

FILED
30 SEP 25 AM 09:08
REGIONAL HEARING CLERK
EPA REGION 6

(
(
(
(
(
(
(
(
(
(
(
(
(
(
(

DOCKET NO. CAA-06-2025-3385

1

compliance proceedings under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

3. Arlanxeo USA LLC (“Arlanxeo” or “Respondent”) is a limited liability company doing business in the State of Texas. Respondent is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this Consent Agreement along with the corresponding Final Order hereinafter known together as the “CAFO” without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this CAFO.

B. JURISDICTION

5. This CAFO is entered into under Section 113(d) of the Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules, 40 C.F.R. Part 22. The alleged violations in this CAFO are pursuant to Section 113(a)(3)(A) of the Act, 42 U.S.C. § 7413(a)(3)(A).

6. EPA and the United States Department of Justice jointly determined that this matter, although it involves alleged violations that occurred more than a 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.

7. On December 12, 2024, EPA issued to Respondent a Notice of Violation (the “NOV”) and provided a copy of the NOV to the State of Texas. In the NOV, EPA provided notice to both Respondent and the State of Texas that EPA found Respondent committed the alleged violations of the National Emissions Standards for Hazardous Air Pollutants (“NESHAP”) described in Section E of this CAFO and provided Respondent an opportunity to confer with EPA.

8. The Regional Judicial Officer is authorized to ratify this CAFO which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b).

9. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

C. GOVERNING LAW

10. The Act is designed “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population.” 42 U.S.C. § 7401(b)(1).

11. 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.

National Emission Standards for Hazardous Air Pollutants

12. Section 112 of the CAA, 42 U.S.C. § 7412, sets forth a national program for control of hazardous air pollutants (“HAPs”). Under Section 112(b), Congress listed 188 HAPs believed to cause adverse health or environmental effects. 42 U.S.C. § 7412(b)(1).

13. Congress directed EPA to publish a list of all categories and subcategories of, *inter alia*, major sources of HAPs. CAA § 112(c), 42 U.S.C. § 7412(c).

14. Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1), defines a “major source” to mean “any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.” *See also* 40 C.F.R. § 63.2.

15. Congress directed EPA to promulgate regulations establishing emission standards for each category or subcategory of, *inter alia*, major sources of HAPs. CAA § 112(d)(1), 42 U.S.C. § 7412(d)(1). These emission standards must require the maximum degree of reduction in emissions of HAPs that the Administrator, taking into consideration the cost of achieving such emissions reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for the new or existing sources in the category or subcategory to which the emission standard applies. CAA § 112(d)(2), 42 U.S.C. § 7412(d)(2).

16. To the extent that it is not feasible to prescribe or enforce an emission standard for the control of a HAP, Congress authorized EPA to promulgate “design, equipment, work practice, or operational” standards, which are to be treated as emissions standards. CAA § 112(h), 42 U.S.C. § 7412(h).

17. The emission standards promulgated under Section 112 of the 1990 Amendments of the CAA, 42 U.S.C. § 7412, are known as the National Emission Standards for Hazardous Air Pollutants (“NESHAPs”) for Source Categories or “MACT” (“maximum achievable control technology”) standards. These emission standards are found in Part 63 of Title 40 of the Code of Federal Regulations.

18. After the effective date of any emission standard, limitation, or regulation promulgated pursuant to Section 112 of the CAA, no person may operate a source in violation of such standard, limitation, or regulation. 42 U.S.C. § 7412(i)(3).

40 C.F.R. Part 63 - NESHAP Subpart FFFF

19. Pursuant to Section 112 of the CAA, 42 U.S.C. § 7412, EPA promulgated NESHAPs for Miscellaneous Organic Chemical Manufacturing (“MON”), now codified at 40 C.F.R. § 63, Subpart FFFF. *See* 68 Fed. Reg. 63,852 (November 10, 2003). EPA has subsequently amended the MON on numerous occasions, including relevant amendments on August 12, 2020, following a residual risk and technology review, that required supplements to the notification of compliance status be submitted in certain circumstances and adjusted the applicability of subpart A to the MON, amongst other changes. *See* 85 Fed. Reg. 49,084; *see also* 71 Fed. Reg. 40,316; 87 Fed. Reg. 77,985; 89 Fed. Reg. 23,840.

20. Pursuant to 40 C.F.R. § 63.2435(a), the provisions of the MON apply to those who “own or operate miscellaneous organic chemical manufacturing process units (“MCPU”) that are located at, or are part of, a major source of [HAP] emissions as defined in section 112(a) of the [CAA].”

21. “An MCPU includes equipment necessary to operate a miscellaneous organic chemical manufacturing process” that 1) produces material or family of materials, including an organic chemical classified using the 1987 version of SIC code 282, 283, 284, 285, 286, 287, 289, or 386, except as provided in paragraph (c)(5) of [§ 63.2435], and 2) processes, uses, or generates any of the organic HAP listed in section 112(b) of the CAA or hydrogen halide and halogen HAP, as defined in § 63.2550. 40 C.F.R. § 63.2435(b)(1)-(2).

22. The MON imposes notification requirements upon owners and operators of affected sources. *See generally* 40 C.F.R. § 63.2515. Owners and operators of affected sources must submit an initial notification of compliance status (“NOCS”) in accordance with 40 C.F.R.

§ 63.2515(b), and supplements to the notification of compliance status as specified in § 63.2520(d)(3) through (6). 40 C.F.R. § 63.2515(b), (d).

23. Pursuant to 40 C.F.R. § 63.2520(d)(4), “[f]or pressure relief devices subject to the pressure release management work practice standards in § 63.2480(e)(3), you must also submit the information listed in paragraphs (d)(4)(i) and (ii) of [§ 63.2520(d)(4)] in a supplement to the Notification of Compliance Status within 150 days after the first applicable compliance date for pressure relief device monitoring.”

24. 40 C.F.R. § 63.2445(g)(4) establishes all MON affected sources that commenced construction or reconstruction on or before December 17, 2019, with pressure relief devices subject to the requirements specified in 40 C.F.R. §§ 63.2480(e) and 63.2520(d)(4) must be in compliance upon initial startup or on August 12, 2023, whichever is later.

25. The MON imposes a general duty to, at all times, “operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions[,]” beginning no later than the compliance dates specified in § 63.2445(g). 40 C.F.R. § 63.2450(u).

26. 40 C.F.R. § 63.2445(g)(1) mandates all MON affected sources that commenced construction or reconstruction on or before December 17, 2019, be in compliance with 40 C.F.R. § 63.2450(u) upon initial startup or on August 12, 2023, whichever is later.

NESHAP Subpart A

27. NESHAP Subpart A establishes general provisions that are applicable to sources that are subject to the MACT standards of Part 63 of Title 40 of the C.F.R. 40 C.F.R. § 63, Subpart A, §§ 63.1-63.16 (Subpart A).

28. Each standard in Part 63 of Title 40 of the C.F.R. explicitly identifies which provisions of Subpart A are or are not included in the relevant standard. 40 C.F.R. § 63.1(a)(4). *See* 40 C.F.R. § 63.2540 (noting Table 12 identifies the applicable parts of Subpart A for the MON).

29. The MON includes Subpart A requirements that apply to flares that are used as control devices for affected sources. *See* 40 C.F.R. § 63 Subpart FFFF, Table 12 (identifying 40 C.F.R. § 63.11(b) as applicable to the MON).

30. 40 C.F.R. § 63.11(b)(6)(ii) requires flares be used “only with the net heating value of the gas being combusted at 11.2 MJ/scm (300 Btu/scf) or greater if the flare is steam-assisted or air-assisted.”

31. The MON additionally included certain Subpart A operation and maintenance requirements through August 11, 2023. *See* 40 C.F.R. § 63 Subpart FFFF, Table 12 (identifying 40 C.F.R. § 63.6(e)(1)(i)-(ii) as applicable to the MON through August 11, 2023). Pursuant to 40 C.F.R. § 63.6(e)(1)(i) “[a]t all times, including periods of startup, shutdown, and malfunction, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions . . .” Beginning on August 12, 2023,

40 C.F.R. § 63.2450(u), which imposes the same general duty, *see supra* paragraph 25, became applicable to the MON in lieu of 40 C.F.R. § 63.6(e)(1)(i).

D. FINDINGS OF FACT AND CONCLUSIONS OF LAW

32. Respondent owns and operates the Arlanxeo Orange Facility located at 4647 FM 1006, Orange, Texas 77630 (the “Facility”).

33. At all times relevant to this proceeding, Respondent has owned and operated the Facility.

34. Respondent is the owner and operator of the Facility within the meaning of the Act, Section 112(a)(9), 42 U.S.C. § 7412(a)(9), and 40 C.F.R. § 63.2.

35. The Facility operates or has operated under several Federal Operating Permits (“FOPs”), including Permit No. O-2279, issued on May 17, 2018, and currently in the renewal process, which covers the Therban Unit.

36. The Facility is a “major source” within the meaning of section 112(a) of the CAA, 42 U.S.C. § 7412(a).

37. Respondent owns and operates a miscellaneous organic chemical manufacturing process unit subject to the requirements of 40 C.F.R. Part 63, Subpart FFFF. Respondent’s Therban unit uses HAP 1,3 Butadiene to produce synthetic rubber (SIC Code 282) at the Facility. FOP O-2279 identifies the Therban unit as subject to the requirements of 40 C.F.R. Part 63, Subpart FFFF.

38. As a unit subject to 40 C.F.R. § 63, Subpart FFFF, the Therban unit is also subject to certain NESHAP General provision regulations under 40 C.F.R. § 63, Subpart A.

39. The MON applicable Therban unit features various pressure relief devices that are required to comply with the pressure release management work practice standards in 40 C.F.R. § 63.2480(e)(3).

40. The Facility also features a single steam assisted flare (“Flare 1”), and all units, including the MON applicable Therban unit, are routed to it.

41. EPA Region 6 conducted an on-site inspection of the Facility on February 15, 2024 (the “Inspection”), focusing on the Facility’s control devices.

42. During the Inspection, EPA observed uncombusted hydrocarbons and excess steam from Flare 1.

43. In response to these observations, on February 23, 2024, EPA requested additional documentation relating to flare information and data, which was provided by Respondent on March 8, 2024.

44. The flaring data provided by Respondent spanned January 1, 2021, to February 23, 2024, and revealed:

- a. Several occasions on which vent gas routed to Flare 1 was below a net heating value of the vent gas (“NHVvg”) of 300 BTU/scf; and
- b. A high steam to vent gas ratio (“SVG”) for Flare 1 on numerous occasions, specifically a SVG of 3:1 and greater.

45. EPA also requested the Facility’s NOCS and any supplements for MON applicable units on July 7, 2024. On August 1, 2024, Respondent provided a NOCS dated August 8, 2009, but no additional supplements.

46. On December 12, 2024, EPA sent Respondent the NOV and provided a copy to the State of Texas.

47. On December 19, 2024, and on various other occasions, EPA conferred with Respondent regarding the violations alleged herein and provided an opportunity for Respondent to submit additional information or materials.

48. Based on the Inspection, subsequent review of documents provided by the Facility after the Inspection, and other disclosures made by Respondent, EPA identified alleged violations of the CAA at the Facility as described in Section E of this CAFO.

E. ALLEGED VIOLATIONS

49. EPA has conducted a comprehensive review of the Facility-specific information gathered based upon observations made from the OGI video captures, Facility permitted operations, and information provided by Respondent. Based on this review, EPA alleges the following violations for the Facility:

Claim 1: Failure to Submit a Supplement to the NOCS

50. 40 C.F.R. § 63.2520(d)(4) applies because the MON applicable Therban unit features various pressure relief devices that are required to comply with the pressure release management work practice standards in 40 C.F.R. § 63.2480(e)(3).

51. Pursuant to 40 C.F.R. § 63.2520(d)(4) and § 63.2445(g)(4), for pressure relief devices subject to the pressure release management work practice standards in § 63.2480(e)(3), the Facility was required to submit a supplement to its Notification of Compliance Status within 150 days of August 12, 2023.

52. Respondent violated 40 C.F.R. § 63.2520(d)(4) because it failed to submit a supplement to the NOCS within 150 days of August 12, 2023, or by January 9, 2024, for the Therban unit pressure relief devices subject to the pressure release management work practice standards in § 63.2480(e)(3).

Claim 2: Failure to Maintain the Net Heating Value of Gas Being Combusted at 300 Btu/Scf or greater at the Steam Assisted Flare

53. 40 C.F.R. § 63.11(b) applies at the Facility because Flare 1 is a control device at the MON applicable Therban unit.

54. As reflected in the data Respondent produced to EPA, between January 1, 2021, and February 23, 2024, the vent gas routed to Flare 1 was below a 300 BTU/scf net heating value of the vent gas (“NHVvg”) on numerous occasions.

55. Respondent violated 40 C.F.R. § 63.11(b)(6)(ii) because it failed to maintain the NHVvg being combusted at 300 Btu/scf or greater at the Facility’s steam assisted flare, Flare 1, on numerous occasions.

Claim 3: Failure to Maintain and Operate the Facility’s Flare in a Manner Consistent with Safety and Good Air Pollution Control Practices

56. 40 C.F.R. § 63.6(e) and § 63.2450(u) apply at the Facility by nature of the Therban unit being MON applicable and thus subject to Part 63, Subpart A provisions as noted in Table 12 of Part 63, Subpart FFFF.

57. As reflected in the data Respondent produced to EPA, on numerous occasions between January 1, 2021, and February 23, 2024, Respondent operated Flare 1 with high steam to vent gas ratios. High steam to vent gas ratios result in reduced combustion efficiency.

58. Respondent violated 40 C.F.R. § 63.6(e)(1)(i) because its operation of Flare 1 on numerous occasions from January 1, 2021, through August 11, 2023, with high steam to vent gas ratios failed to maintain and operate the Facility's air pollution control equipment in a manner consistent with safety and good air pollution control practices for minimizing emissions.

59. Respondent violated 40 C.F.R. § 63.2450(u) because its operation of Flare 1 on numerous occasions from August 12, 2023, to February 23, 2024, with high steam to vent gas ratios failed to maintain and operate the Facility's air pollution control equipment in a manner consistent with safety and good air pollution control practices for minimizing emissions.

F. CIVIL PENALTY AND CONDITIONS OF SETTLEMENT

a. General

60. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2),
Respondent:

- a. admits that EPA has jurisdiction over the subject matter alleged in this CAFO;
- b. neither admits nor denies the specific factual allegations contained in the CAFO;
- c. By signing this consent agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement;
- d. consents to the assessment of a civil penalty, as stated below;

- e. consents to the issuance of any specified compliance or corrective action order¹;
 - f. consents to the conditions specified in this CAFO;
 - g. consents to any stated Permit Action;
 - h. waives any right to contest the alleged violations set forth in Section E of this CAFO; and
 - i. waives its rights to appeal the Final Order included in this CAFO.
61. For the purpose of this proceeding, Respondent:
- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
 - b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement action;
 - c. 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 CAFO, including any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1);
 - d. consents to personal jurisdiction in any action to enforce this CAFO in the United States District Court for the Eastern District of Texas;

¹ Although 40 C.F.R. § 22.18(b)(2) requires each item in this list to be stated in this CAFO, subparagraphs (e) and (g) are not applicable to this particular case.

e. waives any right it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with this CAFO and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action; and

f. agrees that in any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other relief relating to this Facility, Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim splitting, or other defenses based on any contention that the claims raised by the Complainant or the United States were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to this CAFO.

b. Penalty Assessment and Collection

62. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business, Respondent's full compliance history and good faith efforts to comply, the duration of the violations, payment by the violator of any penalties previously assessed for the same violations, the economic benefit of noncompliance, the seriousness of the violations, and other factors as justice may require, EPA has assessed a civil penalty in the amount of \$150,000 (the "EPA Penalty"). The EPA Penalty has been determined in accordance with Section 113 of the CAA, 42, U.S.C. § 7413, and at no time exceeded EPA's statutory authority.

63. Respondent agrees to:

a. pay the EPA Penalty within 30 calendar days of the Effective Date of this CAFO; and

b. pay the EPA 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>. However, for any payments made after September 30, 2025, and in accordance with the March 25, 2025 Executive Order on Modernizing Payments To and From America's Bank Account, Respondent shall pay using one of the electronic payment's methods listed on EPA's How to Make a Payment website and will not pay with a paper check.

For wire transfer, payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

For Automated Clearinghouse (also known as "remittance express" or "REX"):

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

For Online Payment:

<https://www.pay.gov/paygov/>
Enter sfo 1.1 in search field
Open form and complete required fields.

PLEASE NOTE: Respondent shall email a simultaneous notice of such payment to the following email addresses:

Sydney Knodl
U.S. EPA Region 6
Knodl.Sydney@epa.gov

And

Region 6 Hearing Clerk
U.S. EPA Region 6
Vaughn.Lorena@epa.gov

64. Respondent agrees to pay the following on any overdue EPA Penalty:

a. Interest. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any unpaid portion of a civil penalty must bear interest at the rates established pursuant to 26 U.S.C. § 6621(a)(2).

b. Nonpayment Penalty. On any portion of a civil penalty more than ninety (90) calendar days delinquent, Respondent must pay a nonpayment penalty, pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), which shall accrue from the date the penalty payment became delinquent, and which shall be in addition to the interest which accrues under subparagraph (a) of this Paragraph.

65. Respondent shall pay a charge to cover the cost of processing and handling any delinquent penalty claim, pursuant to 42 U.S.C. § 7413(d)(5), including, but not limited to, attorney's fees incurred by the United States for collection proceedings.

66. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may:

a. refer the debt to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court (in which the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review) to secure payment of the debt, which may include the original penalty, enforcement and collection expenses, nonpayment penalty and interest, 42 U.S.C. § 7413(d)(5) and 40 C.F.R. §§ 13.13, 13.14, and 13.33;

b. collect the above-referenced debt by administrative offset (*i.e.*, the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and

c. suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

c. Conditions of Settlement

Notification of Compliance Status Requirements

67. By no later than thirty (30) days following the Effective Date of this CAFO, Respondent shall submit a supplement to the NOCS as required by 40 C.F.R. § 63.2520(d)(4) for all applicable units to the Texas Commission on Environmental Quality (“TCEQ”) and to EPA via the Compliance and Emissions Data Reporting Interface (“CEDRI”).

68. By no later than thirty (30) days following the Effective Date of this CAFO, Respondent shall provide a certification statement to the TCEQ and EPA stating that the NOCS supplement described in Paragraph 67 contains all applicable pressure relief devices.

The certification statement shall be emailed to:

Sydney Knodl
U.S. EPA Region 6
knodl.sydney@epa.gov

69. For one (1) year following the Effective Date of the CAFO, if any pressure relief device(s) subject to the requirements of 40 C.F.R. § 63.2480(e) are discovered to be excluded from the NOCS supplement, Respondent must notify EPA, in writing, within fourteen (14) calendar days of discovery with an explanation of the likely cause and remedial steps taken (or to be taken) to prevent future exclusions. Notifications shall be emailed to the addressed references in Paragraph 68.

Flare Requirements

70. By no later than three-hundred and thirty (330) days following the Effective Date of this CAFO, Respondent shall operate and maintain the Flare 1 system (“Flare”) and the associated records in accordance with Appendix A.

71. By no later than three-hundred and thirty (330) days following the Effective Date of this CAFO, Respondent shall operate the Flare to maintain the net heating value of flare combustion zone gas (“NHVcz”) at or above the 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. Respondent shall calculate NHVcz as specified in 40 C.F.R. § 63.670(m).

72. By no later than three hundred and sixty (360) days after the Effective Date of this CAFO, Respondent shall complete and submit to TCEQ’s preconstruction and Title V CAA permitting program, appropriate applications to incorporate the requirements of Paragraphs 70 and 71 into a federally enforceable Title V permit for the Facility such that the requirements:

- a. become and remain “applicable requirements” as that term is defined in 40 C.F.R. § 70.2 and
- b. survive federal enforcement of this Consent Agreement and Final Order.

73. EPA reserves the right to pursue enforcement of any violations identified as a result of Paragraphs 67-72.

d. Additional Terms of Settlement

74. Respondent agrees that the time period from the Effective Date of this CAFO until all the conditions specified in Paragraphs 67 through 72 of this CAFO are completed (the “Tolling Period”) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by Complainant on any claims set forth in Section E of this CAFO (the “Tolled Claims”). Respondent shall not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other

similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolloed Claims.

75. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors and assigns. From the Effective Date of this Agreement until the end of the Tolling Period, as set out in Paragraph 74 of this CAFO, Respondent must give written notice and a copy of this CAFO to any successors in interest prior to transfer of ownership or control of any portion or interest in the Facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to EPA. In the event of any such transfer, assignment or delegation, Respondent shall continue to be bound by the obligations or liabilities of this CAFO until EPA has provided written approval.

76. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information. *See 40 C.F.R. Part 2, Subpart B (Confidentiality of Business Information).*

77. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has legal capacity to bind the party he or she represents to this CAFO.

78. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, 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.

79. EPA and Respondent agree to the use of electronic signatures for this matter. EPA and Respondent further agree to electronic service of this CAFO by email to the following addresses:

To EPA: mosavihecht.pegga@epa.gov

To Respondent: JVanOrden@cozen.com

80. Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17. Except as qualified by Paragraph 65 of this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

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 Respondent 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 Respondent herein agrees, that:

- a. 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. 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. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at Chalifoux.Jessica@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 Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding subparagraph, shall further:
 - i. notify EPA’s Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the Effective Date of this Order per Section H of this CAFO; and
 - ii. provide EPA’s Cincinnati Finance Center with Respondent’s TIN, via email, within five (5) days of Respondent’s issuance and receipt of the TIN.

G. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

82. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged in Sections D and E above.

83. If Respondent fails to timely and satisfactorily complete every condition stated in Paragraphs 67 through 72 of this CAFO (including payment of any stipulated penalties owed), then Complainant may compel Respondent to perform the conditions in Paragraphs 67 through 72, seek civil penalties that accrue from the Effective Date of this CAFO until compliance is achieved, and seek other relief in a civil judicial action pursuant to the Clean Air Act, pursuant to contract law, or both.

84. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

85. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Paragraphs 67 through 72 is restitution, remediation, or required to come into compliance with the law.

86. 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 the subject matter hereof.

87. 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.

88. Any violation of the included Final Order may result in a civil judicial action for an injunction or civil penalties of up to \$124,426 per day of violation, or both, as provided in Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

89. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit. EPA does not, by its consent to the entry of this CAFO, warrant or aver in any manner that Respondent's compliance with any aspect of this CAFO will result in compliance with provisions of the Clean Air Act, 42 U.S.C. § 7401, et seq., or with any other provisions of federal, state, or local laws, regulations, or permits.

90. Nothing herein shall be construed to limit the power of 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.

H. EFFECTIVE DATE

91. Respondent and Complainant agree to the issuance of the included Final Order. Upon filing, EPA will transmit a copy of the filed CAFO to Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Hearing Clerk.

The foregoing Consent Agreement In the Matter of Arlanxeo USA LLC, Docket No. CAA-06-2025-3385, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

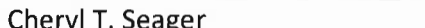
Date: 9-29-25



Neil Amedee
Head of HSEQ
4647 FM 1006, Orange, Tx 88630
Arlanxeo USA LLC

FOR COMPLAINANT:

Date: September 29, 2025



Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

APPENDIX A

Flare System Requirements

1. Flare vent gas flow rate monitoring. By no later than three-hundred and thirty (330) days following the Effective Date of this CAFO, Respondent shall install, operate, calibrate, and maintain a monitoring system capable of continuously measuring, calculating, and recording the volumetric flow rate in the Flare header or headers that feed the Flare as well as any Flare supplemental gas used. Different flow monitoring methods may be used to measure different gaseous streams that make up the Flare vent gas provided that the flow rates of all gas streams that contribute to the Flare vent gas are determined.

2. Steam assist flow rate monitoring. By no later than three-hundred and thirty (330) days following the Effective Date of this CAFO, Respondent shall install, operate, calibrate, and maintain a monitoring system capable of continuously measuring, calculating, and recording the volumetric flow rate of assist steam used with the Flare.

3. Flow monitoring system requirements. The flow rate monitoring systems in Paragraphs 1 and 2 must be able to correct for the temperature and pressure of the system and output parameters in standard conditions (i.e., a temperature of 20 °C (68 °F) and a pressure of 1 atmosphere). Mass flow monitors may be used for determining volumetric flow rate of Flare vent gas provided the molecular weight of the Flare vent gas is determined using compositional analysis as specified in 40 C.F.R. § 63.670(j) so that the mass flow rate can be converted to volumetric flow at standard conditions using the equation in 40 C.F.R. § 63.670(i)(2). Mass flow monitors may be used for determining volumetric flow rate of assist steam, using the equation in 40 C.F.R. § 63.670(i)(2) and using a molecular weight of 18 pounds per pound-mole for assist steam.

4. Flare vent gas composition monitoring. By no later than three-hundred and thirty (330) days following the Effective Date of this CAFO, Respondent shall determine the concentration of individual components in the Flare vent gas or may elect to directly monitor the net heating value of the Flare vent gas. If determining the concentration of individual components, Respondent shall install, operate, calibrate, and maintain a monitoring system capable of continuously measuring (i.e., at least once every 15-minutes), calculating, and recording the individual component concentrations present in the Flare vent gas. If directly monitoring the net heating value, Respondent shall install, operate, calibrate, and maintain a calorimeter capable of continuously measuring, calculating, and recording NHVvg at standard conditions. Respondent may elect to use different monitoring methods for different gaseous streams that make up the Flare vent gas using different methods provided the composition or net heating value of all gas streams that contribute to the Flare vent gas are determined.

5. Calculation methods for determining Flare vent gas net heating value. By no later than three-hundred and thirty (330) days following the Effective Date of this CAFO, if Respondent elects to determine the concentration of individual components, then Respondent shall determine the net heating value of the Flare vent gas ("NHVvg") using the equation in 40

C.F.R. § 63.670(l)(1). If Respondent elects to directly monitor the net heating value of the Flare vent gas, then Respondent shall use the direct output of the monitoring system(s) (in Btu/scf) to determine the NHVvg for the sample. Respondent shall use set 15-minute time periods starting at 12 midnight to 12:15 a.m., 12:15 a.m. to 12:30 a.m. and so on concluding at 11:45 p.m. to midnight when calculating 15-minute block averages.

6. Requirements for Flare monitoring systems. For each continuous parameter monitoring system ("CPMS") installed to comply with this CAFO, Respondent shall install, operate, calibrate, and maintain the CPMS as specified in 40 C.F.R. § 63.671(a). Respondent shall develop and implement a CPMS quality control program documented in a CPMS monitoring plan that covers each Flare subject to this CAFO and each CPMS installed to comply with this CAFO. Respondent shall have the CPMS monitoring plan readily available on-site at all times and shall submit a copy of the CPMS monitoring plan to EPA Region 6. The CPMS monitoring plan must contain the information listed in 40 C.F.R. § 63.671(b)(1) through (5). Respondent shall reduce data from applicable CPMS as outlined in 40 C.F.R. § 63.671(d).

7. Recordkeeping. Respondent must keep the following Flare monitoring records:

- a. The 15-minute block average cumulative flows for flare vent gas and total steam, specified to be monitored under § 63.670(i), along with the date and time interval for the 15-minute block. If multiple monitoring locations are used to determine cumulative vent gas flow and total steam, then retain records of the 15-minute block average flows for each monitoring location for a minimum of 1 year and retain the 15-minute block average cumulative flows that are used in subsequent calculations for a minimum of 1 year. If pressure and temperature monitoring is used, then retain records of the 15-minute block average temperature, pressure, and molecular weight of the flare vent gas or assist gas stream for each measurement location used to determine the 15-minute block average cumulative flows for a minimum of 1 year, and retain the 15-minute block average cumulative flows that are used in subsequent calculations for a minimum of 1 year.
- b. The flare vent gas compositions specified to be monitored under § 63.670(j). Retain records of individual component concentrations from each compositional analysis for a minimum of 1 year. If an NHVvg analyzer is used, retain records of the 15-minute block average values for a minimum of 1 year.
- c. Each 15-minute block average operating parameter calculated following the methods specified in § 63.670(k) through (n) as applicable.
- d. All periods during which operating values are outside of the applicable operating limits specified in § 63.670(d) through (f) and paragraph (i) of this section when regulated material is being routed to the flare.

- e. All periods during which the owner or operator does not perform flare monitoring according to the procedures in § 63.670(g) through (j).
- f. Records of periods when there is flow of vent gas to the flare, but when there is no flow of regulated material to the flare, including the start and stop time and dates of periods of no regulated material flow.

8. Reporting. Respondent shall submit semiannual Periodic Reports that indicate all periods during which operating values are outside of the applicable operating limits specified by this CAFO when regulated material is being routed to the Flare. The semiannual Periodic Reports shall indicate the date and start and end times for each period, and the net heating value operating parameter(s) determined following the methods specified by this CAFO.

9. Assist Steam Control. By no later than three-hundred and thirty (330) days following the Effective Date of this CAFO, Respondent shall install, operate, calibrate, and maintain equipment, including main and trim control valves and piping, that enables Respondent to control Assist Steam flow in a manner sufficient to ensure compliance with this CAFO.

10. Steam Automation. By no later than three-hundred and thirty (330) days following the Effective Date of this CAFO, Respondent shall install and operate automated controls that automatically adjust the steam flow rates in response to changes to the vent gas flow rates, to maintain the steam to vent gas mass ratio and ensure compliance with the NHVcz standard.

11. Supplemental Gas Automation. By no later than three-hundred and thirty (330) days following the Effective Date of this CAFO, Respondent shall install and operate automated controls of the supplemental gas rate in relation to the vent gas flow rate to ensure compliance with the NHVcz standard.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
30 SEP 25 AM 09:08
REGIONAL HEARING CLERK
EPA REGION 6

IN THE MATTER OF:

Arlanxeo USA LLC
Orange, Texas

RESPONDENT

(
(
(
(
(
(
(
(
(
(
(

DOCKET NO. CAA-06-2025-3385

FINAL ORDER

Pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

Arlanxeo USA LLC is ORDERED to comply with all terms of the Consent Agreement. In accordance with 40 C.F.R. §22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated _____

Thomas Rucki
Regional Judicial Officer
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Consent Agreement and Final Order was filed with the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that I sent a true and correct copy on this day in the following manner to the email addresses:

Copy via Email to Complainant - DELIVERY RECEIPT REQUESTED

mosavihecht.pegga@epa.gov

Copy via Email to Respondent – DELIVERY RECEIPT REQUESTED

JVanOrden@cozen.com
James Van Orden
Cozen O'Connor
One Liberty Place, 1650 Market Street Suite 2800
Philadelphia, PA 19103

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