



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

November 16, 2020

VIA E-MAIL
DELIVERY RECEIPT REQUESTED

Eric Groten, Partner
Blue Racer Midstream LLC
46277 Swazey Road
Lewisville, Ohio 43754
Email: egroten@velaw.com

Dear Mr. Groten:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Blue Racer Midstream LLC (Blue Racer), docket no. [CAA-05-2021-0002](#). As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on [November 16, 2020](#).

Pursuant to paragraph 48 of the CAFO, Blue Racer must pay the civil penalty within 30 days of the filing date. Your electronic funds transfer must display the case name and case docket number.

Please direct any questions regarding this case to James Cha, Associate Regional Counsel, (312) 886-0512.

Sincerely,

Letuchy,
Alexandra

Digitally signed by
Letuchy, Alexandra
Date: 2020.11.05
06:35:59 -06'00'

Sarah G. Marshall, Chief
Air Enforcement and Compliance Assurance Section (MI/WI)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/via electronic mail
Regional Hearing Clerk/via electronic mail
James Cha, EPA Associate Regional Counsel/via electronic mail
Bob Hodanbosi, Ohio EPA, via electronic mail
James Kavalec, Ohio EPA, via electronic mail
Devan Roof, Ohio EPA, via electronic mail

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. CAA-05-2021-0002
)	
Blue Racer Midstream, LLC)	Proceeding to Assess a Civil Penalty
Lewisville, Ohio)	Under Section 113(d) of the Clean Air Act,
)	42 U.S.C. § 7413(d)
)	
Respondent.)	
_____)	

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 Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Blue Racer Midstream, LLC (Blue Racer), a corporation doing business in the State of Ohio.

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

9. Under Section 111 of the CAA, 42 U.S.C. § 7411, EPA promulgated the Standards of Performance for New Stationary Sources (aka “New Source Performance Standards,” or “NSPS”) for Crude Oil and Natural Gas Production, Transmission and Distribution at 40 C.F.R. §§ 60.5360 through 60.5430 (Subpart OOOO).

10. Subpart OOOO at 40 C.F.R. § 60.5365 provides that an owner or operator of one or more of the onshore affected facilities listed in paragraphs (a) through (g) of 40 C.F.R. § 60.5465 for which construction, modification, or reconstruction commenced after August 23, 2011, and on or before September 18, 2015, is subject to the applicable provisions of Subpart OOOO.

11. Subpart OOOO at 40 C.F.R. § 60.5430 defines “process unit” as “components assembled for the extraction of natural gas liquids from field gas, the fractionation of the liquids into natural gas products, or other operations associated with the processing of natural gas products.”

12. Subpart OOOO at 40 C.F.R. § 60.5430 defines a “natural gas processing plant (gas plant)” as “any processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both.”

13. Subpart OOOO at 40 C.F.R. § 60.5400 sets forth equipment standards that apply to the group of all equipment, except compressors, within a process unit.

14. Subpart OOOO at 40 C.F.R. §§ 60.5400(a), (b) and (d) through (f) require the owner or operator of an onshore affected facility consisting of equipment within a process unit to comply with the following standards of performance for equipment leaks in Subpart VVa:

- a. The requirements at 40 C.F.R. §§ 60.482-1a(a), (b), and (d), 60.482-2a, and 60.482-4a through 60.482-11a., except as provided in § 60.5401, or in the alternative, the requirements of 40 C.F.R. §§ 60.483-1a and 60.483-2a;
- b. The requirements of 40 C.F.R. § 60.485a, except as provided in 40 C.F.R. § 60.5400(f); and
- c. The requirements of 40 C.F.R. §§ 60.486a and 60.487a, except as provided in 40 C.F.R. §§ 60.5401, 60.5421, and 60.5422;

15. The Subpart OOOO regulation at 40 C.F.R. § 60.5420(c) provides that “[a]ll records required by this subpart [OOOO] must be maintained either onsite or at the nearest local field office for at least 5 years.”

16. Subpart OOOO at 40 C.F.R. 60.5400(f) substitutes the following provision for the leak detection requirements at 40 C.F.R. § 60.485a(d)(1): “[e]ach piece of equipment is presumed to be in VOC service or in wet gas service unless an owner or operator demonstrates that the piece of equipment is not in VOC service or in wet gas service.”

17. Subpart OOOO at 40 C.F.R. § 60.5401(b)(1) through (3) includes the following exceptions to the equipment leak standards of 40 C.F.R. § 60.5400(a) and (b):

- a. Each pressure relief device in gas/vapor service may be monitored quarterly and within 5 days after each pressure release to detect leaks by the methods specified in 40 C.F.R. § 60.485a(b) of Subpart VVa, except as provided in 40 C.F.R. § 60.5400(c) and § 60.5401(b)(4), and 40 C.F.R. § 60.482-4a(a) through (c) of Subpart VVa;
- b. If an instrument reading of 500 ppm or greater is measured, a leak is detected;
- c. When a leak is detected, it must be repaired as soon as practicable, but not later than 15 days after it is detected, except as provided in 40 C.F.R. § 60.482-9a of Subpart VVa; and
- d. A first attempt at repair must be made no later than 5 calendar days after each leak is detected.

18. Under Section 111 of the CAA, 42 U.S.C. § 7411, EPA promulgated the Standards of Performance for New Stationary Sources (NSPS) for Standards of Performance for Equipment Leaks of Volatile Organic Compounds (VOC) in the Synthetic Organic Chemicals Manufacturing Industry at 40 C.F.R. Part 60, Subpart VVa, §§ 60.480a through 60.489a. This NSPS applies to Blue Racer’s process unit equipment as incorporated by Subpart OOOO.

19. Subpart VVa at 40 C.F.R. § 60.482-1a(a) states that “[e]ach owner or operator subject to the provisions of this subpart shall demonstrate compliance with the requirements of §§ 60.482-1a through 60.482-10a or § 60.480a(e) for all equipment within 180 days of initial startup.”

20. Subpart VVa at 40 C.F.R. § 60.482-1a(b) states that “[c]ompliance with [40 C.F.R.] §§ 60.482-1a to 60.482-10a will be determined by review of records and reports, review of performance test results, and inspection using the methods and procedures specified in [40 C.F.R.] § 60.485a.”

21. Subpart VVa at 40 C.F.R. § 60.482-2a(a)(1) states “[e]ach pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in [40 C.F.R.] § 60.485a(b), except as provided in [40 C.F.R.] § 60.482-1a(c) and (f) and [40 C.F.R.]

§ 60.482-

2a(d) through (f)]. A pump that begins operation in light liquid service after the initial startup date for the process unit must be monitored for the first time within 30 days after the end of its startup period”

22. Subpart VVa at 40 C.F.R. § 60.482-2a(a)(2) states that “[e]ach pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal, except as provided in [40 C.F.R.] § 60.482-1a(f).”

23. The Subpart VVa regulation at 40 C.F.R. § 60.486a(e)(7) provides that “the date and results of the weekly visual inspection for indications of liquids dripping from pumps in light liquid service shall be recorded in a log that is kept in a readily accessible location.”

24. Subpart VVa at 40 C.F.R. § 60.482-11a(a) states that “[t]he owner or operator shall initially monitor all connectors in the process unit for leaks by the later of either 12 months after the compliance date or 12 months after initial startup.”

25. Subpart VVa at 40 C.F.R. § 60.482-11a(d) states that “[w]hen a leak is detected pursuant to [40 C.F.R. § 60.482-11a(a) and (b)], it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in [40 C.F.R.] § 60.482-9a. A first attempt at repair as defined in this subpart shall be made no later than 5 calendar days after the leak is detected” from a connector.

26. Subpart VVa at 40 C.F.R. § 60.482-7a(a)(1) states that “[e]ach valve shall be monitored monthly to detect leaks by the methods specified in [40 C.F.R.] § 60.485a(b) and shall comply with paragraphs (b) through (e) of this section”

27. Subpart VVa at 40 C.F.R. § 60.482-7a(a)(2) states that “[a] valve that begins operation in gas/vapor service or light liquid service after the initial startup date for the process unit must be monitored according to [40 C.F.R. § 60.482-7a(a)(2)(i) or (ii)]”

28. Subpart VVa at 40 C.F.R. § 60.482-7a(a)(2)(i) states that a facility must “[m]onitor the valve as in paragraph (a)(1) of [40 C.F.R. § 60.482-7a] this section. The valve must be monitored for the first time within 30 days after the end of its startup period to ensure proper installation.”

29. Subpart VVa at 40 C.F.R. § 60.482-7a(d)(2) states that “[a] first attempt at repair shall be made no later than 5 calendar days after each leak is detected” from a valve in gas/vapor and in light liquid service.

30. Subpart VVa at 40 C.F.R. § 60.485a(b) states “[t]he owner or operator shall determine compliance with the standards in [40 C.F.R.] §§ 60.482-1a through 60.482-11a, 60.483a, and 60.484a as follows: (1) Method 21 shall be used to determine the presence of leaking sources. The instrument shall be calibrated before use each day of its use by the procedures specified in Method 21 of appendix A-7 of this part. ...”

31. For valves, Method 21 at § 8.3.1.1. explains that “[t]he most common source of leaks from valves is the seal between the stem and housing,” and instructs to “Place the probe at the interface where the stem exits the packing gland and sample the stem circumference. Also, place the probe at the interface of the packing gland take-up flange seat and sample the periphery.”

32. Section 113 of the CAA, 42 U.S.C. § 7413, authorizes the Administrator of EPA (the Administrator) to issue an administrative penalty order assessing a civil penalty whenever, among other things, the Administrator finds that any person has violated or is violating a requirement or prohibition of the CAA or any rule promulgated under the CAA. 42 U.S.C. §§ 7413(a)(3)(A) and 7413(d)(1). The Administrator 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, and may assess a civil penalty of up to \$44,539 per day of violation up to a total of \$356,312 for CAA violations that occurred after 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 and the Civil Monetary Penalty Inflation Adjustment Rule, 81 Fed. Reg. 43091 (July 1, 2016), to be codified at 40 C.F.R. Part 19).

33. Section 113(d)(1), 42 U.S.C. § 7413(d)(1), of the CAA limits the Administrator's authority to matters where the first alleged date of violation occurred no more than twelve (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.

34. 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

35. Blue Racer owns and operates an onshore natural gas processing plant located at 46277 Swazey Road, Lewisville, Ohio 43754.

36. Blue Racer removes natural gas liquids from field gas. Blue Racer is subject to the NSPS Subpart OOOO (and by reference Subpart VVa) because Blue Racer owns and operates natural gas processing units at the Berne facility in Lewisville, Ohio.

37. Between on or about August 30, 2016, and on or about September 1, 2016, representatives of EPA conducted an inspection of Blue Racer's Berne facility in Lewisville, Ohio, in order to determine Blue Racer's compliance with leak detection and repair (LDAR)

requirements under the Clean Air Act. During the inspection, EPA inspectors examined equipment at the Berne facility and requested records.

38. On July 24, 2017, EPA issued to Blue Racer a Finding of Violation (FOV) alleging, among other things, that the company had violated the NSPS Subpart OOOO and Subpart VVa for Crude Oil and Natural Gas Production, Transmission and Distribution.

39. On September 19, 2017, representatives of Blue Racer and EPA discussed the July 24, 2017 FOV.

40. On January 31 and September 6, 2018, representatives of Blue Racer provided additional information relating to some of the violations alleged in the July 24, 2017 FOV. Following review of this information, EPA decided not to pursue certain violations originally alleged in the FOV.

41. Based on the evidence obtained through the August 30 – September 1, 2016 inspection, as well as a review of records submitted to EPA by Blue Racer, and other information provided by Respondent, Complainant alleges that Blue Racer has committed the following violations of the CAA LDAR regulations.

Alleged Violations

42. Between in or about July 2015 and in or about September 2016, Blue Racer failed to perform Method 21 properly on a quarterly basis on 10 insulated valves in violation of 40 C.F.R. §§ 60.5400(a) and 60.482-7a(a)(1) (and by reference 40 C.F.R. § 60.485a(b) and 40 C.F.R. Part 60, Appendix A-7, Method 21 §§ 8.3.1 and 8.3.1.1).

43. For nine weeks between on or about July 1, 2015, and on or about August 31, 2015, and for the weeks of January 3, 2016, February 7, 2016, March 6, 2016, April 3, 2016, May 1, 2016, May 29, 2016, June 12, 2016, June 19, 2016, and June 26, 2016, Blue Racer failed

to record in a log kept in a readily accessible location the dates and results of the weekly visual inspections of certain pumps in each of the process units at the Berne Plant, in violation of 40 C.F.R. §§ 60.5400(a) and 60.486a(e)(7).

44. Between in or about October 2015 and in or about November 2015, Blue Racer failed to make timely first attempts at repairs within 5 days of detecting leaks from 4 valves in violation of 40 C.F.R. §§ 60.5400(a) and 60.482-7a(d)(2).

45. In or about October of 2015, Blue Racer failed to make timely repairs within 15 days of detecting leaks from 2 connectors, in violation of 40 C.F.R. §§ 60.5400(a) and 60.482-11a(d).

46. In or about October of 2015, Blue Racer failed to make timely first attempts at repairs within 5 days of detecting leaks from 5 connectors, in violation of 40 C.F.R. §§ 60.5400(a) and 60.482-11a(d).

Civil Penalty

47. 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 Respondent's cooperation and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is **Forty Thousand Dollars (\$40,000)**.

48. Within thirty (30) days after the effective date of this CAFO, Respondent shall pay the \$40,000 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

Respondent also may send the cashier's or certified check, payable to "Treasurer, United States of America," by express mail; payment by express mail must be sent 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 shall note Respondent's name and the docket number of this CAFO.

Respondent also may pay the \$40,000 civil penalty by electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, Respondent shall state Respondent's name and the docket number of this CAFO.

Respondent also may pay the \$40,000 civil penalty by Automated Clearinghouse (ACH), also known as REX or remittance express, electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22-checking

In the comment area of the electronic funds transfer, Respondent shall state Respondent's name and the docket number of this CAFO.

Respondent also may pay the \$40,000 civil penalty using an on-line payment. To pay on-line, go to www.pay.gov. Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields.

49. Respondent shall 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-17J)
Air Enforcement and Compliance Assurance Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

James J. Cha (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

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

51. If Respondent does not pay the \$40,000 civil penalty in a timely fashion, 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.

52. 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 attorney's 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 ten (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

53. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: cha.james@epa.gov (for Complainant), and egroten@velaw.com (for Respondent).

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

55. 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.

56. 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 54, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

57. Respondent certifies that, to the best of its knowledge and belief, it is complying fully with the regulations cited in paragraphs 9 through 31 and 42 through 46, above.

58. 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).

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

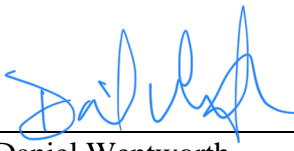
60. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

62. This CAFO constitutes the entire agreement between the parties with respect to any action for civil penalties for the violations alleged herein.

Blue Racer Midstream, LLC, Respondent

10 | 30 | 2020
Date


Daniel Wentworth
Chief Operating Officer
Blue Racer Midstream, LLC

United States Environmental Protection Agency, Complainant

**MICHAEL
HARRIS**

Digitally signed by
MICHAEL HARRIS
Date: 2020.11.16
08:54:13 -06'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Blue Racer, LLC
Docket No. CAA-05-2021-0002

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

ANN COYLE Digitally signed by ANN
COYLE
Date: 2020.11.16
14:38:31 -06'00'

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

Consent Agreement and Final Order
In the matter of: Blue Racer Midstream LLC
Docket Number: [CAA-05-2021-0002](#)

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number [CAA-05-2021-0002](#), which was filed on [November 16, 2020](#), in the following manner to the following addressees:

Copy by E-mail to Respondent: Eric Groten
egroten@velaw.com

Copy by E-mail to Attorney for Complainant: James Cha
Cha.James@epa.gov

Copy by E-mail to Attorney for Respondent:

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

Dated: _____

LADAWN WHITEHEAD Digitally signed by LADAWN WHITEHEAD
Date: 2020.11.16 15:29:36 -06'00'

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