

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

IN THE MATTER OF:

Hermes Consolidated, LLC)	
Par Wyoming, LLC)	Docket No. CAA-08-2023-0004
825 Town and Country Lane, Suite 1500)	
Houston, TX 77024)	
)	

NOTICE OF DETERMINATION

1. Pursuant to the *Interim Approach to Applying the Audit Policy to New Owners*, 73 Fed. Reg. 44991 (August 1, 2008), (New Owner Audit Policy) the U.S. Environmental Protection Agency (EPA or Agency) offers tailored incentives and additional penalty mitigation to new owners that want to make a “clean start” at newly acquired facilities by addressing noncompliance that began before the acquisition. The New Owner Audit Policy modifies certain conditions of EPA’s April 11, 2000, *Incentives for Self- Policing: Discovery, Disclosure, Correction and Prevention of Violations*, 65 Fed. Reg. 19618 (commonly known as the Audit Policy). EPA Region 8 hereby issues this Notice of Determination (NOD) regarding violations voluntarily disclosed to EPA by Par Wyoming, LLC (Par) at the following facilities:

Newcastle Refinery, 10 Stampede St./10 Fairgrounds Rd., Newcastle, WY
 Mush Creek Station, 935-936 Hwy 450, Newcastle, WY
 HA Station, 690 Keeline Rd., Weston County, WY
 Thunder Creek Station, 4465 Hwy 450, Weston County, WY
 Clareton Station, 110 Darlington Rd., Weston County, WY
 Fiddler Creek Station, 578 Fiddler Creek Rd., Osage County, WY
 Butte Junction Station, 325 Hwy 450, Newcastle, WY
 Buck Creek Station, 660 Wasserburger Rd., Niobrara County, WY
 Ells Jet Terminal, 2495 Elgin, Rapid City, SD

Preliminary Statement

2. Effective July 14, 2016, Par acquired Hermes Consolidated, LLC d/b/a Wyoming Refining Company, including Hermes Consolidated, LLC’s ownership of 100% of the stock of Wyoming Pipeline Company, LLC.
3. Par, a Delaware limited liability company, is not registered with the Wyoming Secretary of State as of the date of this NOD. Hermes Consolidated, LLC is registered with the Wyoming Secretary of State, and as of the date of this NOD is active and in good standing.
4. Par conducted audits at the facilities and identified violations of certain environmental laws and regulations in existence before December 15, 2016. Par disclosed the findings of those audits to the Agency and diligently pursued corrective action for each violation.

5. Most of the corrective actions were completed quickly. Par submitted extension requests for certain of the corrective actions. Based on the justifications provided by Par, EPA approved each extension request. Par now has completed all corrective actions.
6. As an incentive for regulated entities disclosing any violations resulting from an environmental audit or a CMS, EPA may eliminate or substantially reduce the gravity-based component of civil penalties to be assessed for violations that are voluntarily disclosed in compliance with the conditions specified in the Audit Policy. For new owners who meet the conditions of the New Owner Audit Policy, EPA may eliminate or substantially reduce the economic benefit component of civil penalties to be assessed for self-disclosed violations.

Findings of Fact

7. Par and EPA entered into a New Owner Audit Corporate Auditing Agreement in September 2016.
8. Violations disclosed by Par are included under the appendix to this Notice of Determination titled Hermes Consolidated EPA New Owner Audit.
9. Based on information provided by Par for the disclosures identified in the appendix hereto, EPA has determined that Par has met each of the following conditions set forth in the New Owner Audit Policy.
 - a. Par has certified that the violations were discovered as part of an audit of the listed facilities.
 - b. Par has certified that the violations were identified voluntarily, not through a monitoring, sampling or auditing procedure required by statute, regulation, permit, judicial order, administrative order, consent decree or consent agreement.
 - c. Par promptly disclosed and submitted the violations to EPA in writing.
 - d. Par has certified that the violations were identified and disclosed prior to the commencement of a federal, state, or local agency inspection, investigation, or information request, notice of a citizen suit, legal complaint by a third party, or imminent discovery by a regulatory agency.
 - e. Par has certified that it has taken the appropriate steps to correct and remedy the violations listed in the appendix hereto.
 - f. Par has certified to EPA that it has taken steps to prevent recurrence of the violations.
 - g. Par has certified that the violations at issue or closely related violations have not occurred previously within the past three years at the same facilities and are not part of a pattern of violations on the part of Par within the past five years.

- h. Par has certified that the violations at issue have not resulted in serious actual harm to human health or the environment, and that the violations have not presented an imminent and substantial endangerment to public health or the environment.
 - i. Par has stated the violations at issue do not violate the specific terms of any judicial order, administrative order, consent decree or consent agreement.
 - j. Par has cooperated with EPA and provided the information necessary for the Agency to determine the applicability of the New Owner Audit Policy to its disclosure.
10. Par stated it meets the definition of a “New Owner,” for purposes of receiving the penalty mitigation incentives provided by the New Owner Audit Policy. Specifically,
- a. prior to the transaction, Par was not responsible for environmental compliance at the facilities that are the subject of the disclosure, did not cause the violations being disclosed, and could not have prevented their occurrence;
 - b. the violations that are the subject of the disclosure originated with the prior owner; and
 - c. prior to the transaction, neither Par nor the prior owner had the largest ownership share of the other entity, and they did not have a common corporate parent.

Determination

11. Based on the review of information and documentation received and in reliance on Par’s certifications, EPA has determined:
- a. Par has met all of the conditions of the New Owner Audit Policy and is eligible for a waiver of the total gravity-based civil penalty for the disclosed violations;
 - b. Par accrued no significant economic benefit of noncompliance as a result of the violations described herein; and
 - c. that this NOD resolves Par’s civil penalty liability for the violations described herein with no assessment of a civil penalty.

Reservation of Rights

12. If, and to the extent that, any information or statement provided by Par upon which this NOD is based was materially false or inaccurate at the time such information or statement was provided to EPA, EPA reserves the right to revoke this NOD and, thereby render this NOD null and void ab initio. Such revocation shall be in writing and shall become effective upon receipt by Par.
13. This NOD applies only to EPA’s mitigation of the civil monetary penalties for the violations disclosed. If, and to the extent that, any information or statement provided by Par upon which any civil penalty mitigation granted herein for such violations was based was materially false or inaccurate at the time such information or statement was provided to EPA, EPA reserves the right

to assess and collect any and all civil penalties for any violation described herein. Such assessment and collection or the exercise of this reservation shall be in writing and shall become effective upon receipt by Par.

14. Nothing herein shall be construed to limit the authority of EPA and/or the United States to undertake action against any person, including Par, in response to any condition which EPA or the United States determines may be necessary to protect public health, welfare or the environment. Furthermore, issuance of this NOD does not constitute a waiver by EPA and/or the United States of its right to bring an enforcement action, either civil or criminal, against Par for any other violation of any federal or state statute, regulation, or permit.
15. In issuing this NOD, EPA seeks to promote self-auditing and full compliance by Par with all environmental requirements and to continue the internal procedures necessary to prevent recurrences of violations of environmental requirements.

Suzanne J. Bohan, Director
Enforcement and Compliance Assurance Division

APPENDIX

Facility	Finding	Corrective Action	Deadline – Completion Date
Newcastle Refinery	A portable compressor which has been determined to qualify as a stationary source may have been operating onsite without a permit authorizing its emissions. In addition, the refinery owns two portable diesel-powered trash pumps and one diesel-powered light plant that may be subject to permitting requirements.	Submitted permit application to the Wyoming Department of Environmental Quality (WDEQ) for the compressor. Evaluate whether the two trash pumps and light plant are subject to permitting requirements based on engine and stationary or non-road status. Submit permit applications for these engines if necessary.	Permit application submitted to WDEQ 2/17/17; WDEQ determined no permit was required by letter dated 3/20/17
	Documentation reflecting submittal to the Environmental Protection Agency (EPA) of the Tank 45 inspection completion certification within 60 days of startup and startup notification within 15 days of startup as required by regulation could not be located.	Submitted startup notification letter and attached the inspection certification for Tank 45.	Notification letter Submitted 1/30/17 ahead of 2/1 deadline
	Documentation reflecting submittal to EPA of the Tank 13 startup notification within 15 days as required by regulation could not be located.	Submitted notification letter for Tank 13.	Notification letter Submitted 1/30/17 ahead of 2/1 deadline
	An application to set new permit limits on scrubber inlet gas pressure and upper reverse jet nozzle liquid pressure based on annual particulate matter (PM) testing at the fluid-catalytic cracking unit (FCCU) stack, most recently performed on June 17, 2015, could not be located. The limits in the current permit are from 2011 testing.	Submit the required permit revision application after the FCCU PM test in late February 2017.	Submitted Permit application to WDEQ prior to 6/1/17 deadline; received updated permit 3/8/18
	The Flare Management Plan (FMP) may be out of date and may not adequately cover both the Overflow Flare and the Main Flare. In addition, it may lack certain required information for the Main Flare.	Revise the FMP to include the required information and submit the revised plan to WDEQ and EPA as required.	Revised FMP completed and submitted at 7/31/17 deadline
	Emergency Generator 3 (EMGen 3) underwent significant repairs in June 2015, potentially subjecting it to 40 CFR § 60, Subpart IIII. Documentation or an analysis showing that these repairs to EMGen 3 had not triggered applicability of Subpart IIII could not be located.	Conduct and document an evaluation of whether the repairs qualified as a reconstruction, triggering applicability of Subpart IIII. If the engine is subject to Subpart IIII, establish procedures to determine compliance obligations and ensure compliance is being achieved. Further investigation revealed that repairs were covered by warranty, no cost to Par, did not trigger Subpart IIII.	Confirmed Subpart IIII not triggered on or before 6/1/17
	The portable compressor at this facility may be subject to Subpart ZZZZ, but the facility lacks documentation to show that it has been inspected and maintained in accordance with the requirements of Subpart ZZZZ.	Updated the existing maintenance and hours log for the portable compressor to ensure it included all information required by Subpart ZZZZ. Per WDEQ letter dated March 20, 2017, confirmed that this unit is a non-road mobile source not subject to ZZZZ.	2/1/17
	Bulk gasoline terminals at area sources of hazardous air pollutants (HAPs) may be subject to 40 CFR § 63, Subpart BBBB, and may not currently be in compliance with that subpart. Par subsequently determined that only two tanks at the Facility are subject to BBBB.	Evaluate applicability of Subpart BBBB and implement required management procedures, monitoring, recordkeeping and reporting requirements. Initial notice and notice of compliance letters were submitted for the relevant tanks on or before January 29, 2018.	1/29/18
	The refinery's annual hazardous air pollutant (HAP) reports to WDEQ did not include emissions from the FCCU stack for HCN or HCl.	Correct the 2015 HAP report to include HCN and HCl emissions, resubmit to WDEQ, and pay appropriate fees. Amended inventory submitted March 24, 2017.	3/24/17
	The facility's Tier II inventory reports in 2013, 2014, and 2015 may not have correctly accounted for all of the hazardous chemicals present onsite above threshold quantities. In addition, the reported maximum and average daily code amounts for some materials may have been lower than what was stored onsite.	Prepare an accurate Tier II report for calendar year 2016 by its due date and report correctly going forward. Revised Tier II report submitted February 28, 2017.	2/28/17

	This facility may have used glycol ether in manufacturing in an amount that triggered a reporting requirement. However, the facility's Form R records listed ethylene glycol instead of glycol ether.	Prepared and submitted to EPA and WDEQ a corrected Form R report including glycol ether for reporting year 2015. Will properly report in future years in which the facility's use of this material triggers a reporting requirement. Submitted amended RY2015 Form R on January 30, 2017.	1/30/17
	A sump at this facility qualified as an underground storage tank (UST), but it could not be confirmed that the sump was equipped with corrosion or overflow protection or that the system was being monitored for leaks, as required by regulation. It could also not be verified that WDEQ had been notified of its existence or received an annual fee.	Close in place the sump and replace it with an aboveground tank or other authorized unit. Par subsequently obtained a regulatory interpretation from WDEQ on April 7, 2017, confirming that the sump in question is PHMSA-regulated and not subject to the referenced rules.	6/28/17
	The refinery's tanks 9, 13, 18, 20 through 27, 36, 40 through 48, 60 through 62, 100 through 102, 117, 140, 142, 148, 150, 152, 250 through 253, 301, 302, 361, Bio Tank, W-1, 94, 96, 97, 99, 100 through 107, 239, and T-1 have not been inspected in accordance with recognized and generally accepted good engineering practices (RAGAGEP), as required by the Risk Management Plan (RMP) rule. Specifically, the tanks are not up-to-date on American Petroleum Institute (API) 653 internal inspections completed by an API 653 certified inspector per the facility's RMP.	Have tank inspections performed in accordance with API 653 standards and by an API 653 certified inspector.	External inspections Completed before 7/1/19; return to compliance re internal inspections – last tank corrected 3/30/22
	The facility's wastewater permit requires operation of four onsite aerated wastewater ponds to provide additional treatment of wastewater, but three of the ponds' aerators may not be functional.	Submitted letter to the state providing updates to the prior permit application on 1/27/17.	1/27/17
	The refinery's facility response plan (FRP) is not current and lacks documentation of annual reviews. In addition, two 3-million-gallon aboveground storage tanks were installed in 2013. This affected the worst-case discharge scenario, but the revision to the FRP and subsequent submittal to the EPA within 60 days could not be located. The requirement to resubmit the FRP to EPA every five years was not met.	Updated the refinery's FRP and submitted to EPA. Timely perform and document annual reviews going forward. FRP update completed and submitted January 27, 2017. EPA approval letter received November 4, 2019.	1/27/17
Mush Creek Station	Tank capacities for Tank 102 were reported differently on the operating permit and the permit application.	Submitted correct tank capacity information to WDEQ.	Submitted before 2/1/17 deadline
	A storage tank at this facility is currently storing North Dakota sweet crude, which has a higher Reid Vapor Pressure (RVP) and, as a result, higher yearly emissions than the Wyoming sweet crude authorized by the permit waiver. A permit or waiver authorizing the increase in emissions due to the facility beginning to store North Dakota sweet crude in addition to Wyoming sweet crude in 2015 could not be located.	Submitted a permit application to WDEQ reflecting the change in operations. WDEQ has acknowledged receipt of the application and issued a revised permit on August 28, 2017.	9/1/17
	Documentation reflecting the submittal to EPA of the control equipment certification for Tk 108 could not be located.	Take the tank out of service to perform necessary inspection. Submit to EPA the required notification and retain a copy in the facility files. Subsequently, Par confirmed that the tank and control equipment were newly constructed as of 2015 so the only omissions were recordkeeping and reporting, corrected as of January 31, 2018.	1/31/18
	Documentation reflecting the submittal to EPA of the initial filling notification and construction notification for	Submitted to EPA the required notifications on January 25, 2017, and retained a copy in the facility files.	1/25/17

	Tk 108 could not be located.		
	Notification of startup for Tk 108 may not have been submitted to EPA within 15 days as required by regulation.	Submitted to EPA the required notification on January 13, 2016, and retained a copy in the facility files.	1/13/16
	Documentation reflecting inspection of the Tk 108 floating roof and primary seal prior to filling could not be located.	Conduct and document the required inspections. Develop a recordkeeping system that will ensure records are retained and protected from loss. Include any previous records that can be located in this documentation system. Subsequently, Par determined that this tank was constructed to API 650 standard in 2015 and that no inspections had been missed. Tank was inspected with notice to WDEQ on January 31, 2018.	11/1/17
	The facility's 2014 biennial report, required for facilities that qualify as Large Quantity Generators (LQGs) of hazardous waste, may not have been submitted to EPA on time. In addition, the 2014 and 2016 biennial reports may not have included EPA identification numbers associated with the reports.	Verified generator status of the site as a very small quantity generator (VSQG) no longer subject to biennial reporting requirements. Amended the Notification of Hazardous Waste Activity to reflect the proper generator status	Generator status updated prior to 2/1/17 deadline
	Hydrocarbon-contaminated soils from landfarming activities may be present onsite.	Dig and haul contaminated soil offsite for proper disposal. Discontinue storage of contaminated soil onsite.	10/1/17
	This facility may conduct both transportation related and non-transportation related activities, meaning that the facility would meet the definition of a "complex" and therefore fall under both DOT and EPA jurisdiction. However, the facility does not have current spill prevention, control and countermeasure (SPCC) plans as required of such facilities.	Review the operations at the facility to determine whether it meets the definition of a "complex" and is thus subject to both DOT and EPA requirements. If it does, ensure that the spill response plan meets regulatory requirements and has been fully implemented. Retain a copy of the applicability evaluation for future reference. SPCC was updated as of July 31, 2017.	7/31/17
HA Station	It could not be verified that Tier II Emergency Planning and Community Right-to-Know Act (EPCRA) reports had been submitted for all facilities storing 10,000 lbs. or more of crude oil or petroleum products, as required by regulation.	Determine whether each tank qualifies as a breakout tank that falls under PHMSA and DOT jurisdiction, making it exempt from Tier II reporting requirements. If the tanks are not breakout tanks, evaluate whether the facility stores 10,000 lbs. or more of crude oil or petroleum products, triggering EPCRA applicability. If EPCRA applies, submit Tier II reports. Par subsequently confirmed the tanks are exempt PHMSA breakout tanks.	3/1/17
Thunder Creek Station	It could not be verified that Tier II EPCRA reports had been submitted for all facilities storing 10,000 lbs. or more of crude oil or petroleum products, as required by regulation.	Determine whether each tank qualifies as a breakout tank that falls under PHMSA and DOT jurisdiction, making it exempt from Tier II reporting requirements. If the tanks are not breakout tanks, evaluate whether the facility stores 10,000 lbs. or more of crude oil or petroleum products, triggering EPCRA applicability. If EPCRA applies, submit Tier II reports. Par subsequently confirmed the tanks are exempt PHMSA breakout tanks.	
	This facility may conduct both transportation related and non-transportation related activities, meaning that the facility would meet the definition of a "complex" and therefore fall under both DOT and EPA jurisdiction. However, the facility does not have current SPCC plans as required of such facilities.	Review the operations at the facility to determine whether it meets the definition of a "complex" and is thus subject to both DOT and EPA requirements. If it does, ensure that the spill response plan meets regulatory requirements and has been fully implemented. Retain a copy of the applicability evaluation for future reference. SPCC was updated as of July 31, 2017.	7/31/17

Clareton Station	It could not be verified that Tier II EPCRA reports had been submitted for this facility as required by regulation for facilities that store crude or petroleum products in excess of 10,000 lbs.	Determine whether each tank qualifies as a breakout tank that falls under PHMSA and DOT jurisdiction, making it exempt from Tier II reporting requirements. If the tanks are not breakout tanks, evaluate whether the facility stores 10,000 lbs. or more of crude oil or petroleum products, triggering EPCRA applicability. If EPCRA applies, submit Tier II reports. Par subsequently confirmed the tanks are exempt PHMSA breakout tanks.	3/1/17
Fiddler Creek Station	Hydrocarbon-contaminated soils from landfarming activities may be present onsite.	Dig and haul contaminated soil offsite for proper disposal. Discontinue practice of storing contaminated soil onsite.	10/1/17
Butte Junction Station	It could not be verified that Tier II EPCRA reports had been submitted for this facility as required by regulation for facilities that store crude or petroleum products in excess of 10,000 lbs.	Determine whether each tank qualifies as a breakout tank that falls under PHMSA and DOT jurisdiction, making it exempt from Tier II reporting requirements. If the tanks are not breakout tanks, evaluate whether the facility stores 10,000 lbs. or more of crude oil or petroleum products, triggering EPCRA applicability. If EPCRA applies, submit Tier II reports. Par subsequently confirmed the tanks are exempt PHMSA breakout tanks.	3/1/17
Buck Creek Station	Landfarming of hydrocarbon-contaminated soils may have occurred onsite, and contaminated soil from those activities remains onsite.	Dig and haul contaminated soil offsite for proper disposal. Discontinue practice of storing contaminated soil onsite.	4/26/18
	Storage tanks T-1 and 107 are subject to the requirements of 40 CFR § 60.112b requiring storage vessels to be equipped with tank controls. Records confirming that the tanks' control equipment configurations comply with required specifications could not be located.	Evaluated tank designs to determine if the tanks are in compliance with 40 CFR § 60.112b(a)(1)(ii). The station is currently idled and the crude line has been purged. If the station is brought back into service, repairs will be made to bring the tanks into compliance with 40 CFR § 60.112b.	2/1/17
	Documentation could not be located reflecting the interior inspection of the roof, seals and other components of storage tanks T-1 and 107. Per regulation the tanks should have been inspected when they were emptied and degassed, which most recently occurred in June 2016.	Conducted and documented the required inspections.	1/1/18
	Storage tank Tk 41 is subject to the requirements of 40 CFR § 60.112b requiring storage vessels to be equipped with tank controls, such as a floating roof. This tank is currently idle.	Tank was disconnected and idled, with limited remaining residuals below Subpart Kb vapor pressure applicability threshold.	6/1/17
	It could not be verified that Tier II EPCRA reports had been submitted for this facility as required by regulation for facilities that store crude or petroleum products in excess of 10,000 lbs.	Determine whether each tank qualifies as a breakout tank that falls under PHMSA and DOT jurisdiction, making it exempt from Tier II reporting requirements. If the tanks are not breakout tanks, evaluate whether the facility stores 10,000 lbs. or more of crude oil or petroleum products, triggering EPCRA applicability. If EPCRA applies, submit Tier II reports. Par subsequently confirmed the tanks are exempt PHMSA breakout tanks.	3/1/17
Ells Jet Terminal	It could not be verified that Tier II EPCRA reports had been submitted for this facility as required by regulation for facilities that store crude or petroleum products in excess of 10,000 lbs.	Determine whether each tank qualifies as a breakout tank that falls under PHMSA and DOT jurisdiction, making it exempt from Tier II reporting requirements. If the tanks are not breakout tanks, evaluate whether the facility stores 10,000 lbs. or more of crude oil or petroleum products, triggering EPCRA applicability. If EPCRA applies, submit Tier II reports. Par subsequently confirmed the tanks are exempt PHMSA breakout tanks.	3/1/17