



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

DEC 27 2012

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David L. Bell, Esquire
BP-Husky Refining LLC
3040 Scarborough Road
Cleveland Heights, Ohio 44118

Jessica L. Gonzalez, Senior Attorney
Health, Safety, Security and Environmental
BP America Inc.
4101 Winfield Road # 4W
Warrenville, Illinois 60555-3521

Re: Finding of Violation
BP Products North America Inc. and BP-Husky Refining LLC
Oregon, Ohio

Dear Mr. Bell and Ms. Gonzalez:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to BP Products North America Inc. and BP-Husky Refining LLC (you). We find that you have violated Section 111 of the Clean Air Act (CAA), 42 U.S.C. § 7411, at your Oregon, Ohio facility.

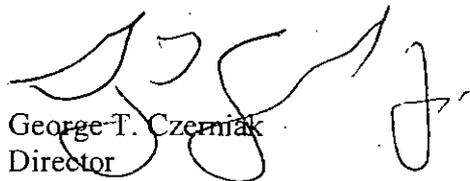
We have several enforcement options under Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3). These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you the opportunity to present information on the specific findings of violation, the efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Virginia Galinsky. You may call her at 312.353.2089 to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,



George T. Czerniak
Director
Air and Radiation Division

Enclosure

cc: Peter Park, Toledo Division of Environmental Services
Bob Hodanbosi, Ohio Environmental Protection Agency

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)	
)	
BP Products North America Inc. and)	FINDING OF VIOLATION
BP-Husky Refining, LLC,)	
Oregon, Ohio)	EPA-5-13-OH-4
)	
Proceedings Pursuant to)	
the Clean Air Act,)	
42 U.S.C. §§ 7401 et seq.)	
)	

FINDING OF VIOLATION

The U.S. Environmental Protection Agency finds that BP Products North America Inc. (BP) and BP-Husky Refining LLC (BP-Husky) are violating Section 111 of the Clean Air Act, 42 U.S.C. § 7411. Specifically, BP and BP-Husky are violating the General Provisions of the New Source Performance Standards and the Standards of Performance for VOC Emissions from Petroleum Refinery Wastewater Systems at 40 C.F.R. Part 60, Subpart QQQ as follows:

Regulatory Authority

Clean Air Act

1. The Clean Air Act (the Act) is designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population. Section 101(b)(1) of the Act, 42 U.S.C. § 7401(b)(1).
2. Section 111(f) of the Act, 42 U.S.C. § 7411(f), requires the promulgation of standards of performance for new stationary sources.
3. Section 111(e) of the Act, 42 U.S.C. § 7411(e), prohibits the operation of a new source in violation of any applicable standard of performance.
4. Section 111(b) of the CAA, 42 U.S.C. § 7411(b) requires EPA to publish a list of categories of stationary sources and, within a year after the inclusion of a category of stationary sources in the list, to publish proposed regulations establishing federal standards of performance for new sources within the source category.

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

5. EPA proposed Standards of Performance for VOC Emissions from Petroleum Refinery Wastewater Systems on May 4, 1987 (NSPS Subpart QQQ). *See* 42 Fed. Reg. 16334. EPA promulgated NSPS Subpart QQQ on November 23, 1988. *See* 43 Fed. Reg. 616. NSPS

Subpart QQQ is codified at 40 C.F.R. § 60.690 *et. seq.* The Subpart has been subsequently amended.

6. NSPS Subpart QQQ applies to affected facilities located in petroleum refineries for which construction, modification, or reconstruction is commenced after May 4, 1987. Affected facilities are individual drain systems, oil-water separators and aggregate facilities (an individual drain system together with ancillary downstream sewer lines and oil-water separators, down to and including the secondary oil-water separator, as applicable).

7. 40 C.F.R. § 60.690(a)(2) provides that “the construction or installation of a new individual drain system shall constitute a modification to an affected facility described in § 60.690(a)(4). For purposes of this paragraph, a new individual drain system shall be limited to all process drains and the first common junction box.”

8. 40 C.F.R. § 60.691 defines “individual drain system” to mean “all process drains connected to the first common downstream junction box. The term includes all such drains and common junction box, together with their associated sewer lines and other junction boxes, down to the receiving oil-water separator.”

9. 40 C.F.R. § 60.691 defines “junction box” to mean “a manhole or access point to a wastewater sewer system line.”

10. 40 C.F.R. § 60.691 defines “water seal controls” to mean “a seal pot, p-leg trap, or other type of trap filled with water that has a design capability to create a water barrier between the sewer and the atmosphere.”

11. 40 C.F.R. § 60.692-1(a) provides that “[e]ach owner or operator subject to the provisions of this subpart shall comply with the requirements of §§ 60.692-1 to 60.692-5 and with §§ 60.693-1 and 60.693-2, except during periods of startup, shutdown, or malfunction.”

12. 40 C.F.R. § 60.692-2(a)(1) provides that “[e]ach drain shall be equipped with water seal controls.”

13. 40 C.F.R. § 60.692-2(a)(2) provides that “[e]ach drain in active service shall be checked by visual or physical inspection initially and monthly thereafter for indications of low water levels or other conditions that would reduce the effectiveness of the water seal controls.”

14. 40 C.F.R. § 60.692-2(a)(3) provides that “[e]xcept as provided in paragraph (a)(4) of this section, each drain out of active service shall be checked by visual or physical inspection initially and weekly thereafter for indications of low water levels or other problems that could result in VOC emissions.”

15. 40 C.F.R. § 60.692-2(a)(4) provides that “[a]s an alternative to the requirements in paragraph (a)(3) of this section, if an owner or operator elects to install a tightly sealed cap or plug over a drain that is out of service, inspections shall be conducted initially and semiannually to ensure caps or plugs are in place and properly installed.”

16. 40 C.F.R. § 60.692-2(b)(1) provides that “[j]unction boxes shall be equipped with a cover and may have an open vent pipe. The vent pipe shall be at least 90 cm (3 ft) in length and shall not exceed 10.2 cm (4 in) in diameter.”

17. 40 C.F.R. § 60.692-2(b)(2) provides that “[j]unction box covers shall have a tight seal around the edge and shall be kept in place at all times, except during inspection and maintenance.”

18. 40 C.F.R. § 60.692-2(b)(3) provides that “[j]unction boxes shall be visually inspected initially and semiannually thereafter to ensure that the cover is in place and to ensure that the cover has a tight seal around the edge.”

19. 40 C.F.R. § 60.696(a) provides that “[b]efore using any equipment installed in compliance with the requirements of § 60.692-2, § 60.692-3, § 60.692-4, § 60.692-5, or § 60.693, the owner or operator shall inspect such equipment for indications of potential emissions, defects, or other problems that may cause the requirements of this subpart not to be met. Points of inspection shall include, but are not limited to, seals, flanges, joints, gaskets, hatches, caps, and plugs.”

20. 40 C.F.R. § 60.698(b)(1) provides that “[e]ach owner or operator of a facility subject to this subpart shall submit to the Administrator within 60 days after initial startup a certification that the equipment necessary to comply with these standards has been installed and that the required initial inspections or tests of process drains, sewer lines, junction boxes, oil-water separators, and closed vent systems and control devices have been carried out in accordance with these standards. Thereafter, the owner or operator shall submit to the Administrator semiannually a certification that all of the required inspections have been carried out in accordance with these standards.”

21. 40 C.F.R. § 60.698(c) provides that “[a] report that summarizes all inspections when a water seal was dry or otherwise breached, when a drain cap or plug was missing or improperly installed, or when cracks, gaps, or other problems were identified that could result in VOC emissions, including information about the repairs or corrective action taken, shall be submitted initially and semiannually thereafter to the Administrator.”

Factual Information

22. Prior to 2008, BP and its predecessors owned and operated the petroleum refinery at 4001 Cedar Point Road, Oregon, Ohio (the Toledo Refinery). Since 2008, BP operates the Toledo Refinery and jointly owns the Toledo Refinery with Husky Energy, Inc., as BP-Husky Refining LLC.

23. The Toledo Refinery has affected facilities under NSPS Subpart QQQ.

24. BP and BP-Husky submitted reports on January 23, 2008, July 24, 2008, January 30, 2009, July 30, 2009, January 29, 2010, July 2010, January 13, 2011, July 29, 2011; January 27, 2012 and July 30, 2012 pursuant to 40 C.F.R. § 60.698(c). In these reports, BP and BP-Husky generally state that they conducted the inspections required under NSPS Subpart QQQ. Regarding the water seals, it generally states that it added water to the water seals “as needed.”

BP-Husky does not provide specific information about the number of water seals found to be low and to which water was added.

25. The January 13, 2011 report identified the dike drain valves around tanks T155 and T159 as open, and the post indicator valve on the secondary containment dike for tanks T166 and T167 as open although it appeared to be closed from a visual inspection.

26. The January 13, 2011 report also identified that tank T164 and its drain were in active service, though they had only been being monitored semiannually instead of monthly. The report did not indicate when the tank returned to active service or how many monitoring events were missed.

27. The July 29, 2011 report identified that tanks T163, T166 and T167 were in active service, though the drain valves in the secondary containment dikes surrounding the tanks had been being monitored semiannually instead of monthly. The report did not indicate when the tank returned to active service nor how many monitoring events were missed.

28. The July 29, 2011 report identified that the drain hub in the serving tank T164 had an active steam condensate line discharging into it. The drain hub had been being monitored semiannually instead of monthly. The report did not indicate when the tank returned to active service nor how many monitoring events were missed.

29. The January 27, 2012 report stated that an audit identified "certain process drains in the Isocracker 2 Unit" that were subject to NSPS Subpart QQQ but were not included in the inspection program.

30. The July 30, 2012 report stated that the semiannual inspection of 36 manholes identified "several" manhole covers that had either 1-inch diameter holes or perimeter notches for lifting.

31. The July 30, 2012 report clarified that the audit described in the January 27, 2012 report had found an Individual Drain System that had been installed in 2005, but for which an inspection program under NSPS Subpart QQQ had not been developed.

32. The July 30, 2012 report also indicated that, subsequent to the audit described in the January 27, 2012 report, BP and BP-Husky conducted a field review to identify additional parts of the refinery wastewater system that were subject to NSPS Subpart QQQ that were not identified in the inspection program. Across 5 process units, BP and BP-Husky found 46 drain hubs, 7 drain valves, 186 cleanouts, 48 vent pipes, 62 manholes and a lift station that had not been included in the existing program but which were subject to NSPS Subpart QQQ.

33. Out of the 186 cleanouts that were found, 2 were damaged and not sealed.

34. Out of the 62 manholes that were found, two had damaged covers and 10 were covered by catch basin (open grating) covers instead of solid covers.

35. Out of the 48 vent pipes that were found, one had a diameter larger than 4 inches.

Violations

36. As described in further detail in Paragraphs 37 – 40, below, BP and BP-Husky failed to comply with the standards for individual drain systems at 40 C.F.R. § 60.692-1 through 40 C.F.R. § 60.692-5, in violation of 40 C.F.R. § 60.692-1(a).

37. BP and BP-Husky failed to monitor all drain hubs, drain valves, cleanouts, vent pipes, manholes and lift stations subject to NSPS Subpart QQQ, in violation of 40 C.F.R. § 60.692-2(a)(2), 40 C.F.R. § 60.692-2(a)(3), and 40 C.F.R. § 60.692-2(b)(3).

38. BP and BP-Husky failed to cover 2 cleanouts with a tight seal, in violation of 40 C.F.R. § 60.692-2(b)(1).

39. BP and BP-Husky failed to cover all manholes with a tight seal, in violation of 40 C.F.R. § 60.692-2(b)(2).

40. BP and BP-Husky failed to keep the diameter of one of its vent pipes under 4 inches, in violation of 40 C.F.R. § 60.692-2(b)(1).

41. BP and BP-Husky failed to inspect at least 46 drain hubs, 7 drain valves, 186 cleanouts, 48 vent pipes, 62 manholes and a lift station for indications of potential emissions, defects, or other problems prior to using the equipment, in violation of 40 C.F.R. § 60.696(a).

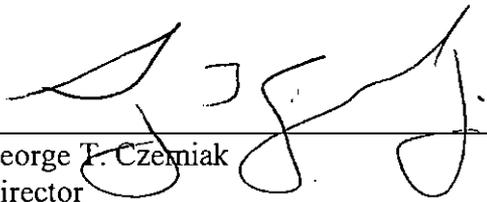
42. For at least the individual drain system installed in the Isocracker 2 Process Unit in 2005, BP failed to submit a certification of compliance within 60 days of initial startup, in violation of 40 C.F.R. § 60.698(b)(1).

43. In its semiannual reports, BP and BP-Husky failed to summarize all inspections when a water seal was dry or otherwise breached, including information about the repairs or corrective action taken, in violation of 40 C.F.R. § 60.698(c).

44. BP and BP-Husky's failure to comply with NSPS Subpart QQQ constitutes a violation of Section 111(e) of the Act, 42 U.S.C. § 7411(e).

12/27/12

Date



George T. Czerniak
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Finding of Violation, No. EPA-5-13-OH-4, by Certified Mail, Return Receipt Requested, to:

David L. Bell, Esquire
BP-Husky Refining, LLC
3040 Scarborough Road
Cleveland Heights, Ohio 44118

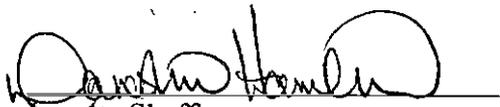
Jessica L. Gonzalez, Senior Attorney
HSSE
BP America Inc.
4101 Winfield Road # 4W
Warrenville, Illinois 60555-3521

I also certify that I sent copies of the Finding of Violation by first-class mail to:

Bob Hodanbosi
Chief, Division of Air Pollution Control
Ohio Environmental Protection Agency
1800 WaterMark Drive
Columbus, Ohio 43266-1049

Peter Park
Engineer, City of Toledo
Division of Environmental Services
348 S. Erie St.
Toledo, Ohio 43604

On the 28th day of December 2012.


Loretta Shaffer
Administrative Program Assistant
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7669 7255 QB.
7009 1680 0000 7669 7262 JG.