



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

<b>In the Matter of:</b>	)	<b>Docket No. CAA-05-2024-0049</b>
	)	
<b>1500 South Tibbs LLC f/k/a</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>Vertellus Integrated Pyridines LLC</b>	)	<b>Under Section 113(d) of the Clean Air Act,</b>
	)	<b>42 U.S.C. § 7413(d)</b>
<b>Indianapolis, Indiana</b>	)	
	)	
<b>Respondent.</b>	)	

**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 or Complainant), Region 5.
3. Respondent is 1500 South Tibbs LLC f/k/a Vertellus Integrated Pyridines LLC (Respondent), a Member of Aurorium LLC f/k/a/ Vertellus LLC, a limited liability company doing business in Indiana.
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 filing a complaint or adjudicating 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 and the violations alleged 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. Pursuant to Section 112(b) of the CAA, 42 U.S.C. §7412(b), EPA designates hazardous air pollutants (HAPs), which present or may present a threat of adverse effects to human health or the environment.

10. Section 112 of the CAA, 42 U.S.C. § 7412, requires EPA to promulgate a list of all categories and subcategories of new and existing “major sources” and “area sources” of HAPs and establish emissions standards for the categories and subcategories. These emission standards are known as the National Emission Standards for Hazardous Air Pollutants (NESHAP). EPA codified these standards at 40 C.F.R. Parts 61 and 63.

11. 40 C.F.R § 63.2 defines “major source” as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAPs.

12. “Stationary source” is defined as “any building, structure, facility, or installation, which emits or may emit any air pollutant.” 42 U.S.C. § 7411(a)(3) and 40 C.F.R. § 63.2.

**Hazardous Organic NESHAP**

13. Under Section 112 of the CAA, 42 U.S.C. § 7412, EPA promulgated the NESHAP from the Synthetic Organic Chemical Manufacturing Industry (the Hazardous Organic NESHAP) at 40 C.F.R. Part 63, Subpart F (40 C.F.R. §§ 63.100-107), Subpart G (40 C.F.R. §§ 63.110-63.153), and Subpart H (40 C.F.R. §§ 63.160-63.183). *See* 59 Fed. Reg. 19454 (1994).

14. The owner or operator of an existing affected facility was required to comply with the requirements of 40 C.F.R. Part 63, Subpart F (40 C.F.R. §§ 63.100-107), Subpart G (40 C.F.R. §§ 63.110-63.153), and Subpart H (40 C.F.R. §§ 63.160-63.183) in accordance with the schedule provided at 40 C.F.R. § 63.110.

15. Under 40 C.F.R. § 63.160(a), the provisions of Subpart H apply to pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, surge control vessels, bottoms receivers, instrumentation systems, and control devices or closed vent systems required by Subpart H that are intended to operate in organic HAP service 300 hours or more during the calendar year within a source subject to the provisions of a specific subpart in 40 C.F.R. Part 63 that references Subpart H.

16. Except as provided in 40 C.F.R. § 63.100(b)(4) and in 40 C.F.R. § 63.100(c), Subparts F, G, and H apply to “chemical manufacturing process units” meeting the following criteria specified in 40 C.F.R. § 63.100(b)(1), (b)(2), and (b)(3) that:

- a. manufacture as a primary product one or more of the chemicals listed in 40 C.F.R. § 63.100(b)(1)(i) or (b)(1)(ii);
- b. use as a reactant or manufacture as a product, or co-product, one or more of the organic HAPs listed in Table 2 of 40 C.F.R. Part 63; and
- c. are located at a plant site that is a major source as defined in Section 112(a) of the CAA.

17. A “chemical manufacturing process unit” is the equipment assembled and connected by pipes or ducts to process raw materials and to manufacture an intended product. For the purpose of

Subparts F, G, and H of the Hazardous Organic NESHAP, a “chemical manufacturing process unit” includes air oxidation reactors and their associated product separators and recovery devices; reactors and their associated product separators and recovery devices; distillation units and their associated distillate receivers and recovery devices; associated unit operations; associated recovery devices; and any feed, intermediate and product storage vessels, product transfer racks, and connected ducts and piping. A chemical manufacturing process unit includes pumps, compressors, agitators, pressure relief devices, sampling connection systems, open ended valves or lines, valves, connectors, instrumentation systems, and control devices or systems. A chemical manufacturing process unit is identified by its primary product. *See* 40 C.F.R. §§ 63.101, 63.111, and 63.161.

18. When a leak is detected at a pump in light liquid service, 40 C.F.R. § 63.163(c)(1) requires that it be repaired as soon as practicable, but not later than 15 calendar days after it is detected. 40 C.F.R. § 63.163(c)(2) requires that the first attempt at repair shall be made no later than five calendar days after each leak is detected.

19. When a leak is detected at a valve in gas/vapor service or in light liquid service, 40 C.F.R. § 63.168(f)(1) requires that it be repaired as soon as practicable, but not later than 15 calendar days after it is detected. 40 C.F.R. § 63.168(f)(2) requires that a first attempt at repair shall be made no later than five calendar days after each leak is detected.

20. 40 C.F.R. § 63.168(b) requires that all valves in gas/vapor service and in light liquid service shall be monitored at the intervals specified in 40 C.F.R. § 63.168(c) and (d).

21. 40 C.F.R. § 63.173(a)(1) requires all agitators in gas/vapor service and in light liquid service to be monitored on a monthly basis to detect leaks, utilizing the methods specified in 40 C.F.R. § 63.180(b).

22. 40 C.F.R. § 63.180(b)(1) requires the owner or operator subject to Subpart H to conduct monitoring required by Subpart H in accordance with Method 21 of 40 C.F.R. Part 60, Appendix A.

### **HWC MACT**

23. Pursuant to Section 112 of the CAA, EPA promulgated the NESHAP from Hazardous Waste Combustors (the HWC MACT) at 40 C.F.R. §§ 63.1200 through 63.1221.

24. The HWC MACT applies to, among other things, a hazardous waste liquid fuel boiler (HWLFB) that is located at either a major or area source. *See* 40 C.F.R. § 63.1200.

25. Pursuant to 40 C.F.R. § 63.1206(a)(2)(i), the owner or operator of a HWLFB was required to comply with the requirements of the HWC MACT by October 14, 2008.

26. A HWLFB is defined to include a “boiler,” as defined in 40 C.F.R. § 260.10, that does not burn solid fuels and that burns hazardous waste at any time, and any boiler that only burns gaseous fuel. *See* 40 C.F.R. § 63.1201.

27. Pursuant to 40 C.F.R. § 63.1217(a)(5)(i), the owner or operator of a HWLFB must not discharge or cause combustion gases to be emitted into the atmosphere that contain carbon monoxide in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen (ppmV @ 7% O<sub>2</sub>).

### **Title V Requirements**

28. Title V of the CAA, 42 U.S.C. §§ 7661-7661f, and its implementing regulations at 40 C.F.R. Part 70, establish an operating permit program for certain sources, including certain sources subject to standards under Section 112 of the CAA. The purpose of Title V is to ensure that all "applicable requirements" for compliance with the CAA are included in the Title V operating permit for the source.

29. Section 502(d)(1) of the CAA, 42 U.S.C. § 7661a(d)(I), requires each State to develop and submit to EPA an operating permit program which meets the requirements of Title V.

30. On November 14, 1995, (*see* 60 Fed. Reg. 57,188) EPA granted Indiana interim approval of its program, and on December 4, 2001, EPA promulgated full approval of Indiana's Title V program (*see* 66 Fed. Reg. 62,969).

31. 40 C.F.R. § 70.1(b) requires all sources subject to the Title V operating permit program, including certain sources subject to standards under Section 112 of the CAA, to have a permit to operate which includes enforceable emission limitations and such other conditions as are necessary to assure compliance with all "applicable requirements."

32. An "applicable requirement" includes any standard or other requirement under Section 112 of the CAA, which includes all applicable NESHAP requirements. *See* 40 C.F.R. § 70.2.

33. 40 C.F.R. § 70.7(b) requires that the owner or operator of a Title V source shall not operate such source after the date that a timely and complete Title V permit application is required to be submitted, except in compliance with a permit issued under a Part 70 program.

#### **Enforcement Authority**

34. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$57,617 per day of violation up to a total of \$460,926 for 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.

35. The Administrator may assess a penalty greater than \$460,926 where the Administrator and the Attorney General of the United States jointly determine that a matter involving a larger penalty is appropriate for an administrative penalty action. 42 U.S.C. § 7413(d)(1) and 40 C.F.R. Part 19.

36. The Administrator and the Attorney General of the United States, each through their respective delegates, have jointly determined that this matter involving a penalty greater than \$446,456 is appropriate for an administrative penalty action.

37. 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.

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

#### **Factual Allegations**

39. Respondent owns and operates a chemical manufacturing plant at 1500 South Tibbs Avenue, Indianapolis, Indiana, consisting of several processing areas such as Plants 27, 29, 38, 40, 41, 47, 48, and 49 (Facility). While the Facility is currently not operating, each plant formerly manufactured different specialty chemicals.

40. At all times relevant to this CAFO, Respondent, as a limited liability company, was, and is, a "person," as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

41. At all times relevant to this CAFO, Respondent's Facility was regulated, for purposes of the Hazardous Organic NESHAP, as a major source of HAPs, as defined in Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1) and 40 C.F.R. § 63.2.<sup>1</sup>

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<sup>1</sup> The Title V permit modification for the Facility issued on December 18, 2019 (Permit Modification) identifies the Facility as an area source of HAP emissions and includes synthetic minor emission limits for the Facility. However, the Permit Modification also identifies many of the chemical manufacturing process units at the Facility, including Plant 27, as affected sources meeting the Hazardous Organic NESHAP applicability requirements at 40 C.F.R. § 63.100. Therefore, for purposes of the Hazardous Organic NESHAP, the Facility is a "major source" under Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1).

42. At all times relevant to this CAFO, Plant 27 at the Facility (Plant 27) manufactured pyridine and picolines as primary products and used formaldehyde as a reactant. Pyridine and picolines are listed chemicals in Table 1 of Subpart F under 40 C.F.R. § 63.100(b)(1), and formaldehyde is a listed organic HAP in Table 2 of Subpart F under 40 C.F.R. § 63.100(b)(2).

43. At all times relevant to this CAFO, Plant 27 met the applicability requirements of Subpart H set forth in 40 C.F.R. § 63.160(a), because it contained affected pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, surge control vessels, bottoms receivers, instrumentation systems, and control devices or closed vent systems in organic HAP service 300 hours or more during the calendar year and was a chemical manufacturing process unit, which is a source subject to the provisions of Subpart F that references Subpart H.

44. At all times relevant to this CAFO, Plant 27 was, a “chemical manufacturing process unit” as defined in 40 C.F.R. §§ 63.101(b), 63.111, 63.161, which is a source subject to the provisions of Subpart F; a specific subpart that references Subpart H.

45. At all times relevant to this CAFO, Respondent was, and is, a person who owns, operates, and controls a chemical manufacturing processing unit, and is therefore an “owner” and an “operator” as those terms are defined in Section 112 of the CAA, 42 U.S.C. § 7412, and 40 C.F.R. § 63.2, of a “chemical manufacturing process unit” subject to the Hazardous Organic NESHP.

46. At all times relevant to this CAFO, Plant 27 was subject to the requirements of the Hazardous Organic NESHP, including, but not limited to, Subpart H.

47. At all times relevant to this CAFO, Respondent owned and operated at its Facility three HWLFBs, as defined in 40 C.F.R. § 63.1201, designated Boilers 28K, 30K, and 70K.



48. At all times relevant to this CAFO, Respondent's Boilers 28K, 30K, and 70K were "boilers," as defined in 40 C.F.R. § 260.10, that do not burn solid fuels and that burn hazardous waste or natural gas at any time.

49. At all times relevant to this CAFO, Respondent was subject to the HWC MACT and the carbon monoxide emission standard at 40 C.F.R. § 63.1217(a)(5)(i).

50. The Indiana Department of Environmental Management (IDEM) has issued the following permits for the Facility pursuant to Title V of the CAA, 42 U.S.C. § 7661a (collectively "Facility Title V Permits").

- a. On January 30, 2012, IDEM issued Title V permit 097-27757-00315 to Respondent's predecessor, Vertellus Agriculture & Nutrition Specialties LLC.
- b. On May 9, 2018, IDEM issued Title V permit 097-37145-00315 to Respondent.

51. The Title V permits described in subparagraphs 50(a)–(b) above incorporate the applicable Hazardous Organic NESHAP and HWC MACT requirements set forth in paragraphs 13-27 above.

52. The Facility Title V Permits required Respondent to comply with the applicable provisions of the Hazardous Organic NESHAP and the HWC MACT for all applicable equipment in the Facility.

53. On June 29, 2020, EPA issued an information request to Respondent pursuant to Section 114 of the CAA, 42 U.S.C. § 7414. EPA requested information concerning: 1) Respondent's Leak Detection and Repair (LDAR) program and LDAR database, including equipment monitoring and repair data; and 2) Respondent's operational data and records required by the HWC MACT.

54. On April 7, 2021, EPA issued to Respondent a Finding of Violation (FOV) alleging that it violated the Hazardous Organic NESHAP at 40 C.F.R. §§ 63.163(c)(1)-(2), 63.168(c) and (f)(2), 63.173(a), and 63.180(b)(1) and the Facility's Title V Permit and the HWC MACT at 40 C.F.R. § 63.1217(a)(5)(i).

55. On April 20, 2021, July 16, 2021, May 4, 2022, July 7, 2022, and August 18, 2022, representatives of Respondent and EPA discussed the FOV.

56. On August 9, 2023, Respondent's representatives notified the State of Indiana that Respondent will idle the Facility and will no longer be operating any emission units at the Facility in the near future.

57. Respondent informed EPA representatives that on or around December 15, 2023, Respondent idled the Facility and ceased burning hazardous waste in its boilers. Consequently, Respondent is not operating at the Facility any emission units subject to the Hazardous Organic NESHAP and the HWC MACT.

### **Alleged Violations**

#### **Count 1**

58. Complainant adopts paragraphs 1 through 57 of this CAFO by reference as though fully stated in this paragraph.

59. When a leak is detected in a pump in light liquid service, 40 C.F.R. § 63.163(c)(1) requires that it be repaired as soon as practicable, but not later than 15 calendar days after it is detected.

60. On February 6, 2017, Respondent detected a leak at a pump in liquid light service at Plant 27, pump Component ID 17193.

61. Respondent made a final repair attempt of pump Component ID 17193 on or after April 14, 2017.

62. Respondent failed to make a final repair of pump Component ID 17193 no later than February 21, 2017.

63. Respondent violated 40 C.F.R. § 63.163(c)(1) by failing to timely make a final repair of pump Component ID 17193.

**Count 2**

64. Complainant adopts paragraphs 1 through 57 of this CAFO by reference, as though fully stated in this paragraph.

65. 40 C.F.R. § 63.163(c)(2) requires that a first attempt at a repair be made no later than five calendar days after the leak is detected at a pump in light liquid service.

66. Between February 6, 2017, and December 2, 2019, Respondent failed to timely make a first attempt at repairs of leaks from pumps in light liquid service in Plant 27, as follows:

- a. February 6, 2017, Leak:
  - i. On February 6, 2017, Respondent detected a leak at pump Component ID 17193, a pump in light liquid service at Plant 27.
  - ii. On April 11, 2017, Respondent made a first attempt at a repair of pump Component ID 17193.
  - iii. Respondent failed to make a first attempt at repair of pump Component ID 17193 no later than February 11, 2017.
- b. August 14, 2017, Leak:
  - i. On August 14, 2017, Respondent detected a leak at pump Component ID 16911, a pump in light liquid service at Plant 27.
  - ii. On August 23, 2017, Respondent made a first attempt at a repair of pump Component ID 16911.
  - iii. Respondent failed to make a first attempt at repair of pump Component ID 16911 no later than August 19, 2017.
- c. October 1, 2019, Leak:
  - i. On October 1, 2019, Respondent detected a leak at pump Component ID 1910, a pump in light liquid service at Plant 27.
  - ii. On October 7, 2019, Respondent made a first attempt at a repair of pump Component ID 1910.
  - iii. Respondent failed to make a first attempt at repair of pump Component ID 1910 no later than October 6, 2019.
- d. November 5, 2019, Leaks:
  - i. On November 5, 2019, Respondent detected leaks at pump Component IDs 16911, 17193, 2764, and 1196, pumps in light liquid service at Plant 27.

- ii. On November 11, 2019, Respondent made a first attempt at a repair of pump Component IDs 2764 and 1196.
  - iii. On November 14, 2019, Respondent made a first attempt at a repair of pump Component IDs 16911 and 17193.
  - iv. Respondent failed to make a first attempt at repair of pump Component IDs 16911, 17193, 2764, and 1196 no later than November 10, 2019.
- e. November 6, 2019, Leaks:
- i. On November 6, 2019, Respondent detected a leak at pump Component IDs 436 and 3876, pumps in light liquid service at Plant 27.
  - ii. On November 14, 2019, Respondent made a first attempt at repair of pump Component ID 436.
  - iii. On January 14, 2010, Respondent made a first attempt at repair of pump Component ID 3876.
  - iv. Respondent failed to make a first attempt at repair of pump Component IDs 436 and 3876 no later than November 11, 2019.
- f. November 14, 2019, Leak:
- i. On November 14, 2019, Respondent detected a leak at pump Component ID 2764, a pump in light liquid service at Plant 27.
  - ii. Respondent made a first attempt at repair of pump Component ID 2764 on November 20, 2019.
  - iii. Respondent failed to make a first attempt at repair of pump Component ID 2764 no later than November 19, 2019.
- g. December 2, 2019, Leak:
- i. On December 2, 2019, Respondent detected a leak at pump Component ID 2764, a pump in light liquid service at Plant 27.
  - ii. On March 17, 2020, Respondent made a first attempt at repair of pump Component ID 2764.
  - iii. Respondent failed to make a first attempt at repair of pump Component ID 2764 no later than December 7, 2019.

67. Respondent violated 40 C.F.R. § 63.163(c)(2) by failing to timely make a first repair of pump Component IDs 17193, 16911, 1910, 3876, 1196, 2764, and 436 on the occasions set forth in paragraph 66.

### **Count 3**

68. Complainant adopts paragraphs 1 through 57 of this CAFO by reference, as though fully stated in this paragraph.

69. 40 C.F.R. § 63.168(b) requires the owner or operator of a source subject to Subpart H to monitor all valves at the intervals specified in 40 C.F.R. § 63.168(c) and(d).

70. 40 C.F.R. § 63.168(c) requires that each valve be monitored on a quarterly basis in Phases I and II for valves in light liquid service.

71. Respondent failed to perform quarterly monitoring for 141 valves in light liquid service in Phases I or II at Plant 27 for the quarter ending on December 31, 2018.

72. Respondent violated 40 C.F.R. § 63.168(c) by failing to perform quarterly monitoring for 141 valves at Plant 27 for the quarter ending December 31, 2018.

**Count 4**

73. Complainant adopts paragraphs 1 through 57 of this CAFO by reference, as though fully stated in this paragraph.

74. 40 C.F.R. § 63.168(f)(2) requires that a first attempt at repair be made no later than five calendar days after each leak is detected at a valve in light liquid service.

75. On October 30, 2019, Respondent detected a leak at valve Component ID 6250, a valve in light liquid service at Plant 27.

76. On November 7, 2019, Respondent made a first attempt at repair of valve Component ID 6250.

77. Respondent failed to make a first attempt at repair of valve Component ID 6250 no later than November 4, 2019.

78. Respondent violated 40 C.F.R. § 63.168(f)(2) by failing to timely make a first attempt at repair of valve Component ID 6250.

**Count 5**

79. Complainant adopts paragraphs 1 through 57 of this CAFO by reference, as though fully stated in this paragraph.

80. 40 C.F.R. § 63.173(a) requires that each agitator in light liquid service be monitored on a monthly basis to detect leaks.

81. Respondent failed to perform monthly monitoring for agitator Component ID 01891, an agitator in light liquid service at Plant 27, for the month of July 2017.

82. Respondent violated 40 C.F.R. § 63.173(a) by failing to perform monthly monitoring for the month of July 2017 for agitator Component ID 01891.

**Count 6**

83. Complainant adopts paragraphs 1 through 57 of this CAFO by reference, as though fully stated in this paragraph.

84. Pursuant to 40 C.F.R. § 63.180(b)(1), an owner or operator subject to Subpart H must conduct monitoring required under Subpart H in accordance with Method 21 of 40 C.F.R. Part 60, Appendix A. This is referred to as “Method 21 Monitoring.”

85. Method 21 Monitoring requires the technician to place the probe inlet at the surface of the component interface where leakage could occur, move the probe along the interface periphery while observing the instrument readout, and, if an increased meter reading is observed, slowly sample the interface where leakage is indicated until the maximum meter reading is obtained. The technician must also leave the probe inlet at the maximum reading location for approximately two times the instrument response time. The technician must then record and report the results if the maximum observed meter reading is greater than the leak definition in the applicable regulation. See 40 C.F.R. Part 60, Appendix A-7, Method 21, 8.3.1.

86. For Method 21 Monitoring events at the Facility occurring between June 27, 2017 and June 21, 2019, Respondent's technician utilized a monitoring instrument with an instrument response time of approximately 3.5 seconds.

87. Respondent reported that it performed monitoring of 500+ components in 0.00 hours on June 27, 2017, December 3, 2017, March 26, 2018, April 20, 2018, April 30, 2019, and June 21, 2019, which is an average of 0.000 seconds per component.

88. Respondent reported monitoring 10,998 components in one hour on December 28, 2018, which is an average of 0.327 seconds per component.

89. Respondent reported monitoring 3,134 components in 12.03 hours on March 30, 2019, which is an average of 13.819 seconds per component.

90. Based on the requirements of Method 21 Monitoring and the response time of Respondent's Method 21 Monitoring instrument, Respondent could not have properly performed Method 21 Monitoring in the times reported on June 27, 2017, December 3, 2017, March 26, 2018, April 20, 2018, April 30, 2019, June 21, 2019, and March 30, 2019.

91. Respondent failed to properly perform Method 21 monitoring at the Facility for monitoring events occurring on June 27, 2017, December 3, 2017, March 26, 2018, April 20, 2018, December 28, 2018, March 30, 2019, April 30, 2019, and June 21, 2019.

92. Respondent violated 40 C.F.R. § 63.180(b)(1) by failing to properly perform Method 21 monitoring at the Facility for monitoring events occurring on June 27, 2017, December 3, 2017, March 26, 2018, April 20, 2018, December 28, 2018, March 30, 2019, April 30, 2019, and June 21, 2019.

**Count 7**

93. Complainant adopts paragraphs 1 through 57 of this CAFO by reference, as though fully stated in this paragraph.

94. Pursuant to Respondent's Title V permits 097-27757-00315 and 097-37145-00315, and 40 C.F.R. § 63.1217(a)(5)(i), Respondent may not discharge or cause combustion gases to be emitted into the atmosphere from HWLFB 28K that contain carbon monoxide in excess of 100 ppmV @ 7% O<sub>2</sub> over an hourly rolling average.

95. Respondent provided information to EPA showing that Respondent discharged or caused combustion gases to be emitted from HWLFB 28K into the atmosphere that contained carbon monoxide in excess of 100 ppmV @ 7% O<sub>2</sub> on an hourly rolling average basis during two events on February 2 and 5, 2017.

96. Respondent violated 40 C.F.R. § 63.1217(a)(5)(i), Section 112 of the CAA, 42 U.S.C. § 7412, and Respondent's Title V Permit by discharging or causing combustion gases to be emitted from its HWLFB 28K into the atmosphere that contained CO in excess of 100 ppmV @ 7% O<sub>2</sub> on an hourly rolling average basis during two events on February 2 and 5, 2017.

**Count 8**

97. Complainant adopts paragraphs 1 through 57 of this CAFO by reference, as though fully stated in this paragraph.

98. Pursuant to Respondent's Title V permits 097-27757-00315 and 097-37145-00315, and 40 C.F.R. § 63.1217(a)(5)(i), Respondent may not discharge or cause combustion gases to be emitted into the atmosphere from HWLFB 30K that contain carbon monoxide in excess of 100 ppmV @ 7% O<sub>2</sub> over an hourly rolling average.

99. Respondent provided information to EPA showing that Respondent discharged or caused combustion gases to be emitted from HWLFB 30K into the atmosphere that contained carbon monoxide in excess of 100 ppmV @ 7% O<sub>2</sub> on an hourly rolling average basis during 123 events between June 6, 2016, and November 10, 2019.



100. Respondent violated 40 C.F.R. § 63.1217(a)(5)(i), Section 112 of the CAA, 42 U.S.C. § 7412, and Respondent's Title V Permit by discharging or causing combustion gases to be emitted from its HWLFB 30K into the atmosphere that contained CO in excess of 100 ppmV @ 7% O<sub>2</sub> on an hourly rolling average basis during 123 events between June 6, 2016, and November 10, 2019.

**Count 9**

101. Complainant adopts paragraphs 1 through 57 of this CAFO by reference, as though fully stated in this paragraph.

102. Pursuant to Respondent's Title V permits 097-27757-00315 and 097-37145-00315, and 40 C.F.R. § 63.1217(a)(5)(i), Respondent may not discharge or cause combustion gases to be emitted into the atmosphere from HWLFB 70K that contain carbon monoxide in excess of 100 ppmV @ 7% O<sub>2</sub> over an hourly rolling average.

103. Respondent provided information to EPA showing that Respondent discharged or caused combustion gases to be emitted from HWLFB 70K into the atmosphere that contained carbon monoxide in excess of 100 ppmV @ 7% O<sub>2</sub> on an hourly rolling average basis during 72 events between April 14, 2017, and January 22, 2020.

104. Respondent violated 40 C.F.R. § 63.1217(a)(5)(i), Section 112 of the CAA, 42 U.S.C. § 7412, and Respondent's Title V Permit by discharging or causing combustion gases to be emitted from its HWLFB 70K into the atmosphere that contained CO in excess of 100 ppmV @ 7% O<sub>2</sub> on an hourly rolling average basis during 72 events between April 14, 2017, and January 22, 2020.

**Civil Penalty**

105. 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 cooperation, Complainant has determined that an appropriate civil penalty to settle this action is \$571,791.

106. Penalty Payment. Respondent agrees to:

a. Pay the civil penalty of \$571,791 within 30 days after the effective date of this

CAFO.

b. Pay the civil penalty using any method provided in the table below.

Payment Method	Payment Instructions
Automated Clearinghouse (ACH) payments made through the US Treasury	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, state Respondent’s name and the CAFO docket number.
Wire transfers made through Fedwire	Federal Reserve Bank of New York ABA: 021030004 Account Number: 68010727 SWIFT address: FRNYUS33 33 Liberty Street New York, NY 10045 Beneficiary: US Environmental Protection Agency  In the comment area of the electronic funds transfer, state Respondent’s name and the docket number of this CAFO.
Payments made through <a href="https://www.pay.gov">Pay.gov</a>  Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments.	<ul style="list-style-type: none"> <li>• Go to <a href="https://www.pay.gov">Pay.gov</a> and enter “SFO 1.1” in the form search box on the top left side of the screen.</li> <li>• Open the form and follow the on-screen instructions.</li> <li>• Select your type of payment from the "Type of Payment" drop down menu.</li> <li>• Based on your selection, the corresponding line will open and no longer be shaded gray. Enter the CAFO docket number into the field</li> </ul>
Cashier’s or certified check payable to “Treasurer, United States of America.”  Please notate the CAFO docket number on the check	For <b>standard delivery</b> : U.S. Environmental Protection Agency Fines and Penalties Cincinnati Finance Center P.O. Box 979078 St. Louis, Missouri 63197-9000  For <b>signed receipt confirmation</b> (FedEx, UPS, Certified Mail, etc): U.S. Environmental Protection Agency

	Government Lockbox 979078 3180 Rider Trail S. Earth City, Missouri 63045
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107. Within 24 hours of the payment of the civil penalty, Respondent must send a notice of payment (which contains Respondent's name and the docket number of this CAFO) to EPA at the following addresses:

Air Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency, Region 5  
[R5airenforcement@epa.gov](mailto:R5airenforcement@epa.gov)

John Matson  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
[Matson.john@epa.gov](mailto:Matson.john@epa.gov)

Elyse Voyen  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
[Voyen.elyse@epa.gov](mailto:Voyen.elyse@epa.gov)

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
[r5hearingclerk@epa.gov](mailto:r5hearingclerk@epa.gov)

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

109. 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.

110. 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).

111. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty pursuant to 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- c. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- d. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;

e. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at [wise.milton@epa.gov](mailto:wise.milton@epa.gov), within 30 days after the Final Order ratifying this Agreement is filed (EPA recommends encrypting IRS Form W-9 email correspondence); and

f. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within 5 days of Respondent's issuance and receipt of a TIN issued by the IRS.

### **General Provisions**

112. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: [matson.john@epa.gov](mailto:matson.john@epa.gov) and [voyen.elyse@epa.gov](mailto:voyen.elyse@epa.gov) (for Complainant), and [Chet.Chiles@aurorium.com](mailto:Chet.Chiles@aurorium.com) and [Freedom.Smith@icemiller.com](mailto:Freedom.Smith@icemiller.com) (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

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

114. 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.

115. 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 113, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

116. Respondent certifies that it is complying fully with the Hazardous Organic NESHAP and the HWC MACT.

117. 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).

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

119. Each person signing this CAFO 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.

120. Each party agrees to bear its own costs and attorney’s fees in this action.

121. This CAFO constitutes the entire agreement between the parties.

**1500 South Tibbs LLC f/k/a Vertellus Integrated Pyridines LLC, Respondent**

9/13/2024

\_\_\_\_\_  
Date

DocuSigned by:  
*Fernanda Beraldi*  
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Fernanda Beraldi, Vice President, General Counsel,  
Secretary & Compliance Officer  
1500 South Tibbs LLC f/k/a Vertellus Integrated Pyridines  
LLC

**United States Environmental Protection Agency, Complainant**

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



**Consent Agreement and Final Order**

**In the Matter of:** 1500 South Tibbs LLC f/k/a Vertellus Integrated Pyridines LLC

**Docket No.** CAA-05-2024-0049

**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.

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