke this CAFO, which will not be effective until received by Respondents.

H. Effective Date

94. This CAFO will be effective after the Regional Judicial Officer executes the attached Final Order, on the date of filing with the Regional Hearing Clerk. Upon filing, the EPA will transmit a copy of the filed CAFO to Respondents.

BP Products North America Inc., Respondent 1

Jan. 14, 2025

Date

Amber Russell

Amber Russell

President, BP Products North America Inc.

Ohio Refining Company LLC, Respondent 2

1/17/25
Date

Heidi Hurst
Vice President, Refining
Toledo Refinery

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: BP Products North America Inc. and Ohio Refining Company, LLC

Docket No. CAA-05-2025-0022

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