



Furthermore, this Consent Agreement and Final Order serves as notice pursuant to Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), and 40 C.F.R. § 22.34, of the EPA's intent to issue an order assessing penalties for these violations.

### **Parties**

3. Complainant is the Director of the Enforcement and Compliance Assurance Division of EPA, Region 6, as duly delegated by the Administrator of the EPA and the Regional Administrator, EPA, Region 6.

4. Respondent is Energy Transfer Geismar Olefins LLC, a company authorized to conduct business in the state of Louisiana.

### **Statutory and Regulatory Background**

5. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The Amendments added Section 112(r) to Title I of the CAA, 42 U.S.C. § 7412(r). The objective of Section 112(r) is to prevent the accidental release and to minimize the consequences of any such release of any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance.

6. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), requires the Administrator to promulgate a list of regulated substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), requires the Administrator to establish a threshold quantity for any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). The list of regulated substances and respective threshold quantities is codified at 40 C.F.R. § 68.130.

7. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for stationary sources with threshold quantities of regulated substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). On June 20, 1996, EPA promulgated a final rule known as the Risk Management Program, 40 C.F.R. Part 68 – Chemical Accident Prevention Provisions, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

8. The regulations at 40 C.F.R. Part 68 require owners and operators to develop and implement a Risk Management Program at each stationary source with over a threshold quantity of regulated substances. The Risk Management Program must include, among other things, a hazard assessment, a prevention program, and an emergency response program. The Risk Management Program is described in a Risk Management Plan (RMP) that must be submitted to the EPA.

9. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150, an RMP must be submitted for all covered processes by the owner or operator of a stationary source subject to 40 C.F.R. Part 68 no later than the latter of June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.

10. The regulations at 40 C.F.R. § 68.10 set forth how the Chemical Accident Prevention Provisions of 40 C.F.R. Part 68 apply to each program level of covered processes. Pursuant to 40 C.F.R. § 68.10(i), a covered process is subject to Program 3 requirements if the process does not meet the requirements of Program 1, as described in 40 C.F.R. § 68.10(g), and if it is in a

specified North American Industrial Classification System code or is subject to the OSHA process safety management standard, 29 C.F.R. 1910.119.

11. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to \$25,000 per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and its implementing regulations. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred before November 2, 2015, and to \$57,617 for violations that occur after November 2, 2015, and are assessed after December 27, 2023.

#### Definitions

12. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” to include any individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency department, or instrumentality of the United States and any officer, agent, or employee thereof.

13. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3 defines “stationary source,” in part, 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.

14. Section 112(r)(2)(B) of the CAA, 42 U.S.C. § 7412(r)(2)(B), and the regulation at 40 C.F.R. § 68.3 define “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA, as amended, in 40 C.F.R. § 68.130.

15. The regulation at 40 C.F.R. § 68.3 defines “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, as amended, listed in 40 C.F.R. § 68.130 and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

16. The regulation at 40 C.F.R. § 68.3 defines “process” as any activity involving a regulated substance including any use, storage, manufacturing, handling or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

17. The regulation at 40 C.F.R. § 68.3 defines “covered process” as a process that has a regulated substance present in more than a threshold quantity as determined under 40 C.F.R. § 68.115.

#### **EPA Findings of Fact and Conclusions of Law**

18. Respondent is, and at all times referred to herein was, a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

19. Respondent is the owner and operator of a facility, the Chalmette Cryogenic

Processing Plant, located at: 1701 Paris Road, Chalmette, Louisiana 70043 (the "Facility").

20. From April 9 to 11, 2024, EPA Region 6 conducted an inspection of the Facility.

21. Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, the EPA requested documentation on February 14, 2024, and Respondent provided on March 5, 2024, information concerning the Incident and Respondent's compliance with Section 112(r) of the CAA 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68 (the "Investigation").

22. The Facility is a "stationary source" pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3.

23. The Respondent's facility is a gas processing plant. Respondent's facility takes in two gaseous feed streams from the PFBF Energy Chalmette Refinery, which consist of hydrogen, methane, and various light hydrocarbons. The plant produces three product streams, hydrogen, mixed light hydrocarbons, and residue gas. The Respondent's processes meet the definition of "process" and "covered process," as defined by 40 C.F.R. § 68.3. The Respondent's RMP Program Level 3 covered process stores or otherwise uses a regulated substance in an amount exceeding the applicable threshold.

24. Respondent has at times maintained greater than a threshold quantity of methane, propane, ethane, ethylene, propylene, and isobutane ("flammable mixture components"), in a process at the Facility, meeting the definition of "covered process" as defined by 40 C.F.R. § 68.3.

25. From the time Respondent first had on-site greater than a threshold quantity of flammable mixture components, Respondent was subject to the requirements of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68 because it was the owner or

operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

26. From the time Respondent first had on-site greater than a threshold quantity of flammable mixture components, Respondent was required to submit an RMP pursuant to 40 C.F.R. § 68.12(a) and comply with the Program 3 prevention requirements because pursuant to 40 C.F.R. § 68.10(i), the covered process at the Facility did not meet the eligibility requirements of Program 1, and is subject to Occupational Safety and Health Administration requirements for Process Safety Management pursuant to 29 C.F.R. 1910.119.

#### **EPA Findings of Violation**

27. The facts stated in the EPA Findings of Fact and Conclusions of Law above are herein incorporated.

28. Complainant hereby states and alleges that Respondent has violated the CAA and federal regulations promulgated thereunder as follows:

#### **Count 1 – Process Safety Information**

29. The regulation at 40 C.F.R. § 68.65(d)(2) states that the owner or operator shall complete a compilation of written process safety information before conducting any process hazard analysis required by the rule. (d) Information pertaining to the equipment in the process. (2) The owner or operator shall document that equipment complies with recognized and generally accepted good engineering practices.

30. Respondent failed to properly label process equipment piping, as required by the American National Standards Institute (ANSI) and the American Society of Mechanical Engineers (ASME) Standard ANSI/ASME A13.1. Scheme for identification of piping systems.

## Count 2 – Mechanical Integrity

31. The regulation at 40 C.F.R. § 68.73(e) states that the owner or operator shall correct deficiencies in equipment that are outside acceptable limits (defined the process safety information in § 68.65) before use or in a safe and timely manner, when necessary, means are taken to ensure safe operation.

32. Respondent failed to correct deficiencies to Pressure Vessel 16.08 identified during a February 18, 2014, external inspection, which were also identified in a March 12, 2024, external inspection. The deficiencies that were not corrected included a damaged jacket on the east end and damaged fireproofing on supports.

### CONSENT AGREEMENT

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

Respondent:

- a. admits the jurisdictional allegations set forth herein;
- b. neither admits nor denies the specific factual allegations stated herein;
- c. consents to the assessment of a civil penalty, as stated herein;
- d. consents to any conditions specified herein;
- e. waives any right to contest the allegations set forth herein; and
- f. waives its rights to appeal the Final Order accompanying this Consent Agreement.

34. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein.



35. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

**Penalty Payment**

36. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of **Eighteen-thousand One-hundred Eighty-eight dollars (\$18,188.00)**.

37. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979078  
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

38. A copy of the check or other information confirming payment shall simultaneously be sent to the following:

Lorena S. Vaughn  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 6  
1201 Elm Street, Suite 500 (ORC)  
Dallas, Texas 75270-2102  
vaughn.lorena@epa.gov; and

Blake Sieminski  
Enforcement and Compliance Assurance Division  
Waste and Chemical Accident Branch  
U.S. Environmental Protection Agency, Region 6  
1201 Elm Street, Suite 500 (ECDAC)  
Dallas, Texas 75270-2101  
sieminski.blake@epa.gov

39. Respondent understands that its failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six percent (6%) per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

#### **Costs**

40. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

#### **Modification**

41. The terms, conditions, and compliance requirements of this Consent Agreement and Final Order may not be modified or amended except upon the written agreement of all parties and approval of the Regional Judicial Officer.

#### **Effect of Settlement and Reservation of Rights**

42. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant

reserves the right to take any enforcement action with respect to any other violations of the CAA or any other applicable law.

43. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in paragraph directly below.

44. Respondent certifies by the signing of this Consent Agreement that, as of the date of the execution of this Consent Agreement, Respondent has addressed or is addressing the violations alleged herein, and to the best of its knowledge, it is presently in compliance with all other requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

45. 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.

46. Full payment of the penalty proposed in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the CAA and regulations promulgated thereunder.

47. Complainant reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order.

#### **General Provisions**

48. By signing this Consent Agreement, the undersigned representative of Respondent certifies that it is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party it represents to this Consent Agreement.

49. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon filing of the Final Order by the Regional Hearing Clerk for EPA, Region 6. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

50. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State, and local taxes.

51. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

52. The EPA and Respondent agree to the use of electronic signatures for this matter pursuant to 40 C.F.R. § 22.6. The EPA and Respondent further agree to electronic service of this Consent Agreement and Final Order by email to the following:

To EPA: sharma.ravi@epa.gov

To Respondent: jason.linton@energytransfer.com  
robert.coco@taylorporter.com  
robin.toups@taylorporter.com

**RESPONDENT:**  
**ENERGY TRANSFER GEISMAR OLEFINS LLC**

Date: 10-29-2024

  
\_\_\_\_\_  
Brad Widener  
VP-Operations

**COMPLAINANT:**  
**U.S. ENVIRONMENTAL PROTECTION AGENCY**

Date: October 30, 2024

  
\_\_\_\_\_  
Digitally signed by  
CHERYL SEAGER  
Date: 2024.10.30  
10:54:34 -05'00'  
Cheryl T. Seager  
Director  
Enforcement and  
Compliance Assurance Division  
U.S. EPA, Region 6

**FINAL ORDER**

Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

This Final Order shall resolve only those causes of action alleged in the Consent Agreement. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action.

IT IS SO ORDERED.

THOMAS  
RUCKI

Digitally signed by  
THOMAS RUCKI  
Date: 2024.10.30  
16:35:40 -04'00'

\_\_\_\_\_  
Thomas Rucki  
Regional Judicial Officer

\_\_\_\_\_  
Date

**CERTIFICATE OF SERVICE**

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

Physical address:

Energy Transfer Geismar Olefins LLC  
ATTN: Brad Widener  
VP of Operations, Mont Belvieu Region  
12353 Eagle Pointe Dr.  
Monte Belvieu, TX 77535

Copy via Email to Complainant:

sharma.ravi@epa.gov  
sieminski.blake@epa.gov

Copy via Email to Respondent:

jason.linton@energytransfer.com  
robert.coco@taylorporter.com  
robin.toups@taylorporter.com

Copy via Email to Regional Hearing Clerk:

vaughn.lorena@epa.gov

Vaughn,  
Lorena

Digitally signed by  
Vaughn, Lorena  
Date: 2024.10.31  
11:08:18 -05'00'

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Signed  
Office of Regional Counsel  
U.S. EPA, Region 6