

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
BEFORE THE ADMINISTRATOR

FILED
2012 JUL 26 AM 10:51
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:

PLAINS GAS SOLUTIONS, LLC

EPA DOCKET NO.
CAA-06-2012-3319

ACADIA PARISH

COMPLAINT AND NOTICE OF
OPPORTUNITY FOR A HEARING

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I.

STATEMENT OF AUTHORITY

1. This Complaint and Notice of Opportunity for a Hearing (Complaint) is issued to initiate an administrative action against Plains Gas Solutions, LLC¹ (Respondent) as authorized by sections 113(a)(3) and 113(d)(1)(B) of the Clean Air Act, as amended (Act or CAA), 42 U.S.C. §§ 7413(a)(3) & 7413(d)(1)(B), and 40 C.F.R. §§ 22.13 and 22.34(b). The Complainant in this action is the Director, Compliance Assurance and Enforcement Division of the United States Environmental Protection Agency (EPA), Region 6, who has been delegated the authority to issue such complaints in EPA, Region 6.

¹ Effective February 3, 2012, Plains Gas Solutions, LLC changed the name of the business entity that owned the facility at which the violation alleged in this Complaint occurred from CDM Max, LLC to Plains Gas Solutions, LLC and changed the name of the facility at which the violation alleged in this Complaint occurred from CDM Max, LLC to Basile Gas Handling Facility. To formalize this change, Plains Gas Solutions, LLC submitted Louisiana notification of change form (NOC-1) to the State on March 5, 2012, and supplemented it on April 16, 2012.

2. Through this action, Complainant seeks an order assessing a civil administrative penalty for violations of CAA section 112(r)(1), 42 U.S.C. § 7412(r)(1). Complainant will show that Respondent owns and operates the Basile Gas Handling Facility, a natural gas processing plant located in Eunice, Acadia Parish, Louisiana (the Facility) and is subject to general duties under section 112(r)(1), which Respondent failed to fulfill leading up to and following an explosion and related fire on February 24, 2012, at the Facility.

II.

STATUTORY AND REGULATORY BACKGROUND

3. Under CAA sections 113(a)(3) and 113(d)(1)(B), 42 U.S.C. §§ 7413(a)(3) and 7413(d)(1)(B), whenever the Administrator finds that any person has violated or is violating a requirement of the CAA including, but not limited to, a requirement or prohibition of any rule promulgated under the CAA, other than those requirements specified in CAA sections 113(a)(1), 113(a)(2) or 113(d)(1)(A), 42 U.S.C. § 7413(a)(1), 7413(a)(2), or 7413(d)(1)(A), the Administrator may issue an order assessing a civil administrative penalty. As adjusted by the Civil Penalty Inflation Adjustment Rule of December 11, 2008 (73 Fed. Reg. 75340, 75346), 40 CFR § 19.4, the Administrator may assess a civil penalty of up to \$37,500 per day of violation for a violation occurring after January 12, 2009.

4. Under CAA section 112(r)(1), 42 U.S.C. § 7412(r)(1), “[i]t shall be the objective of the regulations and programs authorized under this subsection to prevent the accidental release and to minimize the consequences of any such release of any substance listed pursuant to paragraph (3) or any other extremely hazardous substance.

The owners and operators of stationary sources producing, processing, handling or storing such substances have a general duty, in the same manner and to the same extent as section 654, title 29 of the United States Code, to identify hazards which may result from such releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.”

5. “Owner or operator” is defined in CAA section 112(a)(9), 42 U.S.C. § 7412(a)(9), as any person who owns, leases, operates, controls, or supervises a stationary source.

6. “Stationary source” is defined in CAA section 112(r)(2)(C), 42 U.S.C. §7412(r)(2)(C), as any buildings, structures, equipment, installations or substance-emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

7. “Accidental release” is defined in CAA section 112(r)(2)(A), 42 U.S.C. §7412(r)(2)(A), as an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

III.

FACTUAL BASIS OF VIOLATIONS

8. As described by this Complaint, Respondent is a person and has violated a requirement of the CAA. EPA has jurisdiction over this action, which is authorized by CAA sections 113(a)(3) and 113(d)(1)(B), 42 U.S.C. §§ 7413(a)(3) & 7413(d)(1)(B).

9. Respondent is a “person” as that term is defined in CAA section 302(e), 42 U.S.C. § 7602(e), and within the meaning of CAA section 113(d), 42 U.S.C. § 7413(d). Respondent is a Texas Limited Liability Company doing business in the State of Louisiana.

10. The Facility is a natural gas processing plant located at 4905 Fournerat Road, Eunice, LA 70535, and has been in operation since 2011.

11. Respondent has operated the Facility since approximately 2011.

12. The Facility’s buildings, equipment and operations comprise a “stationary source” as defined in CAA section 112(r)(2)(C).

13. The Facility produces, processes, handles or stores substances listed pursuant to CAA section 112(r)(3), including natural gas, ethane, and propane.

14. The Facility produces, processes, handles or stores natural gas, ethane, and propane at the Facility via a 400 gpm amine treating process that provides a residue stream with 0.3 mol percent or less of CO₂, a glycol dehydration process, molecular sieve, and a cryogenic expander plant capable of 92% C₂ recoveries and 100% C₃+ recoveries in the full recovery mode, together with an ethane rejection mode.

15. Natural gas, propane, and ethane as produced, processed, handled or stored at the Facility, are flammable, toxic, and/or extremely hazardous substances.

16. On February 24, 2012, an accidental release of 1,944 thousand cubic feet (mcf) of natural gas, 5,987 pounds of ethane, and 1,995 pounds of propane occurred at the Facility due to an explosion and related fire that resulted in worker injury and property damage.

17. On February 23, 2012, the Facility was shut down following leakage in the bottom of reboiler E-2223. After modifications were made, the Facility was finished drying out, the reboiler was removed and bypassed, and the Facility restarted its process on February 24, 2012.

18. After processing natural gas and operating at normal conditions in the morning hours, at approximately 1:00 p.m., the demethanizer tower dumped extremely cold cryogenic liquids to the trim reboiler at -145F, which resulted in an explosion and related fire that led to an employee receiving burns on 20% of his body and property damage.

19. As set forth above, this explosion and fire resulted in the release of 1,944 mcf of natural gas, 5,987 pounds of ethane, and 1,995 pounds of propane, which such venting of the ethane and propane that was remaining in the facility piping and equipment could not be controlled by the flare due to damage sustained during the fire.

20. The fire was extinguished the same day of the release and the Facility was immediately shut down.

21. Respondent has conceded that the explosion, related fire, and accompanying release was due to, among other things, a limited understanding of the implications of a temporary bypass of the demethanizer side/bottoms reboiler, the fact that the Facility was operating with certain alarms and shutdowns bypassed, and Respondent's limited understanding of the implications of excessive Facility temperature swings and the associated impacts on Facility equipment.

IV.**GENERAL DUTY CLAUSE VIOLATION****Count 1. Respondent violated the General Duty Clause under CAA § 112(r)(1), 42 U.S.C. § 7412(r)(1).**

22. Complainant incorporates paragraphs 1-21 as if restated herein.

23. As the owner and operator of the Facility, Respondent is subject to the general duties enumerated in CAA section 112(r)(1).

24. Respondent failed to design and maintain a safe facility and did not take such necessary steps to prevent accidental releases by not fully understanding its process and how certain procedures would react and impact equipment, knowingly operating without proper alarms and safeguards, and not identifying hazards of their process by not conducting adequate analysis prior to bypassing the demethanizer side/bottoms reboiler, yet still operated its Facility, which ultimately led to an explosion, fire, and release of natural gas, ethane, and propane that resulted in employee injury and property damage.

25. Respondent could have prevented or reduced the explosion, fire, and/or release through the use of appropriate safety measures, safer work practices and an overall better understanding of its operating procedures and the impacts of radical temperature changes on its equipment.

26. Therefore, Respondent failed to satisfy one or more of its general duties under CAA section 112(r)(1).

V.**PROPOSED PENALTY**

27. Complainant incorporates paragraphs 1-26 as if restated herein. Pursuant to CAA section 113(e)(1), 42 U.S.C. § 7413(e)(1), in determining the amount of any penalty to be assessed, the Administrator shall consider (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

28. In light of the facts alleged in this Complaint, and having considered the statutory penalty factors in CAA section 113(e)(1), 42 U.S.C. § 7413(e)(1), Complainant requests issuance of an administrative order against Respondent assessing a civil administrative penalty of Thirty-Seven Thousand Five Hundred Dollars (\$37,500.00) for the violations alleged in Section IV of this Complaint.

VI.**NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

29. By issuance of this Complaint, Respondent is hereby notified of its opportunity to answer and request a hearing on the record in this matter.

30. If Respondent contests any material fact upon which this Complaint is based, contends that the amount of the proposed penalty is inappropriate, or contends that it is entitled to judgment as a matter of law, Respondent must file a written Answer to this Complaint with the Regional Hearing Clerk for EPA Region 6 not later than thirty (30) days after being served with this Complaint.

31. Respondent's Answer shall clearly and directly admit, deny, or explain each of the factual allegations set forth in this Complaint with regard to which Respondent has knowledge. If Respondent has no knowledge of a particular factual allegation and states so in its Answer, the allegation will be deemed denied. The failure of Respondent to admit, deny or explain any material factual allegation in the Complaint constitutes an admission of the allegation.

32. Respondent's Answer also shall state (a) the circumstances or arguments which are alleged to constitute the grounds of defense, (b) the facts which Respondent disputes, (c) the basis for opposing any proposed relief, and (d) whether a hearing is requested. A hearing on the issues raised by this Complaint and Respondent's Answer shall be held upon request of the Respondent in its Answer. Any hearing requested will be conducted in accordance with the Administrative Procedure Act, 5 U.S.C. §§ 554 and 556, and the Consolidated Rules of Practice, 40 CFR Part 22, a copy of which is included.

33. The Answer must be sent to:

Regional Hearing Clerk (6RC-D)
U.S. Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

In addition, Respondent is requested to send a copy of the Answer and all other documents that it files in this action to:

Mr. Tom Rucki
Assistant Regional Counsel (6RC-EW)
U.S. Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733
rucki.thomas@epa.gov

34. As provided in 40 CFR § 22.17, if Respondent fails to file a written Answer within thirty (30) days of service of this Complaint, Respondent may be deemed to have admitted all allegations made in this Complaint and waived its right to a hearing. A Default Order may thereafter be issued, and the civil penalty assessed shall become due and payable without further proceedings thirty (30) days after a Default Order becomes final.

35. Respondent is further informed that 40 CFR Part 22 prohibits any ex parte (unilateral) discussion of the merits of this action with the Regional Administrator, Regional Judicial Officer, Administrative Law Judge, or any person likely to advise these officials in the decision of the case, after the Complaint is issued.

VII.

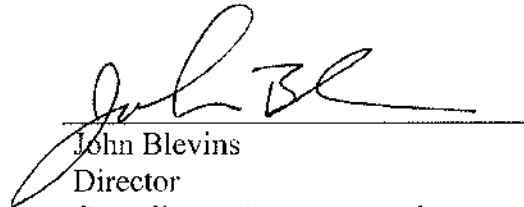
SETTLEMENT CONFERENCE

36. Whether or not Respondent requests a formal hearing or responds with an Answer, Respondent may request an informal conference in order to discuss the facts of this case and to arrive at settlement. To request a settlement conference, Respondent may contact Mr. Tom Rucki, Assistant Regional Counsel, at the address or e-mail in paragraph 33 of this Complaint.

37. Please note that a request for an informal settlement conference does not extend the 30-day period during which Respondent must submit a written Answer and, if desired, a request for a hearing. The informal conference procedure may be pursued as an alternative to, and simultaneously with, the adjudicatory hearing procedure.

38. The EPA encourages all parties against whom a civil penalty is proposed to pursue the possibilities of settlement as a result of an informal conference. Respondent is advised that no penalty reduction will be made simply because such a conference is held. As set forth in 40 CFR § 22.18, any settlement which may be reached as a result of such a conference shall be embodied in a written Consent Agreement signed by the parties and their representatives and a Final Order issued by the Regional Administrator, EPA Region 6. The issuance of such Consent Agreement and Final Order shall constitute a waiver of Respondent's right to request a hearing on any matter stipulated to therein.

Date: 7.25.12



John Blevins
Director
Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

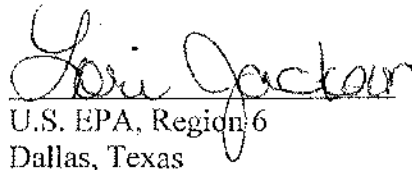
I hereby certify that the original and a copy of the foregoing Complaint and Notice of Opportunity for Hearing (Complaint) was hand-delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Suite 1200, Wells Fargo Bank Tower, Dallas, Texas 75202-2733, and that a true and correct copy of the Complaint and the Consolidated Rules of Practice were placed in the United States Mail, to the following by the method indicated:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: # 700103600002366750592

Mr. Warren Fusilier, Director
Environmental & Regulatory Compliance
Gulf Coast Division EH&S
Plains Gas Solutions, LLC
333 Clay Street, Suite 1600
Houston, TX 77002

Mr. Tony Puckett, Safety Manager
Plains Gas Solutions, LLC, Basile Gas Handling Facility
4905 Fournerat Road
Eunice, LA 75035

Date: 7-26-2012


U.S. EPA, Region 6
Dallas, Texas