

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
BEFORE THE ADMINISTRATOR

In the Matter of:

Matador Production Company

Respondent

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EPA Docket No.
06-2019-3419

ADMINISTRATIVE COMPLIANCE ORDER ON CONSENT

The following Administrative Compliance Order on Consent (“Consent Order”) is issued pursuant to the authority of Section 113(a)(1)(A) of the Clean Air Act, 42 U.S.C. § 7413(a)(1)(A) (hereinafter referred to as the “CAA” or “Act”). Section 113(a)(1) of the Act authorizes the Administrator of the United States Environmental Protection Agency (“EPA”) to issue an order requiring compliance to any person whom the Administrator finds to be in violation of the Act. The authority to issue this Consent Order has been delegated to the Regional Administrator of EPA Region 6, and re-delegated to the Director of the Enforcement and Compliance Assurance Division, EPA Region 6.

STATUTORY AND REGULATORY BACKGROUND

1. The Act is designed to protect and enhance the quality of the nation’s air to promote public health and welfare and the productive capacity of its population. CAA § 101(b)(1), 42 U.S.C. § 7401(b)(1).

2. Section 109(a) of the CAA, 42 U.S.C. § 7409(a), requires the Administrator of EPA to publish national ambient air quality standards (“NAAQS”) for certain

pollutants. The NAAQS establish primary air quality standards to protect public health and secondary standards to protect public welfare.

3. To achieve the objectives of the NAAQS and the Act, Section 110(a) of the CAA, 42 U.S.C. § 7410(a), requires each State to adopt a state implementation plan (“SIP”) that provides for the implementation, maintenance, and enforcement of the NAAQS, and to submit it to the Administrator of EPA for approval.

4. The State of Texas has adopted a SIP that has been approved by EPA. *See* 40 C.F.R. Part 52, Subpart SS. The Texas SIP includes authorization for Texas to establish a permit by rule (“PBR”) program, which can be found at 30 T.A.C. Chapter 106 – Permits by Rule. *See* 40 C.F.R. § 52.2270(c).

5. The State of Texas has adopted a SIP that has been approved by EPA. *See* 40 C.F.R. Part 52, Subpart SS. The Texas SIP includes authorization for Texas to establish a program for standard permits, which can be found at 30 T.A.C. Chapter 116, Subpart F – Standard Permits. *See* 40 C.F.R. § 52.2270(c).

6. Subchapter O of Chapter 106 of the Texas Administrative Code regulates permitting by rule for oil and gas facilities that produce more than a de minimis level of emissions, but too little for other permitting options. *See* 30 T.A.C. §§ 106.4(a) and 106.351-59.

- a. 30 T.A.C. § 106.6(b) states that “[a]ll representations with regard to construction plans, operating procedures, and maximum emission rates in any certified registration under this section become conditions upon which the facility permitted by rule shall be constructed and operated.”
- b. 30 T.A.C. § 106.6(c) states that “[i]t shall be unlawful for any person to vary from such representation if the change will cause a change in the method of control of emissions, the character of the emissions, or will result in an increase in the discharge of the various emissions, unless the certified registration is first revised.”

7. Non-Rule Standard Permits must comply with Subchapter F of Chapter 116 of the Texas Administrative Code, which regulates standard permits for air pollution control projects that reduce or maintain authorized emission rates for existing facilities. This Subchapter also establishes standards for emission control equipment. *See* 30 T.A.C. § 116.601 – 116.620. The State of Texas issued the Air Quality Standard Permit for Oil and Gas Handling and Production Facilities (“TCEQ Non-Rule Standard Permit for Oil and Gas Facilities”).

- a. The non-rule standard permit states that “[a]ll facilities which have the potential to emit air contaminants must be maintained in good working order and operated properly during facility operations.” TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(1).
- b. The non-rule standard permit allows flares used for control of emissions from production, planned MSS, emergency, or upset events to claim a design destruction efficiency of 98% for VOCs. TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(11).

8. EPA is authorized by Section 113 of the CAA, 42 U.S.C. § 7413, to take action to ensure that air pollution sources comply with all federally applicable air pollution control requirements. These include requirements promulgated by EPA and those contained in federally-enforceable SIPs or permits.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. Matador Production Company (“Matador” or “Respondent”) is a corporation doing business in the state of Texas. Respondent is a “person” within the meaning of Section 113(a) of the CAA, 42 U.S.C. § 7413(a), and as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

10. At all times relevant to this Consent Order, Respondent has owned and/or operated the Sickenius and Falls City Facilities (the “Facilities”), which are oil and natural gas production facilities located in the Texas Eagle Ford Shale area.

11. Respondent is the owner and/or operator of the Facilities within the meaning of 40 C.F.R. § 51.100(f).

12. At all times relevant to this Consent Order, Respondent owned and/or operated oil and gas Facilities that emit Volatile Organic Compounds.

13. The Sickenius Facility is subject to the State of Texas’s Permits by Rule program for oil and gas facilities under Subchapter O of Chapter 106 of the Texas Administrative Code.

14. The Falls City Facility is subject to the State of Texas’s Non-Rule Standard Permit program under Subchapter F of Chapter 116 of the Texas Administrative Code.

15. The Texas Commission on Environmental Quality (“TCEQ”) issued air permits to the Respondent under the SIP-approved Permit by Rule and Non-Rule Standard Permit programs. The permits cover various emission units at the Facilities, including process equipment, tanks, and flares.

16. Respondent is required by its PBR Permit (Sickenius Facility) and Non-Rule Standard Permit (Fall City Facility) to control the emission of waste gas streams from the Facilities. *See* PBR Permit Registration Number 117483 (Sickenius Facility); Non-Rule

Standard Permit Registration Number 149991 (Fall City Facility). Respondent is required to operate in compliance with certain provisions of the Texas SIP.

17. During May 8 – 16, 2018, EPA conducted helicopter flyovers of the Eagle Ford Shale area to assess energy extraction facility emissions using Optical Gas Imaging (“OGI”) technology.

18. On February 5, 2019, EPA sent Respondent OGI video captures showing hydrocarbon emissions from the tanks at the Sickenius Facility and the flare at the Fall City Facility.

19. Based upon its review of the images obtained during the flyovers and preliminary permit information available from online state databases for oil and gas facilities, EPA Region 6 notified Respondent and TCEQ of violations of the Texas SIP on February 5, 2019.

20. On February 20, 2019, Respondent and EPA Region 6 conferred regarding violations of the Texas SIP.

21. On March 5, 2019, Respondent provided information to EPA that they have taken the following corrective action measures at the Facilities to address some of the compliance issues observed during the flyovers. Specifically, Respondent provided the following information regarding the Facilities.

Sickenius Facility

- a. From May 2018 to March 5, 2019 at its Sickenius Facility, Respondent replaced seals and gaskets during routine tank inspections, ensured that paraffin was not obstructing dumps on the separator through its standard hot oil program, and removed debris obstructing the dump during compressor inspections.

Falls City Facility

- b. On or about June 7, 2018 at its Falls City Facility, Respondent disassembled, pressure washed, and re-assembled the flame arrestor used in connection with the flare stack, in order to improve flare combustion efficiency. After subsequent inspections, Respondent found that the flame arrestor and flare stack were working properly.

22. EPA has conducted a comprehensive review of the facility-specific information gathered based upon observations made from the flyover video captures and facility permitted operations. Based on this review, EPA has made the following findings for the Facilities.

Sickenius Facility

- a. Respondent violated 30 T.A.C. § 106.6(b) by failing to operate equipment consistent with operating procedures in the certified registration for PBR permit.
- b. Respondent violated 30 T.A.C. § 106.6(c) by varying from representations in the certified registration for PBR Permit regarding emissions at the facility.

Falls City Facility

- c. Respondent violated TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(1) by failing to ensure that facilities that have the potential to emit air contaminants are maintained in good working order and are operating properly during facility operations.
- d. Respondent violated TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(11) by failing to meet the design destruction efficiency of 98% for VOCs claimed in their permit application, when operating the flare to control emissions from production, planned MSS, emergency, or upset events.

23. More than thirty days before the issuance of this Consent Order, the Respondent was notified of the violations alleged herein. On February 5, 2019, the

Respondent and the State of Texas were notified of the violations alleged herein, in accordance with Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1).

24. The parties to this Consent Order agree that an opportunity to confer has been satisfied in accordance with Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4).

25. The parties further agree that in order to avoid protracted litigation, and in the best interest of all the parties and the environment, this Administrative Order will be entered into on Consent and by mutual agreement of the parties.

26. Only for the purposes of this proceeding, including any subsequent proceeding by EPA to enforce this document, Respondent admits the jurisdictional allegations contained herein; however, Respondent neither admits nor denies the specific findings of fact and conclusions of law contained in this Consent Order.

27. Respondent also consents to and agrees not to contest EPA's jurisdiction to either issue this Consent Order or enforce its terms. Further, Respondent will not contest EPA's jurisdiction to either compel compliance with this Consent Order in any subsequent enforcement proceedings, whether administrative or judicial, or require Respondent's full compliance with the terms of this Consent Order or impose sanctions for violations of this Consent Order. Respondent consents to the terms of this Consent Order.

ORDER ON CONSENT

28. Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), provides in pertinent part that the Administrator may issue an Order requiring compliance with any requirement of a state implementation plan. Pursuant to this authority, EPA has decided to issue this Consent Order after investigating all relevant facts, taking into account Respondent's compliance history, efforts made by Respondent to comply with applicable

regulations, and based upon the foregoing Findings of Fact and Conclusions of Law herein.

29. Respondent has consented to, and is hereby ordered to satisfy, the following requirements regarding the Facilities:

- a. Within 60 days from the Effective Date of this Consent Order, Respondent shall inspect all thief hatches, tank relief valves, and dump controls at the Sickenius Facility to ensure there are no unauthorized emissions.
- b. Within 30 days of the Effective Date of this Consent Order, Respondent shall inspect the flare at the Falls City Facility to ensure that the flare used for the control of emissions from production during all facility operating scenarios where gases are routed to the flare is properly operated and continuously lit.
- c. Within 180 days from inspections discussed in paragraph "a.-b." above, Respondent shall send a letter to EPA detailing what was inspected, the method of inspection and outlining any actions taken or improvements made at each facility to ensure or improve compliance.

30. Any information or correspondence submitted by Respondent to EPA under this Consent Order shall be addressed to the following:

Cynthia J. Kaleri
Enforcement and Compliance Assurance Division (ECDAP)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733
Phone: (214) 665- 6772
Email: kaleri.cynthia@epa.gov

31. To the extent this Consent Order requires Respondent to submit any information to EPA, Respondent may assert a business confidentiality claim covering part or all of that information, but only to the extent and only in the manner described in 40 C.F.R. § 2.203. EPA will disclose information submitted under a confidentiality claim only as provided in 40 C.F.R Part 2, Subpart B. *See* 41 Fed. Reg. 36,902 (Sept. 1, 1976). If Respondent does not assert a confidentiality claim, EPA may make the submitted

information available to the public without further notice to Respondent. Emission data provided under Section 114 of the CAA, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R Part 2, Subpart B. "Emission data" is defined in 40 C.F.R. § 2.301.

32. By signing this Consent Order, Respondent acknowledges that this Consent Order will be available to the public and agrees that this Consent Order does not contain any confidential business information.

GENERAL PROVISIONS

33. Pursuant to Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), this Consent Order shall be effective when fully executed, as set forth below in Paragraph 49, shall not exceed a term of one year, and shall be nonrenewable.

34. The provisions of this Consent Order shall apply to and be binding upon Respondent, its officers, directors, agents, and employees solely in their capacity of acting on behalf of Respondent.

35. Respondent neither admits nor denies any of the factual or legal determinations made by the EPA in this Consent Order.

36. The provisions of this Consent Order shall be transferable to any other party, upon sale or other disposition of the Facilities. Upon such action, the provisions of this Consent Order shall then apply to and be binding upon any new owner/operator, its officers, directors, agents, employees, and any successors in interest.

37. By signing this Consent Order, the undersigned representative of Matador certifies that he or she is fully authorized by the Respondent to execute and enter into the

terms and conditions of this Consent Order and has the legal capacity to bind Respondent to the terms and conditions of this Consent Order.

38. Nothing in this Consent Order shall be construed to prevent or limit EPA's civil and criminal authorities, or that of other Federal, State, or local agencies or departments to obtain compliance, penalties, or injunctive relief under any applicable Federal, State, or local laws or regulations, including the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

39. Nothing contained in this Consent Order shall affect the responsibility of Respondent to comply with all other applicable Federal, State, or local laws or regulations, including Section 303 of the CAA, 42 U.S.C. § 7603.

40. EPA does not waive any rights or remedies available to EPA for any violations by Respondent of Federal laws, regulations, statutes, or permitting programs.

41. Any and all information required to be maintained or submitted pursuant to this Consent Order is not subject to the Paperwork Reduction Act of 1995, 44 U.S.C. §§3501 et seq., because it seeks to collect information from specific entities to assure compliance with this administrative action.

42. By signing this Consent Order, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, to the best of its knowledge and belief, truthful, accurate, and complete for each submission, response, and statement. Respondent acknowledges that there are significant penalties for

submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

43. EPA reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this Consent Order. This Consent Order shall not be construed as a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, and/or authorities, civil or criminal, which EPA has under any statutory, regulatory, or common law authority of the United States.

44. This Consent Order does not resolve any civil or criminal claims of the United States for the violations alleged in this Consent Order; nor does it limit the rights of the United States to obtain penalties or injunctive relief under the Act or other applicable federal law or regulations.

45. Respondent has entered into this Order in good faith without trial or adjudication of any issue of fact or law.

46. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Consent Order, including any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1).

47. The parties shall bear their own costs and fees in this action, including attorneys' fees.


FAILURE TO COMPLY

48. Failure to comply with this Consent Order may result in an enforcement action for appropriate injunctive relief as well as civil penalties pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b) or, in appropriate cases, criminal penalties.

EFFECTIVE DATE


49. This Consent Order shall become effective upon the later of the two signatures below.

4/24/2019
Date



KAP
Craig N. Adams
EVP – Land, Legal and Administration
5400 LBJ Freeway, Suite 1500
Dallas, Texas 75240

5/3/2019
Date



Cheryl T. Seager
Director
Enforcement and Compliance Assurance
Division

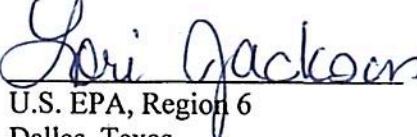
CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Administrative Order on Consent was placed in the United States mail to the following by the method indicated:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: # 700 10360 0003 6674 8254

Craig N. Adams
EVP – Land, Legal and Administration
5400 LBJ Freeway, Suite 1500
Dallas, Texas 75240

Date: 05-06-2019


U.S. EPA, Region 6
Dallas, Texas