

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In The Matter Of:

| | | |
|-------------------------------|---|--|
| Shell Chemical Appalachia LLC | : | Violations of 25 Pa Code § 127.25, 123.31, |
| 300 Frankfort Road | : | 123.2 and 127.7 |
| Monaca, PA 15061 | : | |

CONSENT ASSESSMENT OF CIVIL PENALTY

This Consent Assessment of Civil Penalty (“CACP”) is entered into this 7th day of February 2022, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”) and Shell Chemical Appalachia LLC (“Shell”).

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce the Air Pollution Control Act, Act of January 8, 1960, P.L. 2119 (1959), *as amended*, 35 P.S. §§ 4001-4015 (“Air Pollution Control Act”); and the rules and regulations (“rules and regulations”) promulgated thereunder.

B. Shell is a Delaware Limited Liability Company that maintains a business address of 300 Frankfort Road Monaca, PA 15061. Shell is a “person” as that term is defined in Section 3 of the Air Pollution Control Act, 35 P.S. § 4003.

C. Shell owns, is constructing and operates portions of the Shell petrochemical plant located in the Borough of Monaca, Beaver County (“Facility”) subject to the terms and conditions of Plan Approvals, PA-04-00740A, PA-04-00740B, and PA-0400740C (“Plans”).

Malodors

D. PA-04-00741A Section C, Condition #004 of Plans A and C state in relevant part, “[t]he Owner/Operator may not permit the emission into the outdoor atmosphere of any malodorous air contaminants from any source in such a manner that the malodors are detectable outside of the Owner/Operator's property.”

E. On September 24, 2021, the Department confirmed that malodorous air contaminants from the Facility were detectable outside of Shell’s property.

F. 25 Pa. Code § 123.31 states in relevant part that:

A person may not permit the emission into the outdoor atmosphere of any malodorous air contaminants from any source, in such a manner that the malodors are detectable outside the property of the person on whose land the source is being operated.

G. 25 Pa. Code § 121.7 states in relevant part that “No person may permit air pollution as that term is defined in the act.”

H. 25 Pa. Code § 127.25 states in relevant part that “[a] person may not cause or permit the operation of an air contamination source subject to this chapter in a manner inconsistent with good operating practices.”

I. Shell violated 25 Pa. Code §123.31 by emitting malodorous air contaminants so that they were detectable outside the Facility.

J. Shell violated 25 Pa. Code §121.7 by permitting air pollution as defined in 25 Pa. Code § 121.1.

K. Shell violated 25 Pa. Code §127.25 by operating of an air contamination source subject to this chapter in a manner inconsistent with good operating practices.

Fugitive Emissions

L. PA-04-00741A Section C, Condition #003 of Plans A and C state that “[a] person may not permit fugitive particulate matter to be emitted into the outdoor atmosphere from a source specified in Section 123.1(a)(1)-(9) if the emissions are visible at the point the emissions pass outside the person’s property.”

M. On September 24, 2021, fugitive emissions emanating from construction activities and roadway use at the Facility crossed outside of Shell’s property.

N. 25 Pa. Code § 123.2 states in relevant part that:

A person may not permit fugitive particulate matter to be emitted into the outdoor atmosphere from a source specified in § 123.1(a)(1)—(9) (relating to prohibition of certain fugitive emissions) if the emissions are visible at the point the emissions pass outside the person’s property.

O. 25 Pa. Code § 121.7 states in relevant part that “No person may permit air pollution as that term is defined in the act.”

P. 25 Pa. Code § 127.25 states in relevant part that “[a] person may not cause or permit the operation of an air contamination source subject to this chapter in a manner inconsistent with good operating practices.”

Q. Shell violated 25 Pa. Code §123.2 by permitting fugitive particulate matter to be emitted into the outdoor atmosphere visible at the point the emissions passed outside Shell’s property.

R. Shell violated 25 Pa. Code §121.7 by permitting air pollution as defined in 25 Pa. Code § 121.1.

S. Shell violated 25 Pa. Code §127.25 operating of an air contamination source

subject to this chapter in a manner inconsistent with good operating practices.

T. A Notice of Violation identifying the violations set forth in Paragraphs I, J, K, Q, R, and S above, was sent to Shell on September 27, 2021.

U. The violations identified in Paragraphs I, J, K, Q, R, and S above, constitute unlawful conduct under Section 8 of the Air Pollution Control Act, 35 P.S. § 4008, and a public nuisance under Section 13 of the Air Pollution Control Act, 35 P.S. § 4013, and subjects OPERATOR to a claim for civil penalties under Section 9.1 of the Air Pollution Control Act, 35 P.S. § 4009.1.

After full and complete negotiations of all matters set forth in this CACP and upon mutual exchange of the covenants herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ASSESSED by the Department and AGREED to by Shell as follows:

1. Assessment. In resolution of the Department's claim for civil penalties, which the Department is authorized to pursue under Section 9.1 of the Air Pollution Control Act, 35 P.S. § 4009.1, the Department hereby assesses a civil penalty of Four Thousand Three Hundred Thirteen Dollars (\$4,313.00), which Shell hereby agrees to pay.

2. Civil Penalty Settlement. Shell consents to the assessment of the civil penalty assessed in Paragraph 1, which shall be paid in full upon signing this CACP. This payment is in settlement of the Department's claim for civil penalties for the violations set forth in Paragraphs I, J, K, Q, R, and S, above. The payment shall be by corporate check or the like, made payable to "Commonwealth of Pennsylvania, Clean Air Fund" and sent to the Air Quality Program Manager, Department of Environmental Protection, 400 Waterfront Drive Pittsburgh, PA 15222-4745.

3. Findings.

a. Shell agrees that the findings in Paragraphs A through U are true and correct and, in any matter or proceeding involving Shell and the Department, Shell shall not challenge the accuracy or validity of these findings.

b. The parties do not authorize any other persons to use the findings in this CACP in any matter or proceeding.

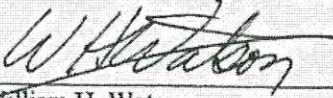
4. Reservation of Rights. The Department reserves all other rights with respect to any matter addressed by this CACP, including the right to require abatement of any conditions resulting from the events described in the Findings. Shell reserves the right to challenge any action which the Department may take but waives the right to challenge the content or validity of this CACP.

5. Execution of Agreement. This CACP may be signed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument and may be transmitted electronically via portable document format (.pdf).

IN WITNESS WHEREOF, the parties have caused this CACP to be executed by their duly authorized representatives. The undersigned representatives of Shell certify, under penalty of law, as provided by 18 Pa. C. S. § 4904, that they are authorized to execute this CACP on behalf of Shell, that Shell consents to the entry of this CACP as an ASSESSMENT of the Department; that Shell hereby knowingly waives any right to a hearing under the statutes referenced in this CACP; and that Shell knowingly waives its right to appeal this CACP, which rights may be available under Section 4 of the Environmental Hearing Board Act, Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provision of law. Signature by Shell's attorney certifies only

that the agreement has been signed after consulting with counsel.

Shell Chemical Appalachia LLC:

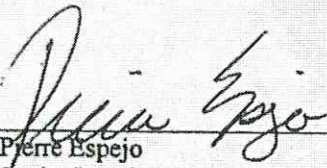


William H. Watson
Operations Manager

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:



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Pierre Espejo
Senior Legal Counsel
Shell Oil Company on behalf of
Shell Chemical Appalachia LLC



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