



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUL 26 2018

REPLY TO THE ATTENTION OF:

VIA E-MAIL

Email: sljohnson@honigman.com



William T. Sperry, President
Savoy Energy, L.P.
920 Hastings Street, Suite A
Post Office Box 1560
Traverse City, Michigan 49685-1560

Dear Mr. Johnson:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Savoy Energy, LP, docket no. CAA-05-2018-0019. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on July 26, 2018.

Pursuant to paragraph 60 of the CAFO, Savoy must pay the civil penalty within 30 days of the filing date. Savoy's check must display the case name and case docket number.

Please direct any questions regarding this case to Susan Tennenbaum, Associate Regional Counsel, 312-886-0273.

Sincerely,



Nathan A. Frank, Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Susan Tennenbaum/C-14J
William T. Sperry, Savoy Energy, LP
Malcolm Mead-O'Brien, MDEQ
Scott Miller, MDEQ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Savoy Energy, LP
Traverse City, MI

Respondent



Docket No. CAA-05-2018-0019

Proceeding to Assess a Civil Penalty
Under Section 113(d) of the Clean Air Act,

42 U.S.C. § 7413(d)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Savoy Energy, LP (Savoy), a limited partnership doing business in Michigan.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

40 C.F.R. Part 60, Subpart OOOO

9. Under Section 111 of the CAA, 42 U.S.C. § 7411, EPA promulgated the Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution at 40 C.F.R. Part 60, Subpart OOOO (“Subpart OOOO”), at 77 *Fed. Reg.* 49542 on August 16, 2012, as amended at 78 *Fed. Reg.* 58436 on September 23, 2013 and at 79 *Fed. Reg.* 79018 on December 31, 2014. Subpart OOOO encompasses 40 C.F.R. §§ 60.5360 through 60.5499.

10. 40 C.F.R. §60.5365 states “[y]ou are subject to the applicable provisions of this subpart if you are the owner or operator of one or more of the onshore affected facilities listed in paragraphs (a) through (g) of this section for which you commence construction, modification or reconstruction after August 23, 2011 and on or before September 18, 2015.”

11. 40 C.F.R. § 60.5430 defines a “storage vessel” as “a tank or other vessel that contains an accumulation of crude oil, condensate, intermediate hydrocarbon liquids, or produced water, and that is constructed primarily of nonearthen materials (such as wood, concrete, steel, fiberglass, or plastic) which provide structural support.”

12. A “Group 2 Storage Vessel” means “a storage vessel, as defined in [40 C.F.R. § 60.5430], for which construction, modification or reconstruction has commenced after April 12, 2013, and on or before September 18, 2015.”

13. 40 C.F.R. § 60.5365(e) defines a “storage vessel affected facility” as “a single storage vessel located in the oil and natural gas production segment, natural gas processing segment or natural gas transmission and storage segment and has the potential for Volatile Organic Compounds (VOC) emissions equal to or greater than 6 tpy [tons per year] as determined according to this section”

14. 40 C.F.R. § 60.5395(d) requires the owner or operator of a storage vessel affected facility to “comply with the control requirements of paragraph (d)(1) of this section unless [they] meet the conditions specified in paragraph (d)(2) of this section.”

15. 40 C.F.R. § 60.5395(d)(1) requires the reduction of VOC emissions by 95.0 percent according to the schedule specified in (d)(1)(i) and (ii) of that section. 40 C.F.R. § 60.5395(d)(1)(i) states “[f]or each Group 2 storage vessel affected facility, you must achieve the required emissions reductions by April 15, 2014, or within 60 days after startup, whichever is later...”

16. 40 C.F.R. § 60.5395(d)(2) requires, among other things, that the owner or operator maintain the uncontrolled actual VOC emissions from the storage vessel affected facility at less than 4 tpy without considering control, as specified in that section.

17. 40 C.F.R. § 60.5395(e)(1) states “[e]xcept as required in paragraph (e)(2) of this section, if you use a control device to reduce emissions from your storage vessel affected facility, you must equip the storage vessel with a cover that meets the requirements of §60.5411(b) and is connected through a closed vent system that meets the requirements of §60.5411(c), and you

must route emissions to a control device that meets the conditions specified in §60.5412(c) and (d). As an alternative to routing the closed vent system to a control device, you may route the closed vent system to a process.”

18. 40 C.F.R. § 60.5411 (b)(1) states “[t]he cover and all openings on the cover (e.g., access hatches, sampling ports, pressure relief valves and gauge wells) shall form a continuous impermeable barrier over the entire surface area of the liquid in the storage vessel....”

19. 40 C.F.R. § 60.5411(b)(2) states “[e]ach cover opening shall be secured in a closed, sealed position (e.g., covered by a gasketed lid or cap) whenever material is in the unit on which the cover is installed except during those times when it is necessary to use an opening as follows:

- (i) To add material to, or remove material from the unit (this includes openings necessary to equalize or balance the internal pressure of the unit following changes in the level of the material in the unit);
- (ii) To inspect or sample the material in the unit;
- (iii) To inspect, maintain, repair, or replace equipment located inside the unit; or
- (iv) To vent liquids, gases, or fumes from the unit through a closed-vent system designed and operated in accordance with the requirements of paragraph (a) or (c) of this section to a control device or to a process.”

20. 40 C.F.R. § 60.5411(b)(3) states “[e]ach storage vessel thief hatch shall be equipped, maintained and operated with a weighted mechanism or equivalent, to ensure that the lid remains properly seated. You must select gasket material for the hatch based on composition of the fluid in the storage vessel and weather conditions.”

21. 40 C.F.R. § 60.5411(c)(1) states “[y]ou must design the closed vent system to route all gases, vapors, and fumes emitted from the material in the storage vessel to a control device that meets the requirements specified in §60.5412(c) and (d), or to a process.”

22. 40 C.F.R. § 60.5411(c)(2) states “[y]ou must design and operate a closed vent system with no detectable emissions, as determined using olfactory, visual and auditory inspections . . .”

23. 40 C.F.R. § 60.5412(d)(1) states “[e]ach flare must be designed and operated in accordance with the requirements of §60.5413(a)(1)...”

24. 40 C.F.R. § 60.5413(a)(1) states “[y]ou are exempt from the requirements to conduct performance tests and design analyses if you use any of the control devices described in paragraphs (a)(1) through (7) of this section.” Paragraph (a)(1) specifies “[a] flare that is designed and operated in accordance with §60.18(b).”

25. 40 C.F.R. § 60.18(b) states “[p]aragraphs (c) through (f) apply to flares.” Paragraph (f)(2) states, “[t]he presence of a flare pilot flame shall be monitored using a thermocouple or any other equivalent device to detect the presence of a flame.”

26. 40 C.F.R. § 60.5416(c), for cover and closed vent system inspections for storage vessel affected facilities, states “[i]f you install a control device or route emissions to a process, you must inspect each closed vent system according to the procedures and schedule specified in paragraphs (c)(1) of this section, inspect each cover according to the procedures and schedule specified in paragraph (c)(2) of this section . . .”

27. 40 C.F.R. § 60.5416(c)(1) states “[f]or each closed vent system, you must conduct an inspection at least once every calendar month as specified in paragraphs (c)(1)(i) through (iii) of this section.” Paragraph (c)(1)(i) states “[y]ou must maintain records of the inspection results as specified in §60.5420(c)(6).”

28. 40 C.F.R. § 60.5416(c)(2), states “[f]or each cover, you must conduct inspections at least once every calendar month as specified in paragraphs (c)(2)(i) through (iii) of this

section.” Paragraph (c)(2)(i) states “[y]ou must maintain records of the inspection results as specified in §60.5420(c)(7).”

29. 40 C.F.R. § 60.5417(d) states “[y]ou must install, calibrate, operate, and maintain a device equipped with a continuous recorder to measure the values of operating parameters appropriate for the control device as specified in either paragraph (d)(1), (2), or (3) of this section. Paragraph (d)(1) specifies “[a] continuous monitoring system that measures the operating parameters in paragraphs (d)(1)(i) through (viii) of this section, as applicable.” Paragraph (d)(1)(iii) specifies “[f]or a flare, a heat sensing monitoring device equipped with a continuous recorder that indicates the continuous ignition of the pilot flame.”

Savoy’s Permits to Install

30. On May 6, 1980, EPA approved Michigan Rule 336.1201 as part of the federally enforceable State Implementation Plan (SIP) for Michigan. 45 *Fed. Reg.* 29790. Rule 336.1201 states “a person shall not install, construct, reconstruct, relocate, or alter any process, fuel-burning or refuse-burning equipment, or control equipment pertaining thereto, which may be a source of an air contaminant, until a permit is issued by the commission.”

31. The Michigan Department of Environmental Quality issued to Savoy Permit to Install No. 23-14 on March 27, 2014, for its Adrian 25 Central Processing Facility, located at Highway 52 and Howell Highway (Latitude 41.924696, Longitude -84.014909), in Adrian Township, Michigan (Adrian 25 Facility).

32. For the Adrian 25 Facility, Permit to Install 23-14, Design/Equipment Parameters for Flexible Group ID FGNATGASPLANT, states that Savoy shall equip and maintain each 400 barrel liquid storage vessel at the facility with a cover meeting the requirements in 40 C.F.R. § 60.5411(b).

33. For the Adrian 25 Facility, Permit to Install 23-14, Design/Equipment Parameters for Flexible Group ID FGNATGASPLANT, states that Savoy shall not store any liquid in a storage vessel unless the vapors from each storage vessel are routed to a process via a closed vent system meeting the requirements of 40 C.F.R. § 60.5411(c).

34. The Administrator of EPA may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$320,000 for CAA violations that occurred after December 6, 2013 through November 2, 2015 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

35. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

36. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

37. Savoy owns and operates the Adrian 25 Facility, located at Highway 52 and Howell Highway in Adrian, Michigan. The Adrian 25 Facility is a centralized location for the collection, distribution, and/or storage of oil, natural gas, and produced water (brine) extracted from nearby wells. These activities are subject to applicable provisions of Subpart OOOO.

38. The Adrian 25 Facility stores oil and produced water in eight 400-barrel liquid storage vessels on-site before the liquids are transported off-site by truck.

39. At the Adrian 25 Facility, all of the storage vessels were constructed after August 23, 2011, but before September 18, 2015, and are therefore subject to applicable provisions of Subpart OOOO.

40. Four of the storage vessels were constructed on February 21, 2014, and are therefore Group 2 storage vessels as defined by 40 C.F.R. § 60.5430. The compliance deadline for achieving the required emissions reductions at Savoy's Group 2 storage vessels was April 22, 2014, according to the schedule in 40 C.F.R. § 60.5395(d)(1)(i).

41. EPA sent two Clean Air Act Section 114 Information Requests ("Information Requests") to Savoy on August 7, 2014, and December 3, 2014.

42. Savoy responded to EPA's Information Requests on October 14, 2014, and January 23, 2015, respectively. Following EPA's request, Savoy's responses included calculations of potential VOC emissions from the storage vessels at the Adrian 25 Facility, including results from liquid sampling and emissions modeling using methodologies prescribed by EPA.

43. Based on information Savoy submitted in its responses to EPA's Information Requests, potential emissions from each oil storage vessel at the Adrian 25 Facility are greater than 6 tons of VOC per year.

44. Each oil storage vessel at the Adrian 25 Facility is a "storage vessel affected facility" per the definition at 40 C.F.R. § 60.5365(e).

45. At the Adrian 25 Facility, the vapors of all eight storage vessels are connected by a single closed vent system, which directs emissions to a flare for combustion. The closed vent system is subject to the control requirements of 40 C.F.R. § 60.5395(e).

46. On April 28, 2014, and October 6, 2015, EPA representatives inspected the Adrian 25 Facility.

47. On April 28, 2014, at the Adrian 25 Facility, EPA inspectors found the thief hatches of four storage vessels and the pressure relief valve of the closed vent system continuously emitting hydrocarbon emissions based on visual, audible, and olfactory detection observations, in violation of 40 C.F.R. § 60.5411(c)(2). The EPA inspectors confirmed the emissions using a FLIR GF320 infrared camera.

48. On October 6, 2015, at the Adrian 25 Facility, EPA inspectors found the thief hatches of three storage vessels and the pressure relief valve and a flange seal on the closed vent system continuously emitting hydrocarbon emissions based on visual, audible, and olfactory detection observations, in violation of 40 C.F.R. § 60.5411(c)(2). The EPA inspectors confirmed the emissions using a FLIR GF320 infrared camera.

49. In its response to EPA's Information Requests, requesting records of inspections conducted at the Adrian 25 Facility pursuant to 40 C.F.R. §§ 60.5411 and 60.5416, Savoy provided a record of an inspection conducted on July 16, 2014. In correspondence dated May 11, 2017, Savoy stated that in July of 2015, Savoy began recordkeeping of the storage vessel closed vent system inspections. Savoy provided to EPA records of these inspections.

50. Savoy's failure to conduct monthly inspections and/or maintain records on the covers and closed vent system of its storage vessels at the Adrian 25 Facility is a violation of 40 C.F.R. § 60.5416(c)(1) and (2).

51. During the April 28, 2014 inspection, a Savoy representative stated to EPA that the flare's pilot flame was checked manually to ensure it remained lit, and that Savoy did not use a thermocouple or any other equivalent heat sensing monitoring device to detect the continuous ignition of the pilot flame.

52. Savoy's failure to equip its flare with a device to detect the continuous ignition of the pilot flame is a violation of 40 C.F.R. §§ 60.18(f)(2) and 60.5417(d)(1)(iii).

53. Savoy owns or operates an "emission source" within the meaning of Section 114 (a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). Therefore, Savoy is subject to the requirements of Section 114(a)(1).

54. On May 29, 2015, EPA issued to Savoy a Notice and Finding of Violation (NOV/FOV) alleging that it failed to meet the requirements for covers and closed vent systems on its storage vessels, failed to conduct inspections or maintain records of inspections of its storage vessel covers and closed vent systems as required, and failed to install, calibrate, operate, and maintain a device to ensure the continuous presence of a pilot flame on its flare, in violation of provisions of Subpart OOOO and its Permit to Install.

55. On July 7, 2015, representatives of Savoy and EPA discussed the May 29, 2015 NOV/FOV.

56. In its response to EPA's Information Requests, Savoy stated that on July 24, 2014, it installed a thermocouple to monitor the flare's pilot flame, increased the spring weights, and replaced the gasket seals on the thief hatches of its storage vessels at the Adrian 25 Facility.

57. In correspondence dated May 11, 2017, Savoy stated that in July 2015, Savoy began recordkeeping of the storage vessel closed vent system inspections. Savoy provided to EPA records of these inspections.

58. In correspondence dated May 11, 2017, Savoy provided documentation that its uncontrolled potential VOC emissions have dropped to less than 4 tpy on a rolling 12-month basis as of July 2016.

Civil Penalty

59. 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 Savoy's cooperation, Complainant has determined that an appropriate civil penalty to settle this action is \$66,000.

60. Within 30 days after the effective date of this CAFO, Respondent must pay a \$66,000 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must note Respondent's name and the docket number of this CAFO.

61. Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-18J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Susan Tennenbaum (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

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

63. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

64. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

General Provisions

65. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: tennenbaum.susan@epa.gov (for Complainant), and sljohnson@honigman.com (for Respondent).

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

67. The effect of the settlement described in paragraph 66, above, is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in paragraphs 56-58 of this CAFO and Respondent's correspondence dated July 24, 2014 and May 11, 2017.

68. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

69. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 66, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

70. Respondent certifies that it is complying fully with 40 C.F.R. Part 60, Subpart OOOO.

71. Concurrently with the signature of this CAFO, the parties have entered into an Administrative Order on Consent (ACO), which sets forth a Compliance Program and reporting requirements for the two-year duration of the ACO.

72. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

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

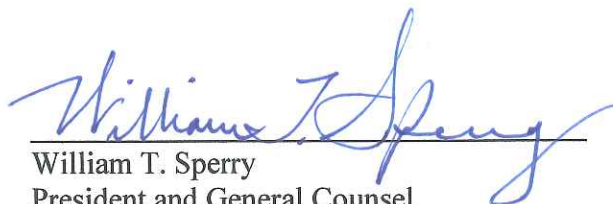
74. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

75. Each party agrees to bear its own costs and attorneys' fees in this action.

76. This CAFO and the concurrent ACO constitute the entire agreement between the parties.

Savoy Energy, L.P., Respondent


7/2/18
Date



William T. Sperry
President and General Counsel
Savoy Energy, L.P.

United States Environmental Protection Agency, Complainant

7/20/13
Date



Edward Nam
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5


Consent Agreement and Final Order
In the Matter of: Savoy Energy, L.P.
Docket No. CAA-05-2018-0019

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.

7/24/18

Date


Ann L. Coyle

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

Consent Agreement and Final Order
In the matter of: Savoy Energy, LP
Docket Number: CAA-05-2018-0019

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number CAA-05-2018-0019, which was filed on July 26, 2018, in the following manner to the following addressees:

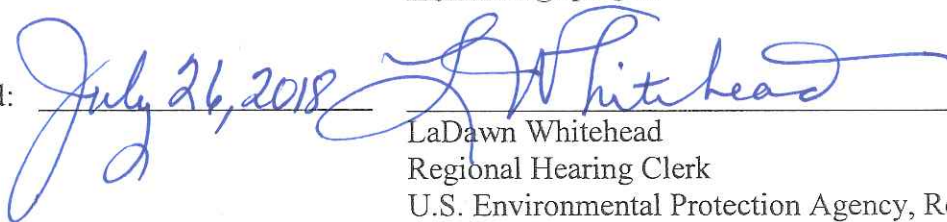
Copy by E-mail to Respondent: William T. Sperry
bill@savoyexp.com

Copy by E-mail to
Attorney for Complainant: Susan Tennenbaum
tennenbaum.susan@epa.gov

Copy by E-mail to
Attorney for Respondent: S. Lee Johnson
sljohnson@honigman.com

Copy by E-mail to
Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated:

July 26, 2018 
LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5