

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GULFPORT ENERGY CORPORATION,

Defendant.

Case No. 2:20-cv-00340-ALM-CMV

CONSENT DECREE

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Plaintiff United States of America, on behalf of the United States Environmental Protection Agency (“EPA”), has filed a complaint in this action, concurrently with this Consent Decree, alleging that Defendant Gulfport Energy Corporation (“Gulfport”) violated Sections 110 and 111 of the Clean Air Act (“CAA”), 42 U.S.C. §§ 7410, 7411. As defined below in Paragraph 7, and as used in this Consent Decree, the term “Gulfport” shall encompass both: (i) Gulfport Energy Corporation; and/or (ii) Gulfport Appalachia LLC (which is a subsidiary of Gulfport Energy Corporation).

The Complaint against Gulfport alleges that Gulfport has violated air pollution control, reporting, recordkeeping, and monitoring requirements applicable to storage vessels and associated equipment at multiple oil and gas production well pads that Gulfport owns and operates in Belmont County, Harrison County, and Monroe County, Ohio. Those alleged violations arise under: (i) CAA Section 110 and the Ohio Permits to Install and Operate for each well pad that have been issued to Gulfport pursuant to Ohio’s CAA State Implementation Plan; and (ii) CAA Section 111 and the New Source Performance Standards for crude oil and natural gas production, transmission, and distribution industry sector, which are codified at 40 C.F.R. Part 60, Subpart OOOO. Many of these alleged violations were originally identified in a December 2013 Notice of Violation and Finding of Violation, a December 2016 Finding of Violation, and a March 2019 Notice of Violation and Finding of Violation issued by EPA (referred to collectively herein as the “EPA Violation Notices”). As part of the agreed resolution of those alleged violations, Gulfport shall implement certain air pollutant emission reduction measures for the Tank Systems at the Subject Facilities listed in Appendix D of this Consent Decree.

Gulfport does not admit any liability to the United States arising out of the transactions or occurrences alleged in the Complaint and the EPA Violation Notices. Gulfport asserts, and EPA disputes, that potential emissions from the well pads covered by this Consent Decree were appropriately limited to below the applicability threshold set forth in 40 C.F.R. Part 60, Subpart OOOO.

The Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and will avoid litigation between the Parties and that this Consent Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided in Section I, and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action, pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and CAA Section 113(b), 42 U.S.C. § 7413(b), and over the Parties. Venue lies in this district pursuant to 42 U.S.C. § 7413(b) and 28 U.S.C. §§ 1391(b) and (c) and 1395(a), because the violations alleged in the Complaint are alleged to have occurred in, and Gulfport conducts business in, this judicial district. For purposes of this Decree, or any action to enforce this Decree, Gulfport consents to the Court's jurisdiction over this Decree and any such action and over Gulfport and consents to venue in this judicial district.

2. The State has actual notice of the commencement of this action in accordance with the requirements of Section 113 of the CAA, 42 U.S.C. § 7413.

II. APPLICABILITY

3. The obligations of this Consent Decree apply to and are binding upon the United States, and upon Gulfport and any successors, assigns, or other entities or persons otherwise bound by law.

4. No transfer of ownership or operation of the Subject Facilities, whether in compliance with the procedures of this Paragraph or otherwise, shall relieve Gulfport of its obligation to ensure that the terms of the Decree are implemented. At least 30 Days prior to such transfer, Gulfport shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide written notice of the prospective transfer, together with a copy of the proposed written agreement, to EPA Region 5 and the United States Department of Justice, in accordance with Section XIV (Notices). Any attempt to transfer ownership or operation of the Subject Facilities without complying with this Paragraph constitutes a violation of this Decree.

5. Gulfport shall provide a copy of this Consent Decree to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Decree, as well as to any contractor retained to perform work required under this Consent Decree. Gulfport shall condition any such contract upon performance of the work in conformity with the terms of this Consent Decree.

6. In any action to enforce this Consent Decree, Gulfport shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

III. DEFINITIONS

7. Terms used in this Consent Decree that are defined in the CAA or in regulations promulgated pursuant to the CAA shall have the meanings assigned to them in the CAA or such

regulations, unless otherwise provided in this Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

a. “Active Use” shall mean a Tank System connected to one or more Active Wells. For a Tank System to be deemed “not in Active Use” under this Consent Decree, it must not be reasonably capable of receiving production from any and all Active Wells at the well pad and the liquids in each of the tanks must have been drawn down to the load lines.

b. “Active Well(s)” shall mean a well that is capable of producing hydrocarbons through the wellhead, and where the well is currently in operation or may be restored to operation by opening valves or by energizing equipment involved in operating the well.

c. “Certification of Completion Report” shall mean the report prepared and submitted by Gulfport in accordance with Subparagraph 18.b.

d. “Complaint” shall mean the complaint filed by the United States in this action.

e. “Compromised Equipment” shall mean equipment associated with a Vapor Control System that is beginning to show signs of wear beyond normal wear and tear (and cannot be addressed by cleaning the equipment). Examples include, but are not limited to, cracks or grooves in gaskets, abnormally or heavily corroded equipment, beveling or other indications of inefficient connection of the thief hatch to the tank.

f. “Consent Decree” or “Decree” shall mean this Decree and all appendices attached hereto (listed in Section XXIII).

g. “Day” shall mean a calendar day unless expressly stated to be a business

day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next business day.

h. “Date of Lodging” shall mean the day on which this Consent Decree is lodged with this Court as a proposed settlement, before a public comment period and before this Court’s consideration of the Consent Decree.

i. “Effective Date” shall have the definition provided in Section XV.

j. “Engineering Design Standard” shall mean an engineering standard developed by Gulfport pursuant to Paragraph 15 (Engineering Design Standards).

k. “Engineering Evaluation” shall mean an engineering evaluation performed by Gulfport pursuant to Subparagraph 17.c (Engineering Evaluation).

l. “EPA” shall mean the United States Environmental Protection Agency and any of its successor departments or agencies.

m. “EPA Violation Notices” shall mean the following Notices of Violation and Findings of Violation issued to Gulfport by EPA: (i) the December 2013 Notice of Violation and Finding of Violation (attached as Appendix A to this Consent Decree); (ii) the December 2016 Finding of Violation (attached as Appendix B to this Consent Decree); and (iii) the March 2019 Notice of Violation and Finding of Violation (attached as Appendix C to this Consent Decree).

n. “Gulfport” shall mean: (i) Defendant Gulfport Energy Corporation; and/or (ii) Gulfport Appalachia LLC (which is a subsidiary of Gulfport Energy Corporation).

o. “IR Camera Inspection” shall mean an inspection of a Vapor Control System using a Gulfport-owed optical gas imaging infrared camera designed for and

capable of detecting hydrocarbon and VOC emissions, conducted by a trained Gulfport employee who maintains proficiency through regular use of an optical gas imaging infrared camera.

p. “Malfunction(s)” shall mean any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

q. “Modeling Guideline” shall mean the modeling guideline developed by Gulfport pursuant to Paragraph 14 (Development of a Modeling Guideline).

r. “Normal Operations” shall mean all periods of operation, excluding Malfunctions. For storage tanks at well production facilities, normal operations include, but are not limited to, liquid dumps from the Separator.

s. “Paragraph” shall mean a portion of this Decree identified by an arabic numeral.

t. “Parties” shall mean the United States and Gulfport.

u. “Potential Minimum Instantaneous Vapor Flow Rate” shall mean the minimum instantaneous rate of vapors routed to a Vapor Control System during Normal Operations, including flashing, working, and standing losses, as determined using the Modeling Guideline.

v. “Potential Peak Instantaneous Vapor Flow Rate” shall mean the maximum instantaneous rate of vapors routed to a Vapor Control System during Normal Operations, including flashing, working, and standing losses, as determined using the Modeling Guideline.

w. “PRV” shall mean a pressure relief valve or pressure relief device.

x. “PTIO” or “PTIOs” shall mean the Ohio Permits to Install and Operate for the Subject Facilities, individually or collectively.

y. “Reliable Information” shall mean any observance or detection of VOC emissions from a Tank System, any associated open-ended line (*e.g.*, vent line, blowdown valve or line), or any associated pressure relief device by means of an optical gas imaging infrared camera, EPA Method 21 monitoring, or audio, visual, olfactory (“AVO”) techniques by EPA, Ohio EPA, local government inspectors acting as duly designated representatives of Ohio EPA, Gulfport employees, or Gulfport contractors trained to conduct inspections for emissions. This includes, but is not limited to, any observance of Compromised Equipment or evidence of VOC emissions attributable to PRVs, thief hatches, mountings, or gaskets during a field survey or other Tank System site visit performed in accordance with Subparagraph 17.b. For purposes of this Decree only, evidence of surface staining alone shall not be considered Reliable Information. As to combustion devices used in a Vapor Control System, Reliable Information shall also include any observance or detection of Visible Smoke Emissions by EPA, the State, local government inspectors acting as duly designated representatives of the State, Gulfport employees, or Gulfport contractors trained to conduct inspections for emissions. Reliable Information may be obtained at any time. Observations from a Tank System while all wells associated with that Tank System are temporarily shut-in, and during which working and standing emissions may occur, will not be considered Reliable Information. Further, observations from a Tank System while pressure relief devices (*e.g.*, thief hatches) are open for active maintenance, well unloading, tank truck loadout, or gauging

activities shall also not be considered Reliable Information.

z. “Section” shall mean a portion of this Decree identified by a roman numeral.

aa. “Separator” shall mean a pressurized vessel used for separating a well stream into gaseous and liquid components.

bb. “State” shall mean the State of Ohio, including but not limited to the Ohio Environmental Protection Agency.

cc. “Subject Facilities” shall mean Gulfport’s oil and natural gas production facilities listed in Consent Decree Appendix D. Appendix D subdivides those Subject Facilities into the Category 1A Subject Facilities, the Category 1B Subject Facilities, the Category 2A Subject Facilities, and the Category 2B Subject Facilities.

dd. “Subpart OOOO” shall mean the New Source Performance Standards for crude oil and natural gas production, transmission, and distribution industry sector, which are codified at 40 C.F.R. Part 60, Subpart OOOO.

ee. “Tank System(s)” shall mean one or more atmospheric tanks that store hydrocarbon liquids at the Subject Facilities, and any other interconnected tank (*e.g.*, produced water tank) that shares a common Vapor Control System or is required by regulation or permit to have a Vapor Control System. The Tank Systems that are subject to specified requirements of this Consent Decree are identified in Appendix D.

Appendix D subdivides the Subject Facilities and Tank Systems into the Category 1A Subject Facilities and Tank Systems, Category 1B Subject Facilities and Tank Systems, Category 2A Subject Facilities and Tank Systems, and Category 2B Subject Facilities and Tank Systems.

ff. “Vapor Control System” shall mean the system used to contain, convey, and control vapors from one or more storage tank(s) (including flashing, working, and standing losses, as well as any emissions routed to the Vapor Control System). A Vapor Control System includes a Tank System, piping to convey vapors from a Tank System to a combustion device and/or vapor recovery unit, fittings, connectors, liquid knockout vessels, openings on tanks (such as PRVs and thief hatches), and emission control devices.

gg. “VCS Root Cause Analysis” shall mean an assessment conducted through a process of investigation to determine the primary cause and contributing cause(s), if any, of VOC emissions from a Vapor Control System.

hh. “Visible Smoke Emissions” shall mean observations of smoke for any period or periods of duration greater than or equal to one (1) minute in any fifteen (15) minute period during Normal Operations, pursuant to EPA Method 22. Visible smoke emissions do not include radiant energy or water vapor.

ii. “VOC” shall mean volatile organic compounds.

jj. “United States” shall mean the United States of America, acting on behalf of EPA.

kk. “Well Production Operations” shall mean those surface operations to produce hydrocarbon liquids and/or natural gas from a well but shall not include well maintenance activities (*e.g.*, swabbing).

IV. CIVIL PENALTY

8. Within 30 days after the Effective Date, Gulfport shall pay the sum of \$1,700,000 as a civil penalty, together with interest accruing from the Date of Lodging, at the rate specified in 28 U.S.C. Section 1961 as of the Date of Lodging.

9. Gulfport shall pay the civil penalty due by FedWire Electronic Funds Transfer (“EFT”) to the U.S. Department of Justice account, in accordance with instructions provided to Gulfport by the Financial Litigation Unit (“FLU”) of the United States Attorney’s Office for the Southern District of Ohio after the Effective Date. The payment instructions provided by the FLU will include a Consolidated Debt Collection System (“CDCS”) number, which Gulfport shall use to identify all payments required to be made in accordance with this Consent Decree.

The FLU will provide the payment instructions to:

Stephanie Timmermeyer
Vice President of EHSR and Purchasing
3001 Quail Springs Parkway
Oklahoma City, Oklahoma 73134
Phone: (405) 252-4520
E-Mail: stimmermeyer@gulfportenergy.com

on behalf of Gulfport. Gulfport may change the individual to receive payment instructions on its behalf by providing written notice of such change to the United States and EPA in accordance with Section XIV (Notices).

At the time of payment, Gulfport shall send notice that payment has been made: (i) to EPA via email at cinwd_acctsreceivable@epa.gov or via regular mail at EPA Cincinnati Finance Office, 26 W. Martin Luther King Drive, Cincinnati, Ohio 45268; (ii) to the United States via

email or regular mail in accordance with Section XIV; and (iii) to EPA in accordance with Section XIV. Such notice shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in *United States v. Gulfport Energy Corp.* and shall reference the civil action number, CDCS Number and DOJ case number 90-5-2-1-12026.

10. Gulfport shall not deduct any penalties paid under this Decree pursuant to this Section or Section VIII (Stipulated Penalties) in calculating its federal income tax.

V. INJUNCTIVE RELIEF

A. General Compliance Requirements.

11. Subpart OOOO Applicability. Each storage vessel that is part of a Tank System is an affected facility subject to the requirements of Subpart OOOO for storage vessels.

12. Compliance with Subpart OOOO and the PTIOs. Gulfport shall comply with all requirements of Subpart OOOO relating to the Tank Systems. In addition, Gulfport shall comply with the individual PTIOs applicable to each of the Subject Facilities.

B. Targeted Compliance Program.

13. Targeted Compliance Program for the Category 1A and 1B Tank Systems.

a. Category 1A Tank Systems. As set forth in detail in Paragraphs 14 through 23, Gulfport shall implement a targeted compliance program for the Category 1A Tank Systems that includes: (i) development of a Modeling Guideline (Paragraph 14); (ii) development of Engineering Design Standards (Paragraph 15); (iii) use of a Vapor Control System Field Survey Standard Operating Procedure (Paragraph 16); (iv) performance of a Vapor Control System Field Survey, Engineering Evaluation, and Modification (Paragraph 17), (v) completion of a Vapor Control System Initial Verification (Paragraph 18); (vi) completion of Post-Certification of Completion

Modifications (Paragraph 19); (vii) adherence to Performance Standards (Paragraph 20); (ix) use of a Directed Inspection and Preventative Maintenance Program (Paragraph 21); (x) assessment and implementation of Reliable Information, Investigation, and Corrective Action (Paragraph 22); and (xi) performance of Tank Pressure Monitoring (Paragraph 23).

b. Category 1B Tank Systems. For the Category 1B Tank Systems, Gulfport shall: (i) adhere to Performance Standards in accordance with Paragraph 20; (ii) use a Directed Inspection and Preventative Maintenance Program in accordance with Paragraph 21; (iii) assess and implement Reliable Information, Investigation, and Corrective Action in accordance with Paragraph 22; and (iv) perform Tank Pressure Monitoring in accordance with Paragraph 23.

14. Development of a Modeling Guideline. Gulfport shall develop a written modeling guideline in accordance with the requirements of this Paragraph (the “Modeling Guideline”). The Modeling Guideline’s purpose is to determine the Potential Minimum Instantaneous Vapor Flow Rate and the Potential Peak Instantaneous Vapor Flow Rate for designing and adequately sizing Vapor Control Systems and to provide procedures for achieving this objective.

a. The Modeling Guideline shall address the following, where relevant:

i. Vapor sources (*e.g.*, atmospheric storage tanks and transfer and loading systems) tied or to be tied into the Vapor Control System;

ii. The maximum operating pressure from the last stage of separation prior to the Tank System to which the Vapor Control System is certified for operation in accordance with Paragraph 18 (Vapor Control System Initial Verification);

iii. Vapor pressure of the final weathered product transported from the storage tank(s);

iv. Estimation of flash gas that reflects the highest potential for flash gas emissions utilizing pressurized or atmospheric liquid sampling (*e.g.*, API gravity), lab analyses including flash gas to oil ratio, process simulation, correlations, or any combination thereof (Gulfport may use the pressurized samples previously collected and submitted to EPA, if requested by Gulfport and approved by EPA, after an initial engineering site evaluation at each site);

v. The maximum design flow rate across the Separator liquid dump valve (reflective of valve size, trim, and presence of other restrictions);

vi. Simultaneous dump events to the same Tank System (unless all potential simultaneous dump events have been precluded through installation of timers, automation, or other measures);

vii. The calculation methods or simulation tools for processing the data inputs;

viii. The accuracy of the input data and results (*e.g.*, uncertainty of empirical correlations, representativeness of samples, additional assumptions made); and

ix. Any other inputs needed to estimate the Potential Peak Instantaneous Vapor Flow Rate (*e.g.*, ranges of process conditions and operating parameters.

b. Gulfport shall submit a draft Modeling Guideline to EPA for its review and comment no later than 60 Days after the Effective Date. Within 45 Days of Gulfport's submission of the draft Modeling Guideline, EPA shall inform Gulfport of any questions, concerns, or omissions perceived by EPA, and Gulfport shall amend the draft Modeling Guideline as appropriate.

c. Gulfport shall periodically update the Modeling Guideline as updated technical information or modeling methodology becomes available. If the Modeling Guideline has been updated, it is acceptable to use the current version at the time an Engineering Evaluation is performed under Subparagraph 17.c. Updates to the Modeling Guideline do not in and of themselves require Gulfport to redo Engineering Evaluations.

15. Engineering Design Standards. Gulfport shall develop one or more Engineering Design Standard(s) to assess whether Vapor Control Systems are adequately sized and properly functioning considering the Potential Minimum Instantaneous Vapor Flow Rate and Potential Peak Instantaneous Vapor Flow Rate. The Engineering Design Standard(s) may apply to Vapor Control Systems at individual Tank Systems or to groupings of Tank Systems, as Gulfport may determine appropriate.

a. These standards shall include, as appropriate:

i. A review of vapor control technologies applicable to the Tank System, including equipment-specific considerations and any associated pressure losses (*e.g.*, from flame arrestor);

ii. Identification of site-specific construction constraints (*e.g.*, footprint limitations, setbacks, maximum equipment counts);

iii. Size and design of the piping system between the tank(s) and the emission control device, and the size and design of the emission control device (including consideration of equivalent pipe length and back pressure valves or other restrictions on vapor flow);

iv. Volume and duration of individual dump events; the nature of the flow of liquids to the Separator (*i.e.*, steady flow, slug flow, intermittent flow (*e.g.*, due to discrete well cycling events)); the minimum time between dump events; and the maximum number of dump events associated with a single well cycle with slug or intermittent flow;

v. Minimum available headspace in the tank(s); and

vi. Engineering design considerations applied to account for issues associated with the Vapor Control System (*e.g.*, fouling, potential for liquids accumulation in lines, winter operations) and variability of data.

b. Gulfport may rely on manufacturer specifications for individual components or pieces of equipment that are part of a Vapor Control System, provided that any operating parameters prescribed by the manufacturer in order for the component or piece of equipment to function as design are met.

c. The Engineering Design Standard(s) shall be completed by no later than the deadlines set forth in Subparagraph 17.e (Completion Deadline). Gulfport may, but is not required to, submit the Engineering Design Standard(s) to EPA for its review and comment prior to submittal with the required Semi-Annual Report.

16. Vapor Control System Field Survey Standard Operating Procedure (“SOP”).

Gulfport shall prepare a written SOP establishing how it will conduct its Vapor Control System Field Surveys under this Consent Decree. The SOP must be submitted to EPA for review and comment 60 Days after the Effective Date and shall include:

a. Procedures for verifying the equipment associated with the Vapor Control System (“Associated Equipment”) installed and that the Associated Equipment is properly operating.

b. Procedures for conducting an IR Camera Inspection of the Vapor Control System during Normal Operations, including while and immediately after hydrocarbon liquids are being sent to the Tank System from all associated Well Production Operations.

c. Procedures for evaluating all Vapor Control System components, including all pressure relief valves, thief hatches, mountings, and gaskets at each tank in the Tank System.

Within 45 Days of Gulfport’s submission of the SOP, EPA shall inform Gulfport of any questions, concerns, or omissions perceived by EPA, and Gulfport shall amend the SOP as appropriate.

17. Vapor Control System Field Survey, Engineering Evaluation, and Modification.

a. For each Tank System, Gulfport shall verify the Associated Equipment

installed and operating through a field survey following the SOP (see Paragraph 16).

Gulfport will then apply the Modeling Guideline to determine the Potential Minimum Instantaneous Vapor Flow Rate and the Potential Peak Instantaneous Vapor Flow Rate of the associated Vapor Control System.

b. During the field survey, or other Tank System site visit, Gulfport shall evaluate the condition and appropriateness of all PRVs, thief hatches, mountings, and gaskets at each tank in the Tank System, and the possibility of upgrading such equipment to reduce the likelihood of VOC emissions. This evaluation shall include the following actions:

i. Gulfport shall ensure that every thief hatch is either welded or mounted to the tank with a suitable gasket that is properly installed in order to prevent emissions at the tank attachment point;

ii. If while evaluating the PRVs, thief hatches, mountings, and gaskets, Gulfport observes Compromised Equipment or evidence of VOC emissions attributable to such PRVs, thief hatches, mountings, or gaskets, Gulfport shall repair, replace, or upgrade such equipment, as appropriate; and

iii. Gulfport shall maintain records of the following information:

(a) The date each Tank System underwent this evaluation;

(b) The name of the employee who performed the evaluation;

(c) Whether Compromised Equipment or evidence of VOC emissions attributable to PRVs, thief hatches, mountings, or gaskets was observed (to include without limitation, hissing, olfactory observation, wave refractions, significant staining or liquid droplets emanating from pressure relief devices); and

(d) What, if any, repair, replacement, upgrade, or other corrective action was performed, including a description of the existing PRV, thief hatch, mounting, or gasket, and a description of how that equipment was repaired or with what it was replaced/upgraded. Descriptions of PRVs or thief hatches shall include pressure set points where such information is available, and descriptions of PRVs, thief hatches, mountings, or gaskets shall include the manufacturer and model

where such information is available.

c. Engineering Evaluation. After conducting the field survey described in Paragraph 17, Gulfport shall apply an appropriate Engineering Design Standard to determine if the existing Vapor Control System at each Tank System is adequately designed and sized to handle the Potential Minimum Instantaneous Vapor Flow Rate and the Potential Peak Instantaneous Vapor Flow Rate that was calculated through the Subparagraph 17.a application of the Modeling Guideline (an “Engineering Evaluation”). An Engineering Evaluation is not required for a Vapor Control System at a Tank System that is not in Active Use, which remains not in Active Use, and that is associated only with wells that are plugged and abandoned before the termination of this Consent Decree.

d. Vapor Control System Modification. For those Vapor Control Systems that are not adequately designed and sized based on the Engineering Evaluation, Gulfport shall make necessary modifications to reduce the Potential Peak Instantaneous Vapor Flow Rate (as recalculated using the Modeling Guideline) and/or increase the capacity of the Vapor Control System in accordance with the applicable Engineering Design Standard. Gulfport shall ensure that each Vapor Control System is adequately designed and sized to handle the Potential Peak Instantaneous Vapor Flow Rate, as determined through application of an Engineering Design Standard

e. Completion Deadline. Gulfport shall complete all requirements of Subparagraphs 17.a through 17.d for each Tank System within 60 Days after EPA’s 45-Day review period provided in Subparagraph 14.b and Paragraph 16.

f. If Gulfport has not completed an Engineering Evaluation (Subparagraph 17.c) for a Tank System and made necessary modifications (Subparagraph 17.d) by the

applicable deadline (Subparagraph 17.e), Gulfport shall shut-in all Well Production Operations associated with that Tank System by such deadline until the requirements of Subparagraphs 17.c and 17.d have been completed.

g. If Gulfport has not completed an Engineering Evaluation by the applicable deadline because Well Production Operations are temporarily shut-in, Gulfport shall – for the sole purpose of (i) undertaking an Engineering Evaluation at a Tank System, (ii) making necessary modifications pursuant to Subparagraph 17.d (Vapor Control System Modification), or (iii) taking corrective actions pursuant to Paragraph 22 (Reliable Information, Investigation, and Corrective Action) – be allowed to resume Well Production Operations associated with that Tank System for a period not to exceed five (5) calendar Days. Upon EPA written approval, the period of resumed Well Production Operations associated with a Tank System may be extended for up to five (5) additional calendar Days.

18. Vapor Control System Initial Verification. Gulfport shall complete the requirements of this Paragraph for each Tank System within 60 Days after completing all requirements of Subparagraphs 17.a through 17.d for each Tank System. Gulfport shall submit a written notification to EPA advising of any Tank Systems at which Gulfport is unable to conduct a Vapor Control System Initial Verification because Gulfport either did not meet the Engineering Evaluation deadline in Subparagraph 17.e or for which Gulfport shut-in Well Production Operations in accordance with Subparagraph 17.f.

a. Gulfport shall conduct an IR Camera Inspection of all Tank Systems, associated open ended lines (*e.g.*, vent lines, blowdown valves or lines), and associated pressure relief devices during Normal Operations, including while and immediately after

Condensate is being sent to the Tank System from all associated Well Production Operations that are not shut-in at the time of the IR Camera Inspection (or, in the event that the potential for simultaneous dump events has been precluded, from the associated Well Production Operations that are not shut-in that yield the highest, non-precluded Potential Peak Instantaneous Vapor Flow Rate), to confirm the Vapor Control System is adequately designed and sized and not emitting VOCs detected with the IR Camera. If any associated Well Production Operations are shut-in at the time of this IR Camera Inspection, and the shut-in Well Production Operations contribute to the highest, nonprecluded Potential Peak Instantaneous Vapor Flow Rate, Gulfport shall perform additional IR Camera Inspection(s) in accordance with this Subparagraph within 30 Days of resuming such Well Production Operations. Inspections under this Subparagraph must be conducted pursuant to a written SOP prepared by Gulfport and submitted to EPA for review and comment. This SOP may be equivalent to the Vapor Control System Field Survey SOP described in Paragraph 16. A video record of each IR Camera Inspection done to comply with this Subparagraph shall be recorded and kept on file.

b. Gulfport shall complete and submit to EPA with the Semi-Annual Report due following the applicable Engineering Evaluation deadline in Subparagraph 17.e with the following information as a Certification of Completion Report, in a spreadsheet or database format: (i) the Engineering Design Standard (which could be for an individual Tank System) that was used for each Vapor Control System; (ii) the result of the Engineering Evaluation, including identification of any changes made to equipment and/or operation as a result of the Engineering Evaluation; (iii) identification of site-specific or system-wide operational parameters or practices relied upon in the

Engineering Evaluation (*e.g.*, maximum operating pressure for final stage of separation, measures to preclude simultaneous dump events, minimum available headspace in tanks); (iv) the minimum Tank System thief hatch or PRV setting and the calculated maximum pressure modeled in the Tank System in ounces per square inch; and (v) the date an IR Camera Inspection was completed and the results of such inspection.

19. Post-Certification of Completion Modifications. If, after Gulfport has submitted to EPA a Certification of Completion Report for a Tank System, Gulfport determines that a specific Vapor Control System design needs to be modified to address Reliable Information or meet the Performance Standards (Paragraph 20) in this Consent Decree, Gulfport shall evaluate whether similar modifications are necessary at other Vapor Control Systems using the same Engineering Design Standard. Gulfport shall submit in the next required Semi-Annual Report: (i) a summary of any evaluations of whether modifications were necessary at other Vapor Control Systems and (ii) the timing, results, locations, and description of any modifications of other Vapor Control Systems or a timeline for the completion of such modifications.

20. Performance Standards. Following the completion of an Engineering Evaluation and any necessary modifications at a Tank System, Gulfport shall:

- a. Operate and maintain air pollution control equipment consistent with manufacturer specifications and good engineering and maintenance practices and shall keep manufacturer specifications on file;
- b. Ensure that all air pollution control equipment is adequately designed and sized to achieve at least a 95% control efficiency for VOCs and to handle reasonably foreseeable fluctuations in emissions of VOCs (fluctuations in emissions that occur when a Separator dumps into the tank are reasonably foreseeable); and

c. Ensure that all Condensate collection, storage, processing, and handling operations, regardless of size, are designed, operated, and maintained so as to minimize leakage of VOCs to the atmosphere to the maximum extent practicable.

21. Directed Inspection and Preventative Maintenance Program. By no later than 120 Days after the Effective Date, Gulfport shall develop and submit for review and comment by EPA a directed inspection and preventative maintenance (“DI/PM”) program. Gulfport shall implement the DI/PM program at each Tank System, and associated Well Production Operations equipment, by no later than 180 Days after the Effective Date. Gulfport is not required to implement the requirements of Subparagraphs 21.a through 21.c at a well pad where all Tank Systems are not in Active Use and remain not in Active Use, so long as Gulfport performs the Subparagraph 21.c actions prior to returning one or more Tank System(s) to Active Use and performs the actions specified in Subparagraphs 21.a and 21.b within seven (7) Days of returning one or more Tank System(s) to Active Use. As part of the DI/PM program, Gulfport shall:

a. Address system-wide inspection, response, and preventative maintenance procedures for the Vapor Control Systems, including without limitation:

i. Monthly AVO walk-around inspection of all Tank Systems to check for VOC emissions and abnormal operating conditions, including checking for hissing, significant new staining, visible liquid droplets, evidence of a spill, or other indicators of emissions or operational abnormalities. Gulfport shall develop a SOP for the AVO walk-around inspection. The SOP will define the "audio," "visual," and "olfactory" components of AVO inspections, and will specify optimal operational set points (or optimal ranges of operating parameters) of equipment, where applicable, to assist in training of the personnel who will conduct these inspections. This SOP should be informed by the results of Engineering Evaluations performed by Gulfport. The AVO walk-around inspection will check the following, where relevant:

(a) Separators – whether the Separator was properly operating at time of inspection, whether the dump valve was operating properly as observed from outside, any corrective actions made to dump valve(s), and Separator operating pressure and any other established operating

parameter set points.

(b) Tank System – PRVs are properly sealed; thief hatches are closed, latched, and properly sealed; other valves are in the correct position; and absence of other abnormal AVO observations in tank piping (*e.g.*, load line, blowdown line, etc.).

(c) Vapor Control System – combustion device checks for proper operation of emission control device (*e.g.*, correct valve positions, normal operating pressures where indicators are present), presence of a pilot light, draining of liquids from knock-out vessel, and auto-ignitor properly functioning.

b. Include any site-specific or system-wide parameters or practices relied upon in the verification of a Vapor Control System and ensure that such parameters or practices are readily identified and available to Gulfport’s field personnel while on location (via on-site labeling, forms provided to personnel, Gulfport’s field data collection software, or other readily available means) and verified during the monthly AVO inspection required by this Paragraph.

c. Establish and implement procedures for preventive maintenance, including evaluation of equipment performance to identify appropriate long-term maintenance and inspection schedules and a replacement program (*e.g.*, replacement of “wear” equipment and periodic maintenance schedules to prevent diminished control efficiencies). Gulfport shall propose initial maintenance and inspection schedules and a replacement program in the DI/PM program, along with an SOP for such activities indicating specific equipment and inspection/work to be performed, which includes, but is not limited to:

i. Clean off and check PRV and thief hatch seals and gaskets for integrity, replace any Compromised Equipment, clean Flame Arrestor (replacing as appropriate) and air-intake, check and clean burner tray (replace as appropriate), check proper operation of dump valve on Separator, blow out vent lines to address liquids that may have accumulated, and perform other appropriate maintenance and inspection activities. These activities shall occur no less frequently than quarterly. This SOP should be informed by the results of

Engineering Evaluations performed by Gulfport.

ii. Check that Separator dump valve orifices, where present, are in good condition and replace as necessary. This shall occur no less frequent than quarterly.

iii. Gulfport shall perform maintenance, repair, replacement, upgrade, or other corrective action, as appropriate.

d. Maintain a spare parts program adequate to support normal operating, maintenance, and replacement requirements, establish written procedures for the acquisition of parts on an emergency basis (*e.g.*, vendor availability on a next-day basis), and evaluate appropriate parts to be kept on hand for pumpers and emissions crew (*e.g.*, thief hatch gaskets and seals on trucks and PRVs at a central facility). At all times during the pendency of this Consent Decree, Gulfport shall ensure that a current employee has been designated with the responsibility for maintaining the adequacy of the spare parts inventory. The spare parts inventory may be based initially on vendor recommendations.

e. Establish and implement requirements for appropriate documentation of compliance with DI/PM practices and procedures (by Tank System) so that the Parties can verify that the DI/PM program is being implemented. This includes creating and maintaining documentation of maintenance, inspection, repair, replacement, upgrade, and other corrective action work. Activities identified within the DI/PM plan as being performed on a regular basis that are not a direct result of finding Compromised Equipment may not be considered “corrective action” work for purposes of this Subparagraph. In addition, activities responsive to Reliable Information are always considered “corrective action” work for purposes of this Subparagraph. Any activities excluded from “corrective action” work should be described in the DI/PM program.

f. Ensure that all persons (employees and contractors) responsible for

implementation or execution of any part of the DI/PM program, except for independent contractors solely responsible for servicing equipment (*e.g.*, combustor manufacturer personnel replacing a burner tray), have completed training on the aspects of the DI/PM program, including any SOPs, which are relevant to the person's duties. Gulfport shall develop a training protocol to ensure that refresher training is performed once per calendar year and that new personnel are sufficiently trained prior to any involvement in the DI/PM program. Both refresher and new personnel training will include a job shadowing program.

g. Commencing in 2020, for each Tank System, Gulfport shall perform the following during each calendar year:

i. A DI/PM program-trained employee or contractor of Gulfport, whose primary responsibilities do not include performing duties in the DI/PM program on a routine basis for the particular Tank System under evaluation, shall undertake the following at each Tank System, and associated Well Production Operations equipment, in consultation with persons performing DI/PM program duties for that particular Tank System:

(a) Verify that maintenance and inspection schedules and the replacement program have been followed at the appropriate frequency;

(b) Review maintenance and corrective action work records to confirm proper recordkeeping, timely response to all issues (*e.g.*, emissions or other operational issues), and determine if there are recurrent or systemic issues associated with a particular Tank System; and

(c) Make any appropriate updates to the DI/PM program, including SOPs.

ii. Upon completion of review of all Tank Systems, Gulfport shall evaluate whether there are recurrent or systemic issues across Gulfport's Tank Systems.

iii. Should Gulfport determine that actions need to be taken to address operations or maintenance activities at one or more Tank Systems based on Gulfport's review (as described above), such as making appropriate updates to the DI/PM program, including SOPs, Gulfport shall take such actions as soon as

practicable.

iv. With the Semi-Annual report following the completion of the review described above, Gulfport shall submit documentation of the following information: (a) the date that review of the Tank System was completed; (b) the nature and timing of any modifications or corrective actions as a result of this review; and (c) a discussion of whether Gulfport identified any systemic issues and if so, what actions Gulfport is taking to address those issues.

22. Reliable Information, Investigation, and Corrective Action. Within five (5) calendar Days after Gulfport obtains any Reliable Information, including, but not limited to, observances or detections during inspections required by Subparagraph 18.a (Vapor Control System Initial Verification), Paragraph 21 (Directed Inspection and Preventative Maintenance Program), and Subparagraph 23.c (Tank Pressure Monitoring), Gulfport shall either (i) complete all necessary corrective actions to address the Reliable Information or (ii) temporarily shut-in Well Production Operations associated with the Tank System. If the Reliable Information can be addressed by isolation of one or more tanks in a Tank System, shutting in one or more wells or Separators, or other similar action, such action may be an acceptable corrective action to meet the deadline in this Paragraph if completed within such deadline.

a. For each Tank System with associated Well Production Operations temporarily shut-in pursuant to the requirements of this Paragraph, Gulfport shall proceed as follows:

i. If the Tank System has not yet undergone an Engineering Evaluation, Well Production Operations shall remain shut-in until the Engineering Evaluation and any necessary modifications have been completed, and Gulfport shall comply with the requirements of Subparagraph 18.a (Vapor Control System Initial Verification) at that Tank System within 60 Days of resuming any Well Production Operations associated with that Tank System.

ii. If the Tank System has already undergone an Engineering Evaluation, Well Production Operations shall remain shut-in until completion of any necessary modifications, including, if appropriate, a re-evaluation of the Vapor Control System and Engineering Evaluation. Gulfport shall comply with the requirements of Subparagraph 18.a (Vapor Control System Initial

Verification) at that Tank System within 60 Days of resuming any Well Production Operations associated with that Tank System.

b. For each Tank System with associated Well Production Operations temporarily shut-in pursuant to the requirements of this Paragraph, Gulfport shall provide in a spreadsheet the following:

- i. The date Reliable Information was obtained resulting in a temporary shut-in;
- ii. The date that such Well Production Operations were temporarily shut-in;
- iii. The date modifications were made, including a description of the modifications;
- iv. The date that Well Production Operations were resumed; and
- v. The date post-repair/Engineering Evaluation that an IR Camera Inspection was completed, and the results of that inspection.

c. For each instance where Gulfport obtains Reliable Information – and within the five-Day deadline provided in Paragraph 22, above, completes all necessary corrective actions to address the emissions – Gulfport shall provide in a spreadsheet the following:

- i. The Tank System identifier;
- ii. The date Reliable Information was obtained; and
- iii. The date(s) all necessary corrective actions to address the emissions were made, including a description of such actions.

d. Gulfport shall attach copies of the spreadsheets required by this Paragraph to the next Semi-Annual Report that follows at least 30 Days after all necessary corrective actions to address the emissions were made or any required IR Camera Inspection was completed.

e. If Gulfport obtains three or more instances of Reliable Information related to any single Tank System in any rolling six-month period, Gulfport shall complete within 90 Days a VCS Root Cause Analysis and identify any appropriate response actions to be taken to address any common operation, maintenance, or design cause(s) identified, along with a proposed schedule for the implementation of those response actions. Appropriate response actions may include proactive solutions to maintenance problems.

i. In the next Semi-Annual Report, Gulfport shall submit the results of each VCS Root Cause Analysis, including the proposed timeline for response actions if those are not already completed at the time of the submission of the VCS Root Cause Analysis results.

ii. Additional instances of Reliable Information at a Tank System at which Gulfport is currently performing a VCS Root Cause Analysis shall be added as additional information in that VCS Root Cause Analysis, but shall not trigger additional VCS Root Cause Analyses until Gulfport has completed the ongoing VCS Root Cause Analysis.

23. Tank Pressure Monitoring. By no later than six months from the Effective Date, Gulfport shall install, calibrate (in accordance with manufacturer recommendations, if available), operate, and maintain pressure monitors on Tank Systems. The monitors shall be linked to and continuously monitored (*i.e.*, one measurement every five (5) minutes with a data transmission every five (5) minutes) by a central monitoring location in accordance with the requirements of this Paragraph.

a. For the first six months after the deadline for installation of pressure monitors, Gulfport shall have a performance optimization period to evaluate calibration and optimize pressure monitor performance and reliability. This period will allow Gulfport, and its contractors or pressure monitor vendors, an opportunity to ensure that the pressure monitors, to the greatest extent practicable, are producing quality data that

may be used to identify the potential for over-pressurization of Tank Systems (*e.g.*, optimization of pressure monitor location on a Tank System, determination of pressure measurements and frequency indicative of potential for over-pressurization).

b. Following the performance optimization period, if a pressure monitor measurement exceeds the “trigger point” at a Tank System, Gulfport shall conduct a site investigation. Measurements at a Tank System while all wells associated with that Tank System are temporarily shut-in, and during which working and standing emissions may occur, will not trigger a site investigation. Multiple pressure monitor measurements in exceedance of the “trigger point” in one Day will result in only one site investigation. The investigation shall include a site visit to check the pressure monitor and the operating parameters of the associated Tank System (“Site Investigation”). During the Site Investigation, Gulfport shall conduct an IR Camera Inspection of the Tank System. The Site Investigation shall be completed no later than the end of the calendar Day following the measurement that exceeded the “trigger point.” For purposes of this Paragraph, “trigger point” means the lowest set point of any device designed to relieve pressure from a tank in a Tank System, minus two ounces. Set point refers to the pressure (in ounces) at which a device is designed to relieve pressure. For example, if a tank is equipped with a PRV and a thief hatch and the set point of the PRV is 14 ounces and the set point of the thief hatch is 16 ounces, the “trigger point” would be 12 ounces (*i.e.*, the lowest set point of any device on the tank minus two ounces). For the avoidance of doubt, a single “trigger point” exceedance or multiple “trigger point” exceedances in one Day will require a Site Investigation, as described above, but will not require a VCS Root Cause Analysis. In the event a Tank System requires three Site Investigations in a consecutive

30 calendar Day period, Gulfport shall conduct a VCS Root Cause Analysis within 90 Days and identify appropriate response actions to be taken to address any common operation, maintenance, or design cause(s) identified, along with a proposed schedule for the implementation of those response actions. Appropriate response actions may include proactive solutions to maintenance problems. Additional Site Investigations at a Tank System at which Gulfport is currently performing a VCS Root Cause Analysis shall be added as additional information in that VCS Root Cause Analysis, but shall not trigger additional VCS Root Cause Analyses until Gulfport has completed the ongoing VCS Root Cause Analysis.

c. Gulfport shall maintain records of the following and this information shall be provided in a spreadsheet (unless the Parties agree in writing to a different format) with each Semi-Annual Report: (i) the date, time, location, and numerical value of all pressure readings in excess of the trigger point, and (ii) the date and results of all corresponding Site Investigations and all corresponding VCS Root Cause Analyses, along with the timeline for response actions identified if not already completed.

d. At any time, Gulfport may submit to EPA a request for alternative criteria triggering a Site Investigation and/or VCS Root Cause Analysis. EPA may grant or deny Gulfport's request in whole or in part.

C. General Requirements.

24. Approval of Deliverables. After review of any plan, report, or other item that is required to be submitted pursuant to this Consent Decree, EPA shall in writing: (a) approve the submission; (b) approve the submission upon specified conditions; (c) approve part of the submission and disapprove the remainder; or (d) disapprove the submission.

25. If the submission is approved pursuant to Paragraph 24, Gulfport shall take all actions required by the plan, report, or other document, in accordance with the schedules and requirements of the plan, report, or other document, as approved. If the submission is conditionally approved or approved only in part pursuant to Paragraph 24(b) or (c), Gulfport shall, upon written direction from EPA, take all actions required by the approved plan, report, or other item that EPA determines are technically severable from any disapproved portions, subject to Gulfport's right to dispute only the specified conditions or the disapproved portions, under Section X (Dispute Resolution).

26. If the submission is disapproved in whole or in part pursuant to Paragraph 24(c) or (d), Gulfport shall, within 45 Days or such other time as the Parties agree to in writing, correct all deficiencies and resubmit the plan, report, or other item, or disapproved portion thereof, for approval, in accordance with the preceding Paragraphs. If the resubmission is approved in whole or in part, Gulfport shall proceed in accordance with the preceding Paragraph.

27. If a resubmitted plan, report, or other item, or portion thereof, is disapproved in whole or in part, EPA may again require Gulfport to correct any deficiencies, in accordance with the preceding Paragraphs, or may itself correct any deficiencies, subject to Gulfport's right to invoke Dispute Resolution and the right of EPA to seek stipulated penalties as provided in the preceding Paragraphs.

28. Any stipulated penalties applicable to the original submission, as provided in Section VIII, shall accrue during the 45 Day period or other specified period, but shall not be payable unless the resubmission is untimely or is disapproved in whole or in part; provided that, if the original submission was so deficient as to constitute a material breach of Gulfport's

obligations under this Decree, the stipulated penalties applicable to the original submission shall be due and payable notwithstanding any subsequent resubmission.

29. Permits. Where any compliance obligation under this Section requires Gulfport to obtain a federal, state, or local permit or approval, Gulfport shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. Gulfport may seek relief under the provisions of Section IX (Force Majeure) for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if Gulfport has submitted timely and complete applications and has taken all other actions necessary to obtain all such permits or approvals.

VI. ENVIRONMENTAL MITIGATION PROJECTS

30. Gulfport shall implement Mitigation Projects in accordance with all requirements of Paragraph 31 (and the added Paragraphs referenced in Paragraph 31).

31. Mitigation Projects.

a. Mitigation Project at the Category 2A Tank Systems. Gulfport shall implement a mitigation project to reduce emissions from the Category 2A Tank Systems as specified by this Subparagraph 31.a. For the Category 2A Tank Systems, Gulfport shall: (i) develop a Modeling Guideline in accordance with Paragraph 14; (ii) develop Engineering Design Standards in accordance with Paragraph 15; (iii) use a Vapor Control System Field Survey Standard Operating Procedure in accordance with Paragraph 16; (iv) perform a Vapor Control System Field Survey, Engineering Evaluation, and Modification in accordance with Paragraph 17, (v) complete of a Vapor Control System Initial Verification in accordance with Paragraph 18; (vi) complete Post-Certification of

Completion Modifications in accordance with Paragraph 19; (vii) adhere to Performance Standards in accordance with Paragraph 20; (ix) use a Directed Inspection and Preventative Maintenance Program in accordance with Paragraph 21; (x) assess and implement Reliable Information, Investigation, and Corrective Action in accordance with Paragraph 22; and (xi) perform Tank Pressure Monitoring in accordance with Paragraph 23.

b. Mitigation Project at the Category 2B Tank Systems. Gulfport shall implement a mitigation project to reduce emissions from the Category 2B Tank Systems as specified by this Subparagraph 31.b. For the Category 2B Tank Systems, Gulfport shall: (i) adhere to Performance Standards in accordance with Paragraph 20; (ii) use a Directed Inspection and Preventative Maintenance Program in accordance with Paragraph 21; (iii) assess and implement Reliable Information, Investigation, and Corrective Action in accordance with Paragraph 22; and (iv) perform Tank Pressure Monitoring in accordance with Paragraph 23.

32. Mitigation Project Certifications. With regard to the Mitigation Projects, Gulfport certifies the truth and accuracy of each of the following:

a. That, as of the date of executing this Decree, Gulfport is not required to perform or develop the Mitigation Projects by any federal, state, or local law or regulation and is not required to perform or develop the Mitigation Projects by agreement, grant, or as injunctive relief awarded in any other action in any forum;

b. That the Mitigation Projects are not Mitigation Projects that Gulfport was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Decree;

c. That Gulfport has not received and will not receive credit for the Mitigation Projects in any other enforcement action; and

d. That Gulfport shall neither generate nor use any pollutant reductions from the Mitigation Projects as netting reductions, pollutant offsets, or to apply for, obtain, trade, or sell any pollutant reduction credits.

VII. REPORTING REQUIREMENTS

33. Gulfport shall submit semi-annual reports as provided by this Paragraph.

a. Schedule for Submission of Semi-Annual Reports. After the Effective Date of this Consent Decree until termination of this Decree pursuant to Section XVIII, Gulfport shall submit semi-annual reports. The initial semi-annual report shall be due on either: (i) January 31 of the year after the Effective Date, if the Effective Date is between July 1 and December 31 of the preceding year; or (ii) July 31 of the year of the Effective Date, if the Effective Date is between January 1 and June 30. The initial report shall cover the period between the Effective Date and 31 Days before the report's due date (e.g., if the Effective Date is September 15, the report shall be due on January 31 and cover the period between September 15 and December 31). Until termination of this Decree, each subsequent report shall be due on July 31 and January 31 and shall cover the half year period between either, respectively, January 1 and June 30 or July 1 and December 31.

b. Report Contents. Each report shall describe the status of any construction or compliance measures required by Sections V (Injunctive Relief) and VI (Environmental Mitigation Projects) and any problems encountered or anticipated, together with implemented or proposed solutions. Each report shall also include a

description of any non-compliance with the requirements of this Consent Decree or the PTIOs and an explanation of the violation's likely cause and of the remedial steps taken, or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the report is due, Gulfport shall so state in the report.

Gulfport shall investigate the cause of the violation and shall then submit an amendment to the report, including a full explanation of the cause of the violation, within 30 Days of the day Gulfport becomes aware of the cause of the violation. Nothing in this Paragraph or the following Paragraph relieves Gulfport of its obligation to provide the notice required by Section IX (Force Majeure).

34. Whenever any violation of this Consent Decree or any of the PTIOs, or any other event affecting Gulfport's performance under this Decree, or the operations at any of the Subject Facilities, may pose an immediate threat to the public health or welfare or the environment, Gulfport shall notify EPA orally or by electronic or facsimile transmission as soon as possible, but no later than 24 hours after Gulfport first knew of the violation or event. This procedure is in addition to the requirements set forth in the preceding Paragraph.

35. All reports shall be submitted to the persons designated in Section XIV (Notices).

36. Each report submitted by Gulfport under this Section shall be signed by an official of the submitting party and include the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

This certification requirement does not apply to emergency or similar notifications where compliance would be impractical.

37. The reporting requirements of this Consent Decree do not relieve Gulfport of any reporting obligations required by the CAA or implementing regulations, or by any other federal, state, or local law, regulation, permit, or other requirement.

38. Any information provided pursuant to this Consent Decree may be used by the United States in any proceeding to enforce the provisions of this Consent Decree and as otherwise permitted by law.

VIII. STIPULATED PENALTIES

39. Gulfport shall be liable for stipulated penalties to the United States for violations of this Consent Decree as specified below, unless excused under Section IX (Force Majeure). A violation includes failing to perform any obligation required by the terms of this Decree, including any work plan or schedule approved under this Decree, according to all applicable requirements of this Decree and within the specified time schedules established by or approved under this Decree.

40. Late Payment of Civil Penalty. If Gulfport fails to pay the civil penalty required to be paid under Section IV (Civil Penalty) when due, Gulfport shall pay a stipulated penalty of 0.10% of the unpaid principal amount per Day for each Day that the payment is late.

41. Compliance Requirements and Additional Injunctive Relief. The following stipulated penalties shall accrue per violation per Day for each violation of the requirements identified in Section V (Injunctive Relief), Section VI (Environmental Mitigation Projects), and this Paragraph 41:

Consent Decree Violation	Stipulated Penalty
Failure to comply with a requirement of Subpart OOOO or a PTIO at a Category 1A Subject Facility or a Category 1B Subject Facility, as provided by Paragraph 12	\$500 per Day per Subject Facility for the first 30 Days of noncompliance; \$2,500 per Day per Subject Facility thereafter
Failure to develop a written Modeling Guideline as required by Paragraph 14 (Development of a Modeling Guideline), failure to develop Engineering Design Standards as required by Paragraph 15 (Engineering Design Standards), or failure to develop SOPs as required by Paragraph 16 (Vapor Control System Field Survey Standard Operating Procedures).	\$1,000 per Day for the first 15 Days of noncompliance; \$2,500 per Day from the 16th to 30th Days of noncompliance; and \$5,000 per Day thereafter.
Failure to evaluate the condition of all PRVs, thief hatches, mountings, and gaskets at each Tank System as required by Subparagraph 17.b and/or take the actions required by Subparagraphs 17.b.i or 17.b.ii by the deadlines set forth in Subparagraph 17.e (Vapor Control System Field Survey, Engineering Evaluation, and Modification).	\$500 per Day per Tank System for the first 30 Days of noncompliance; \$2,500 per Day per Tank System thereafter.
Failure to comply with the requirements of Subparagraph 17.b.iii (Vapor Control System Field Survey, Engineering Evaluation, and Modification).	\$250 per Day per violation for the first 30 Days of noncompliance; \$1,000 per Day per violation thereafter.
Failure to complete an Engineering Evaluation for a Tank System as required by Subparagraphs 17.c and 17.e (Engineering Evaluation).	For each Tank System unless associated Well Production Operations temporarily shut-in as required by Subparagraph 17.f: \$1,000 per Day for the first 15 Days of noncompliance; \$2,500 per Day from the 16th to 30th Days of noncompliance; and \$5,000 per Day thereafter.

Consent Decree Violation	Stipulated Penalty
Failure to complete modifications for a Vapor Control System as required by Subparagraphs 17.d and 17.e (Vapor Control System Modification).	For each Tank System unless associated Well Production Operations temporarily shut-in as required by Subparagraph 17.f: \$1,000 per Day for the first 15 Days of noncompliance; \$3,000 per Day from the 16th to 30th Days of noncompliance; and \$9,000 per Day thereafter.
Failure to conduct an IR Camera Inspection of a Tank System as required by Subparagraph 18.a (Vapor Control System Initial Verification).	\$500 per Day per violation for the first 15 Days of noncompliance; \$1,000 per Day per violation from the 16th to 30th Days of noncompliance; and \$2,000 per Day per violation thereafter.
Failure to complete and submit a Certification of Completion Report as required by Subparagraph 18.b (Vapor Control System Initial Verification).	\$500 per Day for the first 15 Days of noncompliance; \$2,500 per Day from the 16th to 30th Days of noncompliance; and \$5,000 per Day thereafter.
Failure to develop and submit a DI/PM program as required by Paragraph 21 (Directed Inspection and Preventative Maintenance Program),	\$1,000 per Day for the first 15 Days of noncompliance; \$2,500 per Day from the 16th to 30th Days of noncompliance; and \$5,000 per Day thereafter.
Failure to perform a modification required by Paragraph 19 (Post-Certification of Completion Modifications) or failure to meet a Performance Standard as required by Paragraph 20 (Performance Standards).	\$1,000 per Day per Tank System for the first 30 Days of noncompliance; \$2,500 per Day per Tank System thereafter.
Failure to implement the DI/PM program at each Tank System, and associated Well Production Operations equipment, as required by Paragraph 21 (Directed Inspection and Preventative Maintenance Program).	\$500 per Day per Tank System for the first 30 Days of noncompliance; \$2,500 per Day per Tank System thereafter.

Consent Decree Violation	Stipulated Penalty
Failure to establish, implement, or revise schedules as required by Subparagraph 21.c; maintain, review, or modify spare parts inventory as required by Subparagraph 21.d; train personnel as required by Subparagraph 21.f; or perform the verifications, reviews, updates, evaluations, and corrections as required by Subparagraph 21.g (Directed Inspection and Preventative Maintenance Program).	\$1,000 per Day per violation for the first 15 Days of noncompliance; \$2,500 per Day per violation from the 16th to 30th Days of noncompliance; and \$5,000 per Day per violation thereafter.
Failure to complete all necessary corrective actions or temporarily shut-in Well Production Operations as required by Paragraph 22 and Subparagraph 22.a (Reliable Information, Investigation, and Corrective Action).	\$5,000 per Day per Tank System for the first 15 Days of noncompliance; \$10,000 per Day per Tank System from the 16th to 30th Days of noncompliance; and \$20,000 per Day per Tank System thereafter.
Failure to comply with the requirements of Subparagraphs 22.b, 22.c, and 22.d (Reliable Information, Investigation, and Corrective Action).	\$250 per Day per violation for the first 30 Days of noncompliance; \$1,000 per Day per violation thereafter.
Failure to complete a VCS Root Cause Analysis and/or identify or implement appropriate response actions as required by Subparagraph 22.e (Reliable Information, Investigation, and Corrective Action).	\$500 per Day per violation for the first 30 Days of noncompliance; and \$1,000 per Day per violation thereafter.
Failure to equip Tank Systems with pressure monitors in accordance with the requirements of Paragraph 23 (Tank Pressure Monitoring).	\$500 per Day per Tank System for the first 30 Days of noncompliance; and \$1,000 per Day per Tank System thereafter.
Failure to conduct a site investigation or VCS Root Cause Analysis in accordance with the requirements of Subparagraph 23.b (Tank Pressure Monitoring).	\$250 per Day per Tank System for the first 15 Days of noncompliance; and \$500 per Day per Tank System thereafter.
Failure to comply with the requirements of Subparagraph 23.c (Tank Pressure Monitoring).	\$250 per Day per violation for the first 30 Days of noncompliance; \$1,000 per Day per violation thereafter.

42. Reporting Requirements. The following stipulated penalties shall accrue per violation per Day for each violation of the reporting requirements of Section VII:

Consent Decree Violation	Stipulated Penalty
Failure to submit a Semi-Annual Report as required by Paragraph 33.	\$1,000 per Day for the first 30 Days of noncompliance; and \$2,500 per Day thereafter.

43. Stipulated penalties under this Section shall begin to accrue on the Day after performance is due or on the Day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of this Consent Decree.

44. Gulfport shall pay any stipulated penalty within 30 Days of receiving the United States' written demand.

45. The United States may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Consent Decree.

46. Stipulated penalties shall continue to accrue as provided in Paragraph 43, during any Dispute Resolution, but need not be paid until the following:

a. If the dispute is resolved by agreement of the Parties or by a decision of EPA that is not appealed to the Court, Gulfport shall pay accrued penalties determined to be owing, together with interest, to the United States within 30 Days of the effective date of the agreement or the receipt of EPA's decision or order.

b. If the dispute is appealed to the Court and the United States prevails in whole or in part, Gulfport shall pay all accrued penalties determined by the Court to be owing, together with interest, within 60 Days of receiving the Court's decision or order, except as provided in subparagraph c, below.

c. If any Party appeals the District Court's decision, Gulfport shall pay all accrued penalties determined to be owing, together with interest, within 15 Days of

receiving the final appellate court decision.

47. Gulfport shall pay stipulated penalties owing to the United States in the manner set forth and with the confirmation notices required by Paragraph 9, except that the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violation(s) the penalties are being paid.

48. If Gulfport fails to pay stipulated penalties according to the terms of this Consent Decree, Gulfport shall be liable for interest on such penalties, as provided for in 28 U.S.C. § 1961, accruing as of the date payment became due. Nothing in this Paragraph shall be construed to limit the United States from seeking any remedy otherwise provided by law for Gulfport's failure to pay any stipulated penalties.

49. The payment of penalties and interest, if any, shall not alter in any way Gulfport's obligation to complete the performance of the requirements of this Consent Decree.

50. Non-Exclusivity of Remedy. Stipulated penalties are not the United States' exclusive remedy for violations of this Consent Decree. Subject to the provisions of Section XII (Effect of Settlement/Reservation of Rights), the United States expressly reserves the right to seek any other relief it deems appropriate for Gulfport's violation of this Decree or applicable law, including but not limited to an action against Gulfport for statutory penalties, additional injunctive relief, mitigation or offset measures, and/or contempt. However, the amount of any statutory penalty assessed for a violation of this Consent Decree shall be reduced by an amount equal to the amount of any stipulated penalty assessed and paid pursuant to this Consent Decree.

IX. FORCE MAJEURE

51. "Force majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of Gulfport, of any entity controlled by Gulfport, or of

Gulfport's contractors, that delays or prevents the performance of any obligation under this Consent Decree despite Gulfport's best efforts to fulfill the obligation. The requirement that Gulfport exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (a) as it is occurring and (b) following the potential force majeure, such that the delay and any adverse effects of the delay are minimized. "Force Majeure" does not include Gulfport's financial inability to perform any obligation under this Consent Decree.

52. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, Gulfport shall provide notice by an electronic mail message to topinka.natalie@epa.gov and peachey.robert@epa.gov within 72 hours of when Gulfport first knew that the event might cause a delay. Within seven Days thereafter, Gulfport shall provide in writing to EPA an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Gulfport's rationale for attributing such delay to a force majeure event if it intends to assert such a claim; and a statement as to whether, in the opinion of Gulfport, such event may cause or contribute to an endangerment to public health, welfare or the environment. Gulfport shall include with any notice all available documentation supporting the claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Gulfport from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure, Gulfport shall be deemed to know of any

circumstance of which Gulfport, any entity controlled by Gulfport, or Gulfport's contractors knew or should have known.

53. If EPA agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. EPA will notify Gulfport in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

54. If EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, EPA will notify Gulfport in writing of its decision.

55. If Gulfport elects to invoke the dispute resolution procedures set forth in Section X (Dispute Resolution), it shall do so no later than 15 Days after receipt of EPA's notice. In any such proceeding, Gulfport shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Gulfport complied with the requirements of Paragraphs 51 and 52. If Gulfport carries this burden, the delay at issue shall be deemed not to be a violation by Gulfport of the affected obligation of this Consent Decree identified to EPA and the Court.

X. DISPUTE RESOLUTION

56. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising

under or with respect to this Consent Decree. Gulfport's failure to seek resolution of a dispute under this Section shall preclude Gulfport from raising any such issue as a defense to an action by the United States to enforce any obligation of Gulfport arising under this Decree.

57. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Gulfport sends the United States a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed 21 Days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States shall be considered binding unless, within 30 Days after the conclusion of the informal negotiation period, Gulfport invokes formal dispute resolution procedures as set forth below.

58. Formal Dispute Resolution. Gulfport shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by serving on the United States a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Gulfport's position and any supporting documentation relied upon by Gulfport.

59. The United States shall serve its Statement of Position within 45 Days of receipt of Gulfport's Statement of Position. The United States' Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the United States. The United States' Statement of Position shall be binding on Gulfport, unless Gulfport files a motion for judicial review of the dispute in accordance with the following Paragraph.

60. Gulfport may seek judicial review of the dispute by filing with the Court and serving on the United States, in accordance with Section XIV (Notices), a motion requesting judicial resolution of the dispute. The motion must be filed within ten Days of receipt of the United States' Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of Gulfport's position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree.

61. The United States shall respond to Gulfport's motion within the time period allowed by the Local Rules of this Court. Gulfport may file a reply memorandum, to the extent permitted by the Local Rules.

62. Standard of Review

a. Disputes Concerning Matters Accorded Record Review. Except as otherwise provided in this Consent Decree, in any dispute brought under Paragraph 58 pertaining to the adequacy or appropriateness of plans, procedures to implement plans, schedules or any other items requiring approval by EPA under this Consent Decree; the adequacy of the performance of work undertaken pursuant to this Consent Decree; and all other disputes that are accorded review on the administrative record under applicable principles of administrative law, Gulfport shall have the burden of demonstrating, based on the administrative record, that the position of the United States is arbitrary and capricious or otherwise not in accordance with law.

b. Other Disputes. Except as otherwise provided in this Consent Decree, in any other dispute brought under Paragraph 58, Gulfport shall bear the burden of

demonstrating that its position complies with this Consent Decree and better further the objectives of the Consent Decree.

63. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Gulfport under this Consent Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first Day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 46. If Gulfport does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section VIII (Stipulated Penalties).

XI. INFORMATION COLLECTION AND RETENTION

64. The United States and its representatives, including attorneys, contractors, and consultants, shall have the right of entry into any facility covered by this Consent Decree, at all reasonable times, upon presentation of credentials, to:

- a. monitor the progress of activities required under this Consent Decree;
- b. verify any data or information submitted to the United States or the State in accordance with the terms of this Consent Decree or the PTIOs;
- c. obtain samples and, upon request, splits of any samples taken by Gulfport or its representatives, contractors, or consultants;
- d. obtain documentary evidence, including photographs and similar data; and
- e. assess Gulfport's compliance with this Consent Decree.

65. Upon request, Gulfport shall provide EPA or its authorized representatives splits of any samples taken by Gulfport. Upon request, EPA shall provide Gulfport splits of any samples taken by EPA.

66. Until five years after the termination of this Consent Decree, Gulfport shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Gulfport's performance of its obligations under this Consent Decree. This information-retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon request by the United States, Gulfport shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

67. At the conclusion of the information-retention period provided in the preceding Paragraph, Gulfport shall notify the United States at least 90 Days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the United States, Gulfport shall deliver any such documents, records, or other information to EPA. Gulfport may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege recognized by federal law. If Gulfport asserts such a privilege, it shall provide the following: (a) the title of the document, record, or information; (b) the date of the document, record, or information; (c) the name and title of each author of the document, record, or information; (d) the name and title of each addressee and recipient; (e) a description of the subject of the document, record, or information; and (f) the privilege asserted by Gulfport. However, no documents, records, or other information created or generated pursuant to the requirements of this Consent Decree shall be withheld on grounds of privilege.

68. Gulfport may also assert that information required to be provided under this Section is protected as Confidential Business Information (“CBI”) under 40 C.F.R. Part 2. As to any information that Gulfport seeks to protect as CBI, Gulfport shall follow the procedures set forth in 40 C.F.R. Part 2.

69. This Consent Decree in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States or the State pursuant to applicable federal or state laws, regulations, or permits, nor does it limit or affect any duty or obligation of Gulfport to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.

XII. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

70. This Consent Decree resolves the civil claims of the United States for the violations alleged in the Complaint filed in this action through the Date of Lodging. This Consent Decree also resolves the potential civil claims of the United States for the violations alleged in the EPA Violation Notices through the Date of Lodging.

71. The United States reserves all legal and equitable remedies available to enforce the provisions of this Consent Decree. This Consent Decree shall not be construed to limit the rights of the United States to obtain penalties or injunctive relief under the CAA or implementing regulations, or under other federal or state laws, regulations, or permit conditions. The United States further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, the Subject Facilities, whether related to the violations addressed in this Consent Decree or otherwise.

72. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, civil penalties, other appropriate relief relating to the Subject Facilities, Gulfport shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to Paragraph 70.

73. This Consent Decree is not a permit, or a modification of any permit, under any federal, state, or local laws or regulations. Gulfport is responsible for achieving and maintaining complete compliance with all applicable federal, state, and local laws, regulations, and permits; and Gulfport's compliance with this Consent Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The United States does not, by its consent to the entry of this Consent Decree, warrant or aver in any manner that Gulfport's compliance with any aspect of this Consent Decree will result in compliance with provisions of the CAA, 42 U.S.C. § 7401, et seq., or with any other provisions of federal, state, or local laws, regulations, or permits.

74. This Consent Decree does not limit or affect the rights of Gulfport or of the United States against any third parties, not party to this Consent Decree, nor does it limit the rights of third parties, not party to this Consent Decree, against Gulfport, except as otherwise provided by law.

75. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

XIII. COSTS

76. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by Gulfport.

XIV. NOTICES

77. Unless otherwise specified in this Decree, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing and addressed as follows:

As to the United States by email: eesdcopy.enrd@usdoj.gov
Re: DJ # 90-5-2-1-12026

As to the United States by mail: EES Case Management Unit
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Re: DJ # 90-5-2-1-12026

As to EPA by email: r5airenforcement@epa.gov
peachey.robert@epa.gov

As to Gulfport:

Stephanie Timmermeyer
Vice President of EHSR and Purchasing
3001 Quail Springs Parkway
Oklahoma City, Oklahoma 73134

Donald K. Shandy
Robert D. Singletary
Crowe & Dunlevy
324 N. Robinson Ave., Ste. 100
Oklahoma City, Oklahoma 73102

78. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above.

79. Notices submitted pursuant to this Section shall be deemed submitted upon mailing, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing.

XV. EFFECTIVE DATE

80. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court or a motion to enter the Consent Decree is granted, whichever occurs first, as recorded on the Court's docket.

XVI. RETENTION OF JURISDICTION

81. The Court shall retain jurisdiction over this case until termination of this Consent Decree, for the purpose of resolving disputes arising under this Decree or entering orders modifying this Decree, pursuant to Sections X and XVII, or effectuating or enforcing compliance with the terms of this Decree.

XVII. MODIFICATION

82. The terms of this Consent Decree, including any attached appendices, may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to this Decree, it shall be effective only upon approval by the Court.

83. Any disputes concerning modification of this Decree shall be resolved pursuant to Section X (Dispute Resolution), provided, however, that, instead of the burden of proof provided by Paragraph 62, the Party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Federal Rule of Civil Procedure 60(b).

XVIII. TERMINATION

84. After Gulfport has completed the requirements of Section V (Injunctive Relief) and Section VI (Environmental Mitigation Projects), has thereafter maintained continuous satisfactory compliance with this Consent Decree and Gulfport's PTIOs for a period of 24 months, and has paid the civil penalty and any accrued stipulated penalties as required by this Consent Decree, Gulfport may serve upon the United States a Request for Termination, stating that Gulfport has satisfied those requirements, together with all necessary supporting documentation.

85. Following receipt by the United States of Gulfport's Request for Termination, the Parties shall confer informally concerning the Request and any disagreement that the Parties may have as to whether Gulfport has satisfactorily complied with the requirements for termination of this Consent Decree. If the United States agrees that the Decree may be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Decree.

86. If the United States does not agree that the Decree may be terminated, Gulfport may invoke Dispute Resolution under Section X. However, Gulfport shall not seek Dispute Resolution of any dispute regarding termination until at least 90 Days after service of its Request for Termination.

XIX. 26 U.S.C. § 126(f)(2)(A)(ii) IDENTIFICATION

87. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), performance of Section II (Applicability), Paragraph 5; Section V (Injunctive Relief), Paragraphs 11-25 and 29); Section VI (Environmental Mitigation Projects), Paragraphs 30-32; Section VII (Reporting Requirements), Paragraphs 33 and 35-36; and Section XI (Information Collection and Retention), Paragraphs 64-67, is restitution or required to come into compliance with law.

XX. PUBLIC PARTICIPATION

88. This Consent Decree shall be lodged with the Court for a period of not less than 30 Days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. Gulfport consents to entry of this Consent Decree without further notice and agrees not to withdraw from or oppose entry of this Consent Decree by the Court or to challenge any provision of the Decree, unless the United States has notified Gulfport in writing that it no longer supports entry of the Decree.

XXI. SIGNATORIES/SERVICE

89. Each undersigned representative of Gulfport and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that

he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

90. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis. Gulfport agrees to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons. Gulfport need not file an answer to the complaint in this action unless or until the Court expressly declines to enter this Consent Decree.

XXII. INTEGRATION

91. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. Other than deliverables that are subsequently submitted and approved pursuant to this Decree, the Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Consent Decree.

XXIII. APPENDICES

92. The following Appendices are attached to and part of this Consent Decree:

“Appendix A” is the December 2013 Notice of Violation and Finding of Violation issued to Gulfport by EPA;

“Appendix B” is the December 2016 Finding of Violation issued to Gulfport by EPA;

“Appendix C” is the March 2019 Notice of Violation and Finding of Violation issued to Gulfport by EPA; and

“Appendix D” is the list of Subject Facilities and Tank Systems that are subject to the requirements of this Consent Decree.

XXIV. FINAL JUDGMENT

93. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court as to the United States, the State, and Gulfport. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

Dated and entered this _____ day of _____, 2020.

UNITED STATES DISTRICT JUDGE

Signature Page for Consent Decree in *United States v. Gulfport Energy Corp.* (S.D. Ohio.)

FOR THE UNITED STATES OF AMERICA:



KAREN S. DWORKIN
Deputy Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice

1/13/2020
Date



RANDALL M. STONE
Senior Attorney
Environmental Enforcement Section
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
Tel. No.: (202) 514-1308
Fax No.: (202) 616-6584
E-mail: randall.stone@usdoj.gov

DAVID M. DEVILLERS
United States Attorney
Southern District of Ohio

MARK D'ALESSANDRO
Civil Chief, Office of the United States Attorney
Southern District of Ohio
303 Marconi Blvd., Suite 200
Columbus, OH 43215
Tel. No.: (614) 469-5715
Fax No.: (614) 469-5653


Signature Page for Consent Decree in *United States v. Gulfport Energy Corp.* (S.D. Ohio.)

FOR THE U.S. ENVIRONMENTAL PROTECTION
AGENCY:



for 1/17/20

ROSEMARIE KELLEY
Director, Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency



1/13/2020

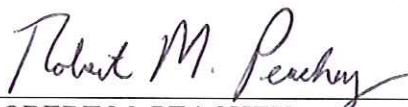
PHILLIP A. BROOKS
Director, Air Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency

Signature Page for Consent Decree in *United States v. Gulfport Energy Corp.* (S.D. Ohio.)

FOR THE U.S. ENVIRONMENTAL PROTECTION
AGENCY:



T. LEVERETT NELSON
Regional Counsel
U.S. Environmental Protection Agency, Region 5



ROBERT M. PEACHEY
Associate Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5

Signature Page for Consent Decree in *United States v. Gulfport Energy Corp.* (S.D. Ohio.)

FOR GULFPORT

GULFPORT ENERGY CORPORATION:

Dec 9, 2019
Date



Printed Name: Patrick Craine

Title: EVP-GL

GULFPORT APPALACHIA LLC:

Dec 9, 2019
Date



Printed Name: Patrick Craine

Title: EVP-GL

Appendix A: December 2013 Notice of Violation and Finding of Violation



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

DEC 11 2013

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Judson Shreves
Ohio Production & Completions Manager
Gulfport Energy Corporation
156 Woodrow Ave.
St. Clairsville, Ohio 43950

**Re: Notice of Violation and Finding of Violation
Gulfport Energy – Boy Scout Well Site
Tippecanoe, Ohio**

Dear Mr. Shreves:

This is to advise you that the U.S. Environmental Protection Agency has determined that Gulfport Energy's facility at 79900 Adams Road, Tippecanoe, Ohio ("facility," "Gulfport," or "you") is in violation of the Clean Air Act (CAA) and associated state pollution control requirements. A list of the requirements violated is provided below. We are today issuing to you a Notice of Violation and Finding of Violation (NOV/FOV) for these violations.

Section 111 of the CAA requires EPA to implement the New Source Performance Standards (NSPS) program. The NSPS are nationally uniform emission standards for new or modified stationary sources falling within industrial categories that significantly contribute to air pollution. As discussed more fully in the enclosed NOV/FOV, Gulfport is subject to and in violation of the NSPS General Provisions at 40 C.F.R. Part 60, Subpart A.

The CAA also requires the development of Primary and Secondary National Ambient Air Quality Standards (NAAQS) to protect public health and welfare. To attain and maintain these standards, each state is required to develop an implementation plan. Among other things, each implementation plan must include a permit program to regulate the modification and construction of any stationary source of air pollution as necessary to assure that NAAQS are achieved. The State of Ohio has incorporated such a permitting program into its State Implementation Plan (SIP). We find that you are in violation of the terms of Gulfport Energy's Permits to Install and Operate conditions established in accordance with OHIO ADMIN. CODE 3745-31-29 of the Ohio SIP at your Tippecanoe, Ohio facility.

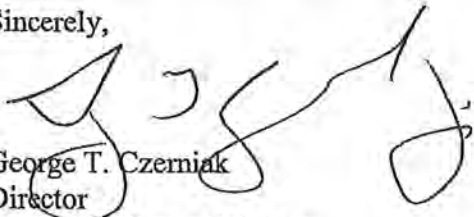
Lastly, under Section 112(r)(1) of the CAA, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the

CAA or any other extremely hazardous substance have a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to identify hazards which may result from accidental releases of such substances 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. We find that you are subject to and in violation of Section 112(r)(1) of the CAA.

Section 113 of the Act, 42 U.S.C. § 7413, gives EPA several enforcement options. The options include issuing an administrative compliance order, issuing an administrative penalty order, bringing a judicial civil action, and bringing a judicial criminal action.

We are offering you the opportunity to request a conference with us about the violations alleged in the NOV/FOV. Please plan for your facility's technical and management personnel to take part in these discussions. You may have an attorney represent and accompany you at this conference. The EPA contact in this matter is Natalie Topinka. You may contact her at 312-886-3853 or topinka.natalie@epa.gov 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

cc: Dean Ponchak, Manager
Air Pollution Group
Southeast District Office
Ohio Environmental Protection Agency

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	
)	
Gulfport Energy Corporation)	NOTICE OF VIOLATION and
Boy Scout Well Site)	FINDING OF VIOLATION
Tippecanoe, Ohio)	
)	EPA-5-14-OH-01
Proceedings Pursuant to)	
Section 113(a)(1) and (3) of the)	
Clean Air Act, 42 U.S.C. § 7413(a)(1))	
and (3))	

NOTICE AND FINDING OF VIOLATION

The U.S. Environmental Protection Agency (EPA) finds that Gulfport Energy Corporation (“you”, “Gulfport,” or “Gulfport Energy”) violated requirements promulgated under the Clean Air Act (CAA), including Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1); the New Source Performance Standards (NSPS) General Provisions at 40 C.F.R. Part 60, Subpart A; and Gulfport Energy’s Permit to Install and Operate Permit conditions established in accordance with 3745-31-29 of the Ohio State Implementation Plan (Ohio SIP), at your production well site facility at 79900 Adams Road, Tippecanoe, Ohio (“Facility” or the “Boy Scout Well Site”), as follows.

STATUTORY AND REGULATORY BACKGROUND

The General Duty Clause of 42 U.S.C. § 7412(r)(1)

1. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r), which requires the Administrator of EPA to, among other things, promulgate regulations in order to prevent accidental releases of certain regulated substances.
2. Pursuant to the General Duty Clause (GDC) at Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), the owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance have a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to identify hazards which may result from accidental releases of such substances 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.
3. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines a “stationary source” as any buildings, structures, equipment, installations or substance emitting stationary activities (i) which belong to the same industrial group, (ii) which are located on one or more contiguous properties, (iii) which are under the control of the same person (or persons under common control), and (iv) from which an accidental release may occur.

4. Section 112(r)(2)(B), 42 U.S.C. § 7412(r)(2)(B), defines a “regulated substance” as a substance listed under Section 112(r)(3) of the CAA.
5. 40 C.F.R § 68.130 Tables 3 and 4 list methane as a regulated flammable substance under Section 112(r) of the CAA.

NSPS

6. On August 16, 2012, EPA promulgated the Standards of Performance for Crude Oil and Natural Gas Production, Transmission, and Distribution. 77 Fed. Reg. 49542 (Aug. 16, 2012). These standards are codified at 40 C.F.R. Part 60, Subpart OOOO (NSPS Subpart OOOO).
7. 40 C.F.R. § 60.5365 of NSPS Subpart OOOO states that this subpart applies to owners or operators of one or more of certain onshore affected facilities which commence construction, reconstruction, or modification after August 23, 2011, including each gas well affected facility, which is a single natural gas well.
8. 40 C.F.R. § 60.5430 defines a gas well or natural gas well as an onshore well drilled principally for production of natural gas.
9. 40 C.F.R. § 60.5370(a) states that an owner or operator must be in compliance with the standards of the subpart no later than October 15, 2012 or upon startup, whichever is later.
10. The NSPS General Provisions, at 40 C.F.R. § 60.11(d), require that at all times, including periods of startup, shutdown, and malfunction, owners and operators must, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions.
11. The NSPS General Provisions, at 40 C.F.R. § 60.18(c)(1), state that flares shall be designed for and operated with no visible emissions, except for periods not to exceed a total of 5 minutes during any 2 consecutive hours.

Ohio SIP

12. Section 110(a)(1) of the CAA, 42 U.S.C. § 7410(a)(1), requires each state to adopt and submit to EPA for approval a State Implementation Plan (SIP) that provides for the implementation, maintenance, and enforcement of the National Ambient Air Quality Standards (NAAQS). Under Section 110(a) of the CAA, 42 U.S.C. § 7410(a), each SIP must include a permit program to regulate the modification and construction of any stationary source of air pollution as necessary to assure that NAAQS are achieved. Upon EPA approval, SIP requirements are federally enforceable under Section 113 of the CAA, 42 U.S.C. § 7413. Under 40 C.F.R. § 52.23, any permit limitation or condition contained within an operating

permit issued under an EPA-approved program that is incorporated into the SIP is a requirement of the SIP, and is federally enforceable under Section 113.

13. On February 20, 2013, EPA approved Ohio Administrative Code (OAC) 3745-31-29 as part of the federally enforceable SIP for Ohio. *See* 78 Fed. Reg. 11748.
14. OAC 3745-31-29 states the director may develop a model general permit for any category of air contaminant sources, or specific portions of any category of air contaminant sources, and that authorization to construct under the general permit-to-install or general permit-to-install and operate (PTIO) shall be granted by the director in the form of a final permit action. OAC 3745-31-29(A) and (D)(4).
15. OAC 3745-31-29(B) states a general permit-to-install or general PTIO may be applied for and obtained if: (1) All of the qualifications and requirements described in OAC Chapter 3745-31 are met, except as noted in paragraph (C)(2) of the rule; (2) The air contaminant source meets all of the qualifications listed in the requested model general permit; (3) The requested air contaminant source(s) are not affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the CAA; and (4) The requested air contaminant source is not part of a new major stationary source or major modification subject to the attainment or nonattainment provisions contained in rules 3745-31-10 to 3745-31-27 of the OAC.
16. OAC 3745-31-29(C)(1) states that owners or operators of air contaminant sources requesting a general permit-to install or general PTIO shall do so using the forms prepared by the Ohio Environmental Protection Agency (Ohio EPA). The application must include all information necessary to determine qualification for, and to assure compliance with, the general permit-to-install or general PTIO.
17. OAC 3745-31-29(I) "Enforcement action for failure to qualify or comply" states that an air contaminant source's owner or operator who requests and is granted authority to install under a general permit-to-install or general PTIO shall be subject to enforcement action for installation without a permit if the air contaminant source is later determined not to qualify for the conditions and terms of the general permit-to-install or general PTIO.
18. On January 31, 2012, the Ohio EPA general permit to install and operate at oil and gas well site production operations (GP12) became effective.
19. Ohio EPA's GP12 includes the following qualifying criteria questions which a facility must answer affirmatively to qualify for the GP12 PTIO:
 - a. "[Is] the air contaminant source(s) for which this general permit is being sought [not] a new major stationary source or a major modification?"
 - b. "Can the source meet the allowable emissions limits and criteria contained in this Model General Permit?"
20. Gulfport's April 10, 2013 permit application for the Boy Scout Well Site states that "hydrocarbon vapors that are produced from the liquid in the storage/sales tanks are captured

by a vapor recovery system and are compressed to send to the gas gathering system pipeline. Liquids are recycled back to the low pressure separator to be sent back to the sales tank. In the event the vapor recovery system is down, the flare is used to control the emissions. Excess vapors from the tanks' vapor space are vented to atmosphere only as a process safety measure (i.e. over pressurization).”

21. Gulfport's April 10, 2013 permit application for the Boy Scout Well Site affirmatively states that the air contaminant source for which the general permit is being sought is not a new major stationary source or a major modification and can meet the allowable emissions limits and criteria contained in the Model General Permit; however, the application does not include supporting potential to emit calculations for any of the criteria pollutants or hazardous air pollutants.

Gulfport Boy Scout Well Site facility

22. Gulfport Energy is a “person,” as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
23. Gulfport Energy currently owns and operates the facility located at 79900 Adams Road, Tippecanoe, Ohio (facility).
24. The facility is a “stationary source” as defined in 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).
25. The Ohio EPA, Southeast District Office issued a General Permit to Install and Operate (Permit No. P0113532) dated April 17, 2013 for the facility in response to Gulfport Energy's permit application for the facility submitted April 10, 2013.
26. Permit No. P0113532 Standard Condition A.1. states that the facility must “install and operate the unit(s) in accordance with the application Gulfport Energy submitted and all the terms and conditions contained in this PTIO, including emission limits and those terms that ensure compliance with the emission limits (for example, operating, recordkeeping, and monitoring requirements).”
27. Permit No. P0113532 Standard Condition A.9. states that “if scheduled maintenance requires shutting down or bypassing any air pollution control equipment, [Gulfport Energy] must also shut down the emissions unit(s) served by the air pollution control equipment during maintenance, unless the conditions of OAC rule 3745-15-06(A)(3) are met.”
28. OAC rule 3745-15-06(A)(3) states that “in cases where a complete source shutdown may result in damage to the air pollution sources or is otherwise impossible or impractical, the owner or operator may request authorization to continue operating the sources during the scheduled maintenance of air pollution control equipment. Any such request shall be made in a written report at least two weeks prior to the planned shutdown of the air pollution control equipment. The director shall authorize the shutdown of the air pollution control equipment if, in his judgment, the situation justifies continued operation of the sources.”

29. According to the facility's application for its permit-to-install and operate, the facility is a natural gas well site and is engaged in the extraction of natural gas from 4 on-site wells, separates the water and condensate, and pipes the natural gas off-site. The following equipment is located at the facility: sand separators; line heaters; high pressure oil/water/gas separators; oil, condensate, and water tanks; a vapor recovery unit, and a flare.
30. According to information provided to EPA by Gulfport via email on August 8, 2013, the four active wells at the Boy Scout Well Site were drilled on the following dates: April 22, 2012, September 30, 2012, March 7, 2013, and April 13, 2013.
31. According to information provided to EPA by Gulfport via email on August 8, 2013, the first production dates of the four active wells at the Boy Scout Well Site are: November 27, 2012, January 14, 2013, July 22, 2013, and July, 28, 2013.
32. The facility meets the definition of a "natural gas well" within the definition of 40 C.F.R. § 60.5430.
33. The facility produces, processes, handles, and stores oil, natural gas, and condensate or produced water. The primary constituent of natural gas and condensate is methane.
34. The constituents of natural gas and condensate at the facility are extremely hazardous substances for purposes of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1) and constitute a flammable liquid, as that term is defined by the National Fire Protection Association ("NFPA") 30, *Flammable and Combustible Liquids Code* (2012).
35. Extremely hazardous substances are handled and/or stored at the facility within the meaning of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).
36. On July 31, 2013, EPA conducted a CAA investigation of the facility hereafter referred to as the "July 2013 inspection."
37. During the July 2013 Inspection, EPA representatives utilized the FLIR® Gas Finder Infrared Camera (FLIR) and the PhoCheck TIGER® photo ionization gas detector (PID) calibrated for methane. EPA personnel observed the following:
 - a. immediately adjacent to the tank containment area, a reading of 84 ppm methane on the PID instrument and a FLIR video of a hydrocarbon plume emanating from the tank header;
 - b. a hydrocarbon plume emanating from a vent hose resting on the ground outside of the tank area and recorded with the FLIR camera; and
 - c. visible emissions from the flare that exceeded approximately thirty consecutive minutes.

38. After the July 2013 inspection, Gulfport Energy stated that, during the inspection, maintenance was being performed on a vapor recovery compressor, and tank vapors were vented to the atmosphere through the header, as described in paragraph 37a. above.
39. Based on observations using the FLIR, and process knowledge, the EPA inspectors determined that the releases of pollutants described in paragraphs 37a. and 37b. contained methane.
40. Methane is listed as a regulated flammable substance under Section 112(r) of the CAA and in 40 C.F.R. § 68.130. The releases as described in paragraphs 37a. and 37b. potentially create explosive levels of methane.
41. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. 7412(r)(1), Gulfport has a general duty at the facility, in the same manner and to the same extent as that required by 29 U.S.C. § 654, to (a) identify hazards which may result from accidental releases of a regulated substance or other extremely hazardous substance from its stationary source, using appropriate hazard assessment techniques, (b) design and maintain a safe facility taking such steps as are necessary to prevent releases, and (c) minimize the consequences of accidental releases which do occur.
42. API Standard 2000/ISO 28300 4.4.1.1 states that “normal venting for pressure and vacuum shall be accomplished by a pressure/vacuum valve with or without a flame-arresting device or by an open vent with or without a flame-arresting device.” In addition, the facility “should protect atmospheric storage tanks against flame transmission from outside the tank if the tank can otherwise contain a flammable vapor space.”
43. NFPA 30, *Flammable and Combustible Liquids Code* (2012) 21.4.3.8. and 21.4.3.9. state that tanks and pressure vessels that store flammable liquids, as defined in 3.3.33.2 and 4.2.3, shall be equipped with venting devices that are closed, except when venting under pressure or vacuum conditions.
44. PERRY’S CHEMICAL ENGINEERS’ HANDBOOK (7th ed. 1997) states that “[v]apor cloud explosions can result if clouds of flammable vapor in air are formed. ...The proper design of pressure relief systems can reduce the possibility of losses from unintended overpressure. ... Whenever possible, one should design user-friendly plants which can withstand human error and equipment failure without serious effects on safety. ...A source of ignition should not be listed as the primary cause of a fire or explosion, as leaks of flammable gases are liable to ignite even though we remove known sources of ignition.”

VIOLATIONS

45. By failing to supply the Ohio EPA with supporting potential to emit calculations for any of the criteria pollutants or hazardous air pollutants, Gulfport Energy failed include all information necessary to determine qualification for, and assure compliance with, the general permit-to-install or general PTIO, as required by OAC 3745-31-29(C)(1).

46. On at least July 31, 2013, Gulfport failed to control the hydrocarbon vapor emissions produced from the liquid in the storage tanks with the flare when the vapor recovery system was not operating, and instead vented the excess vapors to the atmosphere. Gulfport did not operate in accordance with the system design as described in their permit application, in violation of Permit No. P0113532 Standard Condition A.1.
47. On at least July 31, 2013, Gulfport failed to shut down the emissions units served by the vapor recovery system which had been shut down for compressor maintenance, without fulfilling the conditions of OAC rule 3745-15-06(A)(3), in violation of Permit No. P0113532 Standard Condition A.9.
48. On at least July 31, 2013, Gulfport failed to maintain and operate the facility including its associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions, as required by 40 C.F.R. § 60.11(d).
49. On July 31, 2013, visible emissions from the flare at the facility lasted longer than 5 minutes during 2 consecutive hours in violation of 40 C.F.R. § 60.18(c)(1).
50. On at least July 31, 2013, Gulfport failed to take such steps as are necessary to prevent releases containing methane from the tanks storing natural gas and condensate at the facility in violation of Section 112(r)(1) of the CAA, 42 U.S.C. 7412(r)(1). In particular, Gulfport did not design and maintain a safe facility to prevent releases of methane from condensate storage tanks at the facility, as indicated by comparing the facility's controls on methane releases to industry codes and standards for venting devices for tank vapors.

ENFORCEMENT

51. Section 113(a) of the Clean Air Act, 42 U.S.C. § 7413(a), provides several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action.

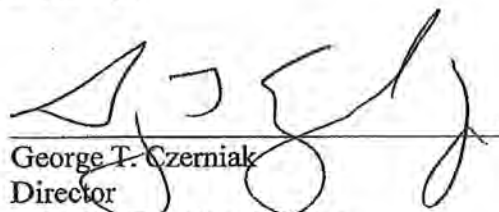
ENVIRONMENTAL IMPACT OF VIOLATIONS

52. These violations have caused or can cause excess emissions of the greenhouse gas methane. Methane, the primary constituent of natural gas, is a potent greenhouse gas which is more than 20 times as potent as carbon dioxide over a 100-year period when emitted directly to the atmosphere. Increasing concentrations of greenhouse gases in the atmosphere cause rises in the global average temperature near Earth's surface, or global warming, one aspect of global climate change. The buildup of greenhouse gases can change Earth's climate and result in dangerous effects to human health and welfare and to ecosystems.

53. These violations have caused or can cause excess emissions of volatile organic compounds (VOC). VOC emissions increase ground-level (tropospheric) ozone (smog). Ground-level ozone irritates lung airways and can cause wheezing, coughing, painful or difficult breathing, especially in people with respiratory problems. Repeated exposure can lead to more serious health problems like asthma, reduced lung capacity, and increased susceptibility to pneumonia or bronchitis. In addition, ground-level ozone inhibits the ability of plants to produce and store food, leading to ecological damage.

12/1/13

Date



George T. Czerniak
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Notice and Finding of Violation, No. EPA-5-14-

OH-01, by Certified Mail, Return Receipt Requested, to:

Judson Shreves
Ohio Production & Completions Manager
Gulfport Energy Corporation
156 Woodrow Ave.
St. Clairsville, Ohio 43950


CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 000 7669 5893

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

Robert Hodanbosi
DAPC Central Office
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

Dean Ponchak, Manager
Air Pollution Group
Ohio Environmental Protection Agency
Southeast District Office
2195 Front Street
Logan, Ohio 43138

On the 13 day of December, 2013.


Loretta Shaffer
Administrative Program Assistant
AECAB, Planning and Administration Section

Appendix B: December 2016 Finding of Violation



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

DEC 22 2016

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Judson Shreves, Operations Manager
Gulfport Energy Corporation
14313 North May Avenue, Suite 100
Oklahoma City, Oklahoma 73134

Re: Finding of Violation
Gulfport Energy Corporation
Oklahoma City, Oklahoma

Dear Mr. Shreves:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Gulfport Energy Corporation (you) under Section 113(a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a)(3). We find that you are violating Section 111 of the Clean Air Act, and the Standards of Performance for Crude Oil and Natural Gas Production, Transmission, and Distribution found in 40 C.F.R. Part 60, Subpart OOOO, at a number of your oil and gas production facilities located in Ohio.

Section 113 of the Clean Air Act gives us several enforcement options. 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 an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the FOV prior to the conference date.

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 contacts in this matter are Natalie Topinka and Constantinos Loukeris. You may contact Ms. Topinka at (312) 886-3853 or topinka.natalie@epa.gov, or Mr. Loukeris at (312) 353-6198 or loukeris.constantinos@epa.gov, 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,



for Edward Nam
Director
Air and Radiation Division

Enclosure

cc: Bob Hodanbosi, OEPA
Melisa Witherspoon, OEPA

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	
)	
Gulfport Energy Corporation)	FINDING OF VIOLATION
Oklahoma City, Oklahoma)	
)	EPA-5-17-OH-08
Proceedings Pursuant to)	
the Clean Air Act,)	
42 U.S.C. §§ 7401 et seq.)	

FINDING OF VIOLATION

The U.S. Environmental Protection Agency (EPA) is issuing this Finding of Violation (FOV) under Section 113(a)(3) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(3). Based on available information and as explained below, EPA finds that Gulfport Energy Corporation (Gulfport) is violating Section 111(e) of the Clean Air Act, 42 U.S.C. § 7411(e). Specifically, Gulfport is violating the Standards of Performance for Crude Oil and Natural Gas Production, Transmission, and Distribution found in 40 C.F.R. Part 60, Subpart OOOO as follows:

Statutory and Regulatory Authority

1. The CAA is designed to, among other things, 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. *See* Section 101(b)(1) of the CAA, 40 U.S.C. § 7401(b)(1).
2. Section 111(b) of the CAA, 42 U.S.C. § 7411(b), requires EPA to publish a list of categories of stationary sources of air pollution if those sources cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare, and to promulgate regulations establishing federal standards of performance for new sources within the source category. These emission standards are known as New Source Performance Standards (NSPS), and are codified at 40 C.F.R. Part 60.
3. The NSPS includes Standards of Performance for New Stationary Sources for Crude Oil and Natural Gas Production, Transmission and Distribution, found in 40 C.F.R. Part 60, Subpart OOOO (“Subpart OOOO”).
4. Subpart OOOO, at 40 C.F.R. § 60.5430, among other things defines “storage vessel” as a tank or other vessel that contains an accumulation of crude oil, condensate, intermediate hydrocarbon liquids, or produced water, and that is constructed primarily of non-earthen materials (such as wood, concrete, steel, fiberglass, or plastic) which provide structural support.
5. Subpart OOOO, at 40 C.F.R. § 60.5365, provides, among other things, that owners and operators of one or more storage vessel affected facilities constructed, modified or

reconstructed after August 23, 2011, and on or before September 18, 2015, are subject to the applicable provisions of Subpart OOOO.

6. Subpart OOOO, at 40 C.F.R. § 60.5365(e), provides that a storage vessel affected facility is a single storage vessel located in the oil and natural gas production segment, natural gas processing segment or natural gas transmission and storage segment, and has the potential for volatile organic compound (VOC) emissions equal to or greater than six tons per year as determined according to 40 C.F.R. § 60.5365. The potential for VOC emissions must be calculated using a generally accepted model or calculation methodology, based on the maximum average daily throughput determined for a 30-day period of production prior to the applicable emission determination deadline specified in 40 C.F.R. § 60.5365. The determination may take into account requirements under a legally and practically enforceable limit in an operating permit or other requirement established under a Federal, State, local or tribal authority.

7. Subpart OOOO, at 40 C.F.R. § 60.5411(b), requires owners and operators of storage vessel affected facilities to ensure that covers on storage vessels meet certain requirements, including that the cover and all openings on the cover shall form a continuous impermeable barrier over the entire surface area of the liquid in the vessel; each cover opening shall be secured in a closed sealed position except when certain activities are ongoing; and that each storage vessel thief hatch shall be equipped, maintained, and operated with a weighted mechanism or equivalent, to ensure the lid remains properly seated.

8. Subpart OOOO, at 40 C.F.R. § 60.5411(c), requires owners and operators of storage vessels using a control device to control emissions to design its closed vent system to route all gases, vapors, and fumes emitted from the material in the storage vessel to a control device that meets the requirements of 40 C.F.R. § 60.5412(c) and (d); and to design and operate a closed vent system with no detectable emissions, as determined using olfactory, visual, and auditory inspections.

9. Subpart OOOO, at 40 C.F.R. § 60.5412(d), requires that each control device used to meet the emission reduction standard in 40 C.F.R. § 60.5395(d) for storage vessel affected facilities must be installed according to 40 C.F.R. § 60.5395(d)(1) through (3), as applicable. As an alternative to 40 C.F.R. § 60.5395(d)(1), owners and operators of storage vessel affected facilities may install a control device model tested under 40 C.F.R. § 60.5413(d), which meets the criteria in 40 C.F.R. § 60.5413(d)(11) and § 60.5413(e).

10. Subpart OOOO, at 40 C.F.R. § 60.5412(d)(1)(ii), requires that each enclosed combustion device must have installed and operate a continuous burning pilot flame.

11. Subpart OOOO, at 40 C.F.R. § 60.5413(e), requires owners or operators of combustion control devices tested by the manufacturer to demonstrate that the control device achieves the performance requirements in (d)(11) of this section by installing a device tested under paragraph (d) of this section and complying with the criteria specified in paragraphs (e)(1) through (7) of this section.

12. Subpart OOOO, at 40 C.F.R. § 60.5413(e)(2), requires that a pilot flame on the combustion control device must be present at all times of operation.

13. Subpart OOOO, at 40 C.F.R. § 60.5410(h), requires owners and operators of storage vessel affected facilities to demonstrate initial compliance with Subpart OOOO for each storage vessel. In order to demonstrate initial compliance with Subpart OOOO, owners and operators must have completed five compliance requirements found elsewhere in Subpart OOOO: determining the potential VOC emission rate (40 C.F.R. § 60.5365(e)); reducing VOC emissions (40 C.F.R. § 60.5395(d)); meeting certain cover, closed vent and control device requirements, as applicable (40 C.F.R. § 60.5395(e), referencing, among other things, 40 C.F.R. § 60.5411(b) and (c)); meeting reporting requirements, including an initial annual report due no later than 90 days after the initial compliance period (40 C.F.R. § 60.5420(b)); and maintaining appropriate records (40 C.F.R. § 60.5420(c)).

14. Subpart OOOO, at 40 C.F.R. § 60.5370(b), requires that at all times, including periods of startup, shutdown, and malfunction, owners and operators shall maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

Relevant Factual Background

15. In August 2015, EPA staff inspected and observed several oil and natural gas production well pads owned and operated by Gulfport in Belmont, Harrison, and Guernsey counties in eastern Ohio. These well pads include but are not limited to those identified in Attachments A and B to this Finding of Violation (FOV).

16. In July of 2016, EPA issued to Gulfport an information request under Section 114 of the CAA.

17. On October 14, 2016, Gulfport responded to the information request. Gulfport's responses to the information request included, among other things, emissions evaluations of the storage vessels at all the well pads listed in Attachments A and B.

18. Each of Gulfport's well pads listed in Attachments A and B includes storage vessels that contain an accumulation of condensate or produced water, and that are constructed primarily of non-earthen materials.

19. Gulfport's storage vessels at well pads listed in Attachments A and B were all constructed after August 23, 2011 but before September 18, 2015.

20. Gulfport's storage vessels at well pads listed in Attachments A and B all had the potential for VOC emissions equal to or greater than six tons per year in their first 30 days of production.

21. During the August 2015 inspections, EPA staff detected emissions from thief hatches or pressure relief devices on storage vessels at all the well pads listed in Attachment A.

22. During the August 2015 inspections, EPA observed that the combustion control devices at the well pads listed in Attachment B were not operating with a continuous pilot flame while vapors were being directed to them.

Violations

23. Gulfport's storage vessels at well pads listed in Attachment A are subject to Subpart OOOO, and based on the above described detectable emissions from storage vessels observed by EPA staff, Gulfport has failed to ensure that the covers on its storage vessels meet certain requirements, including that the covers and all openings shall form a continuous impermeable barrier over the entire surface area of the liquid in the vessel, and that each cover opening shall be secured in a closed, sealed position except when certain activities are ongoing, violating 40 C.F.R. § 60.5411(b).

24. Based on the above described detectable emissions from storage vessels observed by EPA staff, Gulfport has failed to design its closed vent systems to route all gases, vapors and fumes emitted from the material in the storage vessels to a control device, and to design and operate closed vent systems with no detectable emissions, as determined using olfactory, visual, and auditory inspections, violating 40 C.F.R. § 60.5411(c).

25. Based on, among other things, Gulfport's failure to meet certain cover, closed vent and control device requirements, demonstrated by the above described detectable emissions from storage vessels observed by EPA staff, Gulfport has failed to demonstrate initial compliance at its storage vessel affected facilities listed in Attachment A, violating 40 C.F.R. § 60.5410(h).

26. Gulfport's storage vessels at well pads listed in Attachment B are subject to Subpart OOOO, and based on Gulfport's failure to operate its combustion control devices with a present and continuously burning pilot flame at its storage vessel affected facilities listed in Attachment B, Gulfport has violated 40 C.F.R. § 60.5412(d).

27. Based on the above described detectable emissions from storage vessels, and absence of a present and continuously burning pilot flame on its combustion control devices observed by EPA staff during the August 2015 inspections, Gulfport failed to operate its storage vessel affected facilities in a manner consistent with good air pollution control practice for minimizing emissions, violating 40 C.F.R. § 60.5370(b).

Environmental Impact of Violations

28. These violations have caused or can cause excess emissions of VOC.

29. Excess VOC emissions can cause eye, nose, and throat irritation, headaches, loss of coordination, nausea and damage to liver, kidney and the central nervous system.

30. VOC emissions are a precursor to ground-level ozone. Breathing ozone contributes to a variety of health problems including chest pain, coughing, throat irritation and congestion. It can worsen bronchitis, emphysema, and asthma. Ground-level ozone also can reduce lung function and inflame lung tissue.

12/23/14
Date

Sara Bruneman
for Edward Nam
Director
Air and Radiation Division

ATTACHMENT A

Facility Air Permit ID	Facility Name	Wells Supplying the Facility	Facility GPS Latitude	Facility GPS Longitude	County
06-07-01-5013	Amanda	AMANDA 1-14H	39.88943	-81.17016	Belmont
		AMANDA 4-14H			
06-34-00-5043	BK Stephens	BK STEPHENS 1-16H	40.18536	-81.16774	Harrison
		BK STEPHENS 2-16H			
		BK STEPHENS 3-16H			
06-34-00-5048	Boy Scout	BOY SCOUT 1-33H	40.25840	-81.21459	Harrison
		BOY SCOUT 2-33H			
		BOY SCOUT 4-33H			
		BOY SCOUT 5-33H			
06-34-00-5045	Clay	CLAY 1-4H	40.17340	-81.22704	Harrison
		CLAY 2-4H			
		CLAY 3-4H			
		CLAY 4-4H			
06-07-01-5005	Family	FAMILY 1-32H	40.05669	-81.10384	Belmont
		FAMILY 2-32H			
		FAMILY 3-32H			
06-34-00-5070	Gustina-Bear	GUSTINA-BEAR 1-23H	40.19058	-81.18653	Harrison
		GUSTINA-BEAR 2-23H			
		GUSTINA-BEAR 3-23H			
06-07-01-5009	Hayes	HAYES 1-1H	40.04481	-81.12047	Belmont
		HAYES 2-1H			
		HAYES 3-1H			
		HAYES 4-1H			
06-07-00-5010	Inherst	INHERST 1-14H	39.88939	-81.17680	Belmont
		INHERST 2-14H			
		INHERST 3-14H			
06-07-01-5004	McCort	MCCORT 1-28H	39.91963	-81.21521	Belmont
		MCCORT 2-28H			
		MCCORT 3-28H			
		MCCORT 4-28H			
06-34-00-5072	Milliken	MILLIKEN 1-4H	40.17478	-81.23982	Harrison
		MILLIKEN 2-4H			
		MILLIKEN 3-4H			
06-34-00-5049	Ryser	RYSER 1-25H	40.21567	-81.20079	Harrison
		RYSER 2-25H			
		RYSER 3-25H			
		RYSER 4-25H			
06-07-04-5002	Sandra	SANDRA 1-31H	40.04085	-81.10851	Belmont
		SANDRA 2-31H			

Facility Air Permit ID	Facility Name	Wells Supplying the Facility	Facility GPS Latitude	Facility GPS Longitude	County
06-07-01-5003	Shugert 12	SHUGERT 1-12H	40.03269	-81.14577	Belmont
		SHUGERT 1-1H			
		SHUGERT 2-12H			
		SHUGERT 2-1H			
		SHUGERT 3-12H			
		SHUGERT 3-1H			
		SHUGERT 4-12H			
		SHUGERT 4-1H			
06-56-05-5001	Stutzman	STUTZMAN 1-14H	39.89056	-81.17089	Belmont
		STUTZMAN 3-14H			
06-07-01-5008	Wesley	WESLEY 1-8H	39.89255	-81.15874	Belmont
		WESLEY 2-8H			

ATTACHMENT B

Facility Air Permit ID	Facility Name	Wells Supplying the Facility	Facility GPS Latitude	Facility GPS Longitude	County
06-34-00-5070	Gustina-Bear	GUSTINA-BEAR 1-23H	40.19058	-81.18653	Harrison
		GUSTINA-BEAR 2-23H			
		GUSTINA-BEAR 3-23H			
06-07-01-5009	Hayes	HAYES 1-1H	40.04481	-81.12047	Belmont
		HAYES 2-1H			
		HAYES 3-1H			
		HAYES 4-1H			
06-07-01-5012	Swallie	SWALLIE 210041 1C	40.03896	-81.13895	Belmont
		SWALLIE 210041 2B			

CERTIFICATE OF MAILING

I, Kathy Jones, certify that I sent a Finding of Violation, No. EPA-5-17-OH-08, by Certified Mail, Return Receipt Requested, to:

Judson Shreves, Operations Manager
Gulfport Energy Corporation
14313 N. May Ave. Suite 100
Oklahoma City, OK 73134

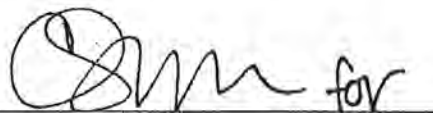
I also certify that I sent copies of the Finding of Violation by first-class mail to:

Bob Hodanbosi
Chief, Division of Air Pollution Control
Ohio Environmental Protection Agency
bob.hodanbosi@epa.ohio.gov

and

Melisa Witherspoon
Assistant Chief, Southeast District Office
Ohio Environmental Protection Agency
melisa.witherspoon@epa.ohio.gov

On the 29 day of December 2016



Kathy Jones
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7646 9869

Appendix C: March 2019 Notice of Violation and Finding of Violation



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 28 2019

REPLY TO THE ATTENTION OF

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jeff Seal, Environmental Programs Manager
Gulfport Energy Corporation
3001 Quail Springs Parkway
Oklahoma City, Oklahoma 73134

Re: Notice and Finding of Violation
Gulfport Energy Corporation
Oklahoma City, Oklahoma

Dear Mr. Seal:

The U.S. Environmental Protection Agency is issuing the enclosed Notice and Finding of Violation ("NOV/FOV") to Gulfport Energy Corporation ("you") under Section 113(a)(1) and (3) of the Clean Air Act, 42 U.S.C. § 7413(a)(1) and (3). We find that you are violating the Ohio State Implementation Plan ("SIP") and the Standards of Performance for Crude Oil and Natural Gas Production, Transmission, and Distribution found in 40 C.F.R. Part 60, Subpart OOOO at a number of your oil and gas production facilities located in Ohio. The violations alleged in this NOV/FOV supplement the alleged violations in the FOV issued to you on December 22, 2016.

Section 113 of the Clean Air Act gives us several enforcement options. 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 NOV/FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the NOV/FOV prior to the conference date.

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 contacts in this matter are Natalie Topinka and Constantinos Loukeris. You may contact Ms. Topinka at (312) 886-3853 or topinka.natalie@epa.gov, or Mr. Loukeris at (312) 353-6198 or loukeris.constantinos@epa.gov, to request a conference. If you choose to have an attorney request a conference on Gulfport's behalf, your attorney may contact Robert Peachey in EPA's Office of Regional Counsel at (312) 353-4510 or peachey.robert@epa.gov. 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,



Edward Nam
Director
Air and Radiation Division

Enclosure

cc: Bob Hodanbosi, OEPA
James Kavalec, OEPA
Jessica Kuenzli, OEPA

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	
)	
Gulfport Energy Company)	NOTICE AND FINDING OF
Oklahoma City, Oklahoma)	VIOLATION
)	
Proceedings Pursuant to)	EPA-5-19-OH-08
Section 113(a)(1) and (3) of the)	
Clean Air Act, 42 U.S.C.)	
§ 7413(a)(1) and (3))	

NOTICE AND FINDING OF VIOLATION

The U.S. Environmental Protection Agency (“EPA”) is issuing this Notice and Finding of Violation (“NOV/FOV”) under Section 113(a)(1) and (3) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(a)(1) and (3). Based on available information and as explained below, EPA finds that Gulfport Energy Corporation (“Gulfport”) is violating the Ohio State Implementation Plan (“SIP”), as well as Section 111(e) of the CAA, 42 U.S.C. § 7411(e), specifically the Standards of Performance for Crude Oil and Natural Gas Production, Transmission, and Distribution found in 40 C.F.R. Part 60, Subpart OOOO (“Subpart OOOO”), as follows:

Statutory and Regulatory Authority

1. The CAA is designed to, among other things, 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. *See* Section 101(b)(1) of the CAA, 40 U.S.C. § 7401(b)(1).

The Ohio SIP

2. Pursuant to Section 110(a)(1) of the CAA, 42 U.S.C. § 7410(a)(1), each state is responsible for adopting and submitting to EPA for approval an implementation plan that provides for the implementation, maintenance, and enforcement of National Ambient Air Quality Standards (“NAAQS”) for particular pollutants, including ground-level ozone.

3. Under Section 110(a)(2) of the CAA, 42 U.S.C. § 7410(a)(2), each SIP must include enforceable emissions limitations and other control measures, means, or techniques, as well as schedule for compliance, as may be necessary to meet applicable requirements, and must include a permit program to provide for the enforcement of these limitations, measures, and schedule as necessary to assure the NAAQS are achieved. Upon EPA’s approval of a SIP, the plans become independently enforceable by the federal government, as stated under Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1).

4. EPA has approved various provisions of the Ohio Administrative Code (“Ohio Admin. Code”) as part of the Ohio SIP, including Ohio Admin. Code § 3745-31-29. 78 Fed. Reg. 11,748 (Feb. 20, 2013); 80 Fed. Reg. 36,477 (June 25, 2015); 40 C.F.R. § 52.1870(c).

5. The Ohio SIP, at Ohio Admin. Code § 3745-31-29, allows the Director of the Ohio Environmental Protection Agency (“Ohio EPA”) to develop model general permits to install and model general permits to operate for certain categories of air emissions sources.

The New Source Performance Standards and NSPS Subpart OOOO

6. Section 111 of the CAA, 42 U.S.C. § 7411, requires EPA to implement a New Source Performance Standards (“NSPS”) program for the control of air pollutant emissions. NSPS regulations impose nationally uniform emission standards for new or modified stationary sources falling within industrial categories that significantly contribute to air pollution.

7. In 2012, EPA promulgated NSPS regulations for the crude oil and natural gas production, transmission, and distribution industry sector, which were codified at Subpart OOOO. 77 Fed Reg. 49,542 (Aug. 16, 2012). EPA has reconsidered and revised certain provisions of Subpart OOOO in 2013. *See, e.g.*, 78 Fed Reg. 58,416 (Sept. 23, 2013).

8. Subpart OOOO establishes emission standards for the control of volatile organic compounds (“VOC”) and sulfur dioxide emissions from various types of oil and natural gas production, processing, transmission, storage, and distribution equipment constructed, modified, or reconstructed after August 23, 2011, and on or before September 18, 2015, including storage vessels.

9. Subpart OOOO, at 40 C.F.R. § 60.5430, defines “storage vessel” as a tank or other vessel that contains an accumulation of crude oil, condensate, intermediate hydrocarbon liquids, or produced water, and that is constructed primarily of non-earthen materials (such as wood, concrete, steel, fiberglass, or plastic) which provide structural support.

10. Among other things, Subpart OOOO addresses two classes of storage vessels: (i) those that began to be constructed, reconstructed or modified after August 23, 2011, and on or before April 12, 2013 (called “Group 1 storage vessels”); and (ii) those that began to be constructed, reconstructed or modified after April 12, 2013, and on or before September 18, 2015 (called “Group 2 storage vessels”). 40 C.F.R. § 60.5430.

11. A Group 1 or Group 2 storage vessel is an affected facility subject to Subpart OOOO requirements if a properly performed emission determination indicates that the storage vessel has the potential for VOC emissions equal to or greater than six (6) tons per year. 40 C.F.R. § 60.5365(e). A storage vessel meeting these criteria is defined as a “storage vessel affected facility.”

12. A storage vessel affected facility that subsequently has its potential for VOC emissions decrease to less than six (6) tons per year shall remain an affected facility under Subpart OOOO. 40 C.F.R. § 60.5365(e)(2).

13. The potential for VOC emissions from a storage vessel must be calculated using a generally accepted model or calculation methodology, based on the maximum average daily throughput determined for a 30-day period of production prior to the applicable emission determination deadline specified in 40 C.F.R. § 60.5365. For Group 1 storage vessels, the applicable emission determination deadline was October 15, 2013. For Group 2 storage vessels,

the applicable emission determination deadline was April 15, 2014, or 30 days after startup (whichever was later). 40 C.F.R. §§ 60.5365(e), 60.5410(h)(1).

14. In calculating the potential VOC emissions from a storage vessel, the determination may take into account requirements under a legally and practically enforceable limit in an operating permit or other requirement established under a Federal, State, local or tribal authority. *See* 40 C.F.R. § 60.5365(e).

15. Subpart OOOO requires the owner/operator of a storage vessel affected facility to comply with certain emission control requirements:

- a. The owner/operator of a storage vessel affected facility must either: (i) reduce VOC emissions from the storage vessel by 95.0 percent; or (ii) maintain the uncontrolled actual VOC emissions from the storage vessel at less than four (4) tons per year without considering control. *See* 40 C.F.R. § 60.5395(d)(1)-(2).
- b. For a storage vessel subject to the 95.0 percent emission reduction requirement, the required emission reduction must be achieved by control requirements that include equipping the storage vessel with a cover that meets the requirements of 40 C.F.R. § 60.5411(b), connecting the storage vessel to a closed vent system that meets the requirements of 40 C.F.R. § 60.5411(c), and either: (i) routing the storage vessel vapors to a control device (such as an enclosed combustor) that meets certain requirements; or (ii) routing the storage vessel vapors to a process. 40 C.F.R. § 60.5395(e).

16. The cover requirements at 40 C.F.R. § 60.5411(b) require that covers on storage vessels meet certain requirements, including that the cover and all openings on the cover shall form a continuous impermeable barrier over the entire surface area of the liquid in the vessel; each cover opening shall be secured in a closed sealed position except when certain activities are ongoing; and that each storage vessel thief hatch shall be equipped, maintained, and operated with a weighted mechanism or equivalent, to ensure the lid remains properly seated.

17. The closed vent system requirements at 40 C.F.R. § 60.5411(c) require that the closed vent system is designed to route all gases, vapors, and fumes emitted from the material in the storage vessel to a control device that meets the requirements of 40 C.F.R. § 60.5412(c) and (d); and to design and operate a closed vent system with no detectable emissions, as determined using olfactory, visual, and auditory inspections.

18. Subpart OOOO, at 40 C.F.R. § 60.5412(d), requires that each control device used to meet the emission reduction standard in 40 C.F.R. § 60.5395(d) for storage vessel affected facilities must be installed according to 40 C.F.R. § 60.5395(d)(1) through (3), as applicable. As an alternative to 40 C.F.R. § 60.5395(d)(1), owners/operators of storage vessel affected facilities may install a control device model tested under 40 C.F.R. § 60.5413(d), which meets the criteria in 40 C.F.R. § 60.5413(d)(11) and § 60.5413(e).

19. Subpart OOOO, at 40 C.F.R. § 60.5412(d)(1)(ii), requires that, for each enclosed combustion device, owners/operators must install and operate a continuous burning pilot flame.

20. Subpart OOOO, at 40 C.F.R. § 60.5413(e), requires that owners/operators of combustion control devices tested by the manufacturer demonstrate that the control device achieves the performance requirements in 40 C.F.R. § 60.5413(d)(11) by installing a device tested under 40 C.F.R. § 60.5413(d) and complying with the criteria specified in 40 C.F.R. § 60.5413(e)(1) through (7).

21. Subpart OOOO, at 40 C.F.R. § 60.5413(e)(2), requires that a pilot flame on the combustion control device must be present at all times of operation.

22. Subpart OOOO, at 40 C.F.R. § 60.5410(h), requires that owners/operators of storage vessel affected facilities comply with certain initial compliance demonstration requirements, as well as initial notification and annual reporting requirements:

- a. The owner/operator of a storage vessel affected facility must make a formal determination of its initial compliance with the standards applicable to the storage vessel. *See* 40 C.F.R. § 60.5410.
- b. For a Group 1 storage vessel, the owner/operator was required to demonstrate initial compliance by April 15, 2015. For a Group 2 storage vessel, the owner operator was required to demonstrate initial compliance by April 15, 2014, or within 60 days after startup, whichever was later. *See* 40 C.F.R. § 60.5410(h).
- c. The owner/operator of a storage vessel affected facility must retain records documenting initial compliance with the standards applicable to the storage vessel. *See* 40 C.F.R. § 60.5410(h)(5).
- d. The owner/operator of a storage vessel affected facility must submit annual reports containing specified information. *See* 40 C.F.R. § 60.5420. For a Group 1 storage vessel, an initial annual report was due by no later than January 15, 2014, with a notification identifying each Group 1 storage vessel. For a Group 2 storage vessel, an initial annual report was due by no later than July 14, 2014, or 120 days after startup (whichever was later). *See* 40 C.F.R. §§ 60.5395(b)(1), 60.5410, 60.5420(b); 78 Fed. Reg. 58,416 (Sept. 23, 2013).
- e. Among other things, each annual report must include: (i) an identification of each storage vessel affected facility for which construction, modification, or reconstruction commenced during the reporting period; and (ii) a statement that initial compliance with the applicable VOC emission reduction and control requirements has been achieved for the relevant storage vessel(s). *See* 40 C.F.R. § 60.5420(b)(6)(i), (v).

23. Subpart OOOO requires the owner/operator of a storage vessel affected facility to comply with additional monitoring and recordkeeping requirements:

- a. If vapors from a storage vessel affected facility are routed to a control device or a process, Subpart OOOO requires monthly olfactory, visual, and auditory inspections to identify defects in the storage vessel cover and closed vent system that could result in air emissions. *See* 40 C.F.R. § 60.5416(c)(1)-(2).
- b. Subpart OOOO also requires that the owner/operator maintain records of the results of these inspections. *See* 40 C.F.R. §§ 60.5416(c)(1)-(2), 60.5420(c)(6)-(7).

24. For a storage vessel not subject to a legally and practically enforceable limit on its potential for VOC emissions, the Subpart OOOO emission determination may exclude vapor from the storage vessel that is recovered and routed to a process through a vapor recovery unit designed and operated as specified in Subpart OOOO provided that: (i) the storage vessel meets the cover requirements specified in 40 C.F.R. § 60.5411(b); (ii) the storage vessel meets the closed vent system requirements specified in 40 C.F.R. § 60.5411(c); and (iii) the owner or operator of the storage vessel maintains records that document compliance with the cover requirements specified in 40 C.F.R. § 60.5411(b) and the closed vent system requirements specified in 40 C.F.R. § 60.5411(c) for the storage vessel. *See* 40 C.F.R. § 60.5365(e)(3).

25. If the original emission determination for a storage vessel excluded storage vessel vapor that would be recovered and routed to a process through a vapor recovery unit, the owner or operator must make a new emission determination calculating the storage vessel's potential for VOC emissions within 30 days if: (i) the storage vessel is operated without meeting the cover requirements specified in 40 C.F.R. § 60.5411(b); (ii) the storage vessel is operated without meeting the closed vent system requirements specified in 40 C.F.R. § 60.5411(c); or (iii) the vapor recovery unit is removed. *See* 40 C.F.R. § 60.5365(e)(3)(iv).

The GP 12.1 and 12.2 Permit Program for Oil and Gas Well-Site Production Operations

26. On January 31, 2012, Ohio EPA finalized a model general permit ("GP 12") to install and operate ("PTIO") for oil and gas well production operations. In April 2014, Ohio EPA revised the GP 12 to incorporate Subpart OOOO requirements and to create two different versions of the model permit ("GP 12.1" and "GP 12.2") for facilities that meet different qualifying criteria.¹

27. GP PTIO 12.1 and GP PTIO 12.2 expressly incorporate relevant requirements of Subpart OOOO, including those listed at paragraphs 28 to 36. GP PTIO 12.1 and GP PTIO 12.2 supplement, but do not supplant, the requirements of Subpart OOOO for storage vessels at oil and gas well production facilities.

28. The GP PTIO 12.1 and GP PTIO 12.2 Permits, at Condition C. 4. c) (1), state:

¹ The different versions pertain to capacities of the flare and engines at the well pad. Both versions of the general permit contain identical language cited in this matter, and so the differences in permit versions are not relevant to this NOV/FOV.

The flare or combustion device shall be operated with a flame present at all times when gases are vented to it.

29. The GP PTIO 12.1 and GP PTIO 12.2 Permits, at Condition C. 6. b) (1) c., state:

The facility must calculate the potential for VOC emissions for each single storage vessel using an accepted model or calculation methodology, based on the maximum average daily throughput determined for a 30-day period of production prior to 10/15/13 for Group 1 storage vessels, or determined for a 30-day period of production prior to 4/15/14 or 30 days after startup for Group 2 storage vessels**.*

Where these potential VOC emissions are calculated to equal or exceed 6 TPY, the permittee must either maintain the uncontrolled actual VOC emissions at less than 4 TPY and maintain monthly emission calculations in accordance with 40 CFR 60.5395(d)(2); or install a control device, closed vent system, and covers designed and operated to reduce VOC emissions by 95.0%, and by 4/15/14 or 60 days after startup for Group 2 storage vessels or by 4/15/15 for Group 1 storage vessels.

Conduct monthly inspections of collection and control equipment.²

30. The GP PTIO 12.1 and GP PTIO 12.2 Permits, at Condition C. 6. b) (2) e., state:

Unless meeting the requirements of 40 CFR 60.5395(d)(2), where the uncontrolled actual VOC emissions can be demonstrated to be less than 4 tons per year, or where it has been demonstrated that the potential VOC emissions are less than 6 TPY, the VOC emissions from each storage vessel affected facility shall be reduced by 95.0 percent by April 15, 2014, or within 60 days after startup, for Group 2 storage vessels; or by April 15, 2015 for Group 1 storage vessels.

[40 CFR 60.5395] and [40 CFR 60.5415(e)(3)]

31. The GP PTIO 12.1 and GP PTIO 12.2 Permits, at Condition C. 6. b) (2) f., state:

Any vapors from storage vessels that are recovered and routed to a vapor recovery unit (VRU) system meeting the cover and closed vent system requirements specified in 40 CFR 60.5411(b) and (c) are not required to be included in the determination of VOC potential to emit for purposes of determining affected facility status for NSPS Subpart OOOO. However, if the VRUs are removed or if the system fails to meet the cover and closed vent system requirements of Subpart OOOO, the potential VOC emissions from each such storage vessel shall be calculated within 30 days of the removal or non-compliant operations of the VRU system.

² The GP PTIO 12.1 and GP PTIO 12.2 language contains the asterisks but has no corresponding footnotes.

[40 CFR 60.5365(e)]

32. The GP PTIO 12.1 and GP PTIO 12.2 Permits, at Condition C. 6. c) (2), state:

Each storage vessel subject to the control requirements of Part 60 Subpart OOOO shall be equipped with a cover that meets the requirements of 40 CFR 60.5411(b); and the storage vessel shall be connected through a closed vent system designed and operated with no detectable emissions, as determined using olfactory, visual and auditory inspections, and in accordance with 40 CFR 60.5411(c) to either: 1. an enclosed combustion control device, designed and operated in accordance with 40 CFR 60.5412(d) or 40 CFR 60.5413(d); 2. an open flare meeting the requirements identified in this permit; or 3. to a process. The collection and control systems shall be operated at all times when gases, vapors, and fumes are vented from the subject storage vessels to a control device; and where routing emissions to a process it must be operational 95% or more of the year.

[40 CFR 60.5365(e)], [40 CFR 60.5395], [40 CFR 60.5410(h)], [40 CFR 60.5411(b) and (c)(1) and (2)], and [40 CFR 60.5412(d)] or [40 CFR 60.5413(d)], and [40 CFR 60.5415(e)(3)]

33. The GP 12.1 PTIO and GP PTIO 12.2 Permits, at Condition C. 6. d) (2), state:

Where using vapor recovery unit(s) (VRU) for compliance, the permittee shall maintain records that document the VRU system is operated in compliance with the cover and closed vent system requirements of 40 CFR 60.5411(b) and 40 CFR 60.5411(c).

[40 CFR 60.5365(e)]

34. The GP PTIO 12.1 and GP PTIO 12.2 Permits, at Condition C. 6. d) (3), state:

Where required, the permittee shall conduct monthly inspections for each closed vent system, each cover, and the combustion control device used to demonstrate compliance in accordance with 40 CFR 60.5416(c) and 40 CFR 60.5417(h); and shall maintain the records identified in 40 CFR 60.5420(c).

[40 CFR 60.5416(c)], [40 CFR 60.5417(h)], [40 CFR 60.5411(b) and (c)], [40 CFR 60.5415(e)(3)], and [40 CFR 60.5420(c)]

35. The GP PTIO 12.1 and GP PTIO 12.2 Permits, at Condition C. 6. e) (2), state:

The permittee shall submit an initial annual report within 90 days after the end of the initial compliance period for each storage vessel determined to have potential VOC emissions equal or greater than 6 tons per year. Subsequent annual reports are due no later than the same date each year following the initial report. The reports shall include the information identified in 40 CFR 60.5420(b).

[40 CFR 60.5420(b)] and [40 CFR 60.5410(h) and (i)]

36. The GP PTIO 12.1 and GP PTIO 12.2 Permits, at Condition C. 6. f) (1), state:

Applicable Compliance Method, through design of collection and controls: Initial compliance with the Part 60, Subpart OOOO standards for storage vessel affected facilities shall be demonstrated by complying with the applicable portions of 40 CFR 60.5411(b) and (c), and 40 CFR 60.5412(d) or 40 CFR 60.5413(e) if the control device is tested by the manufacturer.

Continuous compliance with the Part 60, Subpart OOOO standards for storage vessel affected facilities shall be demonstrated by complying with the applicable portions of 40 CFR 60.5415(e), 40 CFR 60.5416(c), and 40 CFR 60.5417(d) or (h).

Group 1 storage vessels (installed between 8/24/11 and 4/12/13) must be in compliance by April 15, 2015; and Group 2 storage vessels (installed after 4/12/13) must be in compliance by 4/15/14 or within 60 days after startup. In the event an amendment to NSPS Subpart OOOO requires a performance test for the combustion control device to demonstrate compliance, the permittee shall schedule such performance test as required by the amended rules.

[40 CFR 60.5365(e)], [40 CFR 60.5395], [40 CFR 60.5410(h)], [40 CFR 60.5411(b) and (c)], [40 CFR 60.5412(d) or 40 CFR 60.5413(d)], [40 CFR 60.5415(e)(3)], and [ORC 3704.03(T)]

37. The CAA authorizes EPA to take enforcement action if EPA finds that any person is in violation of any SIP requirements, including limitations and conditions contained in permits issued pursuant to a SIP, such as these limitations and conditions contained in GP PTIO 12.1 and GP PTIO 12.2 Permits.

Relevant Factual Background

38. Gulfport is incorporated in the State of Delaware and does business in the State of Ohio.

39. Gulfport maintains a corporate office located at 67185 Executive Drive, St. Clairsville, Ohio.

40. Gulfport is a “person” within the meaning of Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

41. Gulfport owns and operates several oil and natural gas well pads in Belmont, Harrison, and Monroe counties in eastern Ohio. The well pads are listed in the tables in Attachments A and B. Each well pad was issued a PTIO under Ohio EPA’s General Permit program, either GP 12.1 or 12.2, as listed.

42. In August 2015, EPA staff inspected and observed several well pads owned and operated by Gulfport in eastern Ohio. These well pads include but are not limited to those identified in Attachments A and B to this NOV/FOV.

43. In July 2016, EPA issued to Gulfport an information request under Section 114 of the CAA.

44. In September 2016, while attending one of Gulfport's sampling events conducted pursuant to the July 2016 information request, EPA staff observed the Boy Scout well pad listed in Attachment A.

45. On October 14, 2016, Gulfport responded to the information request. Gulfport's responses to the information request included, among other things, emissions evaluations of the storage vessels at all the well pads listed in Attachments A and B.

46. Each of Gulfport's well pads listed in Attachments A and B includes storage vessels that contain an accumulation of condensate or produced water, and that are constructed primarily of non-earthen materials.

47. Gulfport's storage vessels at the well pads listed in Attachments A and B were all constructed after August 23, 2011 but before September 18, 2015.

48. Gulfport's storage vessels at the well pads listed in Attachments A and B all had the potential for VOC emissions equal to or greater than six (6) tons per year for a 30-day period of production prior to the applicable emission determination deadline as specified in Subpart OOOO.

49. On information and belief, vapor from storage vessels at the well pads listed in Attachments A and B has never been recovered and routed to a process through a vapor recovery unit.

50. The PTIOs issued to the well pads listed in Attachments A and B include no legally and practically enforceable voluntary limits to restrict the potential VOC emissions from each storage vessel to less than six (6) tons per year.

51. During the August 2015 and September 2016 inspections, EPA staff detected emissions from thief hatches or pressure relief devices on storage vessels at all the well pads listed in Attachment A.

52. During the August 2015 inspections, EPA observed that the combustion control devices at the well pads listed in Attachment B were not operating with a continuous pilot flame while vapors were being directed to them.

Violations

53. Gulfport failed to make a Subpart OOOO emission determination in accordance with 40 C.F.R. § 60.5365(e) for each storage vessel at the well pads in Attachment A by the applicable emission determination deadline. Gulfport has thereby violated requirements of: (i) 40 C.F.R. § 60.5365(e) and Section 111 of the CAA, 42 U.S.C. 7411; and (ii) the GP PTIO 12.1 and 12.2 Permits, as applicable, at Condition C. 6. b) (1) c. and Section 110 of the CAA, 42 U.S.C. § 7410.

54. If Gulfport's original emission determination for the storage vessels at seven well pads listed in Attachment A (BK Stephens, Clay, Family, McCort, Milliken, Ryser #1-25H, and Sandra) excluded storage vessel vapor that would be recovered and routed to a process through a vapor recovery unit, then by failing to make a Subpart OOOO emission determination after removing the vapor recovery unit serving the respective well pad, Gulfport violated the requirements of: (i) 40 C.F.R. § 60.5365(e)(3) and Section 111 of the CAA, 42 U.S.C. § 7411; and (ii) the GP PTIO 12.1 and GP PTIO 12.2 Permits, as applicable, at Condition C. 6. b) (2) f and Section 110 of the CAA, 42 U.S.C. § 7410.

55. If Gulfport's original emission determination for the storage vessels at well pads listed in Attachment A excluded storage vessel vapor that would be recovered and routed to a process through a vapor recovery unit, then by failing to make a Subpart OOOO emission determination for each storage vessel at the respective well pads after the storage vessel was operated without meeting: (i) the cover requirements specified in 40 C.F.R. § 60.5411(b); and/or (ii) the closed vent system requirements specified in 40 C.F.R. § 60.5411(c), Gulfport violated the requirements of: (i) 40 C.F.R. § 60.5365(e)(3) and Section 111 of the CAA, 42 U.S.C. § 7411; and (ii) the GP PTIO 12.1 and GP PTIO 12.2 Permits, as applicable, at Condition C. 6. b) (2) f and Section 110 of the CAA, 42 U.S.C. § 7410.

56. Gulfport did not make a Subpart OOOO initial notification for each storage vessel affected facility at well pads listed in Attachment A. Gulfport has thereby violated requirements of: (i) 40 C.F.R. § 60.5420(b)(6) and Section 111 of the CAA, 42 U.S.C. § 7411; and (ii) the GP PTIO 12.1 and 12.2 Permits, as applicable, at Condition C. 6. e) (2) and Section 110 of the CAA, 42 U.S.C. § 7410.

57. Gulfport has not submitted Subpart OOOO annual reports for each storage vessel affected facility at well pads listed in Attachment A. Gulfport has thereby violated requirements of: (i) 40 C.F.R. § 60.5420(b)(6) and Section 111 of the CAA, 42 U.S.C. § 7411; and (ii) the GP PTIO 12.1 and 12.2 Permits, as applicable, at Condition C. 6. e) (2) and Section 110 of the CAA, 42 U.S.C. § 7410.

58. Gulfport has not performed periodic Subpart OOOO inspections of each storage vessel affected facility's cover and closed vent system at the well pads listed in Attachment A. Gulfport has thereby violated requirements of: (i) 40 C.F.R. § 60.5416(c) and Section 111 of the CAA, 42 U.S.C. § 7411; and (ii) and the GP PTIO 12.1 and 12.2 Permits, as applicable, at Conditions C. 6. b) (1) c and C. 6. d) (3) and Section 110 of the CAA, 42 U.S.C. § 7410.

59. Gulfport has not maintained required records regarding Subpart OOOO compliance for each storage vessel affected facility at well pads listed in Attachment A, including records documenting compliance with the cover requirements and closed vent system requirements specified in 40 C.F.R. § 60.5411(b)-(c). Gulfport has thereby violated requirements of: (i) 40 C.F.R. §§ 60.5410(h) and 60.5420(c) and Section 111 of the CAA, 42 U.S.C. § 7411; and (ii) its GP PTIO 12.1 and 12.2 Permits, as applicable, at Condition C. 6. d) (3). If Gulfport's original emission determination for the storage vessel excluded storage vessel vapor that would be recovered and routed to a process through a vapor recovery unit, then Gulfport's failure to maintain required records violated the requirements of: (i) 40 C.F.R. § 60.5365(e)(3) and Section 111 of the CAA, 42 U.S.C. § 7411; and (ii) GP PTIO 12.1 and 12.2 Permits, as applicable, at Condition C. 6. d) (2) and Section 110 of the CAA, 42 U.S.C. § 7410.

60. Gulfport has not maintained continuous compliance with the Subpart OOOO emission control requirements applicable to each storage vessel at the well pads listed in Attachment A, including cover and closed vent system design and operation requirements. Gulfport has thereby violated requirements of: (i) 40 C.F.R. §§ 60.5395(b) and (e), 60.5411(b) and (c), and Section 111 of the CAA, 42 U.S.C. § 7411; and (ii) GP PTIO 12.1 and 12.2 Permits, as applicable, at Condition C. 6. f) (1) and Section 110 of the CAA, 42 U.S.C. § 7410.

61. Gulfport's storage vessels at well pads listed in Attachment A are affected facilities under Subpart OOOO, and based on the above described detectable emissions from storage vessels observed by EPA staff, Gulfport has failed to ensure that the covers on its storage vessels meet certain requirements, including that the covers and all openings shall form a continuous impermeable barrier over the entire surface area of the liquid in the vessel, and that each cover opening shall be secured in a closed, sealed position except when certain activities are ongoing, violating GP 12.1 and 12.2 Permit Conditions C. 6. b) (1) c. and C. 6. c) (2) and Section 110 of the CAA, 42 U.S.C. § 7410.

62. Based on the above described detectable emissions from storage vessels observed by EPA staff, Gulfport has failed to design its closed vent systems to route all gases, vapors, and fumes emitted from the material in the storage vessels to a control device, and to design and operate closed vent systems with no detectable emissions, as determined using olfactory, visual, and auditory inspections, violating GP 12.1 and 12.2 Permit Conditions C. 6. b) (1) c. and C. 6. c) (2) and Section 110 of the CAA, 42 U.S.C. § 7410.

63. Based on, among other things, Gulfport's failure to meet certain cover, closed vent and control device requirements, demonstrated by the above described detectable emissions from storage vessels observed by EPA staff, Gulfport has failed to demonstrate initial compliance at the storage vessel affected facilities listed in Attachment A, violating GP 12.1 and 12.2 Permits, at Condition C. 6. f) (1) and Section 110 of the CAA, 42 U.S.C. § 7410.

64. Gulfport's storage vessels at well pads listed in Attachment B are subject to Subpart OOOO, and based on Gulfport's failure to operate its combustion control devices with a present and continuously burning pilot flame at the storage vessel affected facilities listed in Attachment B, Gulfport has violated GP 12.1 and 12.2 Permit Condition C. 4. c) (1) and Section 110 of the CAA, 42 U.S.C. § 7410.


Environmental Impact of Violations

65. These violations have caused or can cause excess emissions of VOC.

66. Excess VOC emissions can cause eye, nose, and throat irritation, headaches, loss of coordination, nausea and damage to liver, kidney and the central nervous system.

67. VOC emissions are a precursor to ground-level ozone. Breathing ozone contributes to a variety of health problems including chest pain, coughing, throat irritation and congestion. It can worsen bronchitis, emphysema, and asthma. Ground-level ozone also can reduce lung function and inflame lung tissue.

Date 3/28/19



Edward Nam
Director
Air and Radiation Division

ATTACHMENT A

Facility Air Permit ID	Facility Name	Wells Supplying the Facility	Facility GPS Latitude	Facility GPS Longitude	County	Air permit type	Permit issue date
06-34-00-5043	BK Stephens	BK STEPHENS 1-16H	40.18536	-81.16774	Harrison	12.1* 12.2	4/24/2013 12/16/2014
		BK STEPHENS 2-16H					
		BK STEPHENS 3-16H					
06-34-00-5048	Boy Scout	BOY SCOUT 1-33H	40.25840	-81.21459	Harrison	12.1* 12.2	4/17/2013 1/16/2015
		BOY SCOUT 2-33H					
		BOY SCOUT 4-33H					
		BOY SCOUT 5-33H					
06-34-00-5045	Clay	CLAY 1-4H	40.17340	-81.22704	Harrison	12.1* 12.2	4/26/2013 2/17/2015
		CLAY 2-4H					
		CLAY 3-4H					
		CLAY 4-4H					
06-07-01-5005	Family	FAMILY 1-32H	40.05669	-81.10384	Belmont	12 12.2	2/18/2014 3/3/2015
		FAMILY 2-32H					
		FAMILY 3-32H					
06-34-00-5070	Gustina-Bear	GUSTINA-BEAR 1-23H	40.19058	-81.18653	Harrison	12 12.2	3/11/2014 1/30/2015
		GUSTINA-BEAR 2-23H					
		GUSTINA-BEAR 3-23H					
06-07-01-5009	Hayes	HAYES 1-1H	40.04481	-81.12047	Belmont	12.2	8/19/2014
		HAYES 2-1H					
		HAYES 3-1H					
		HAYES 4-1H					
06-07-01-5004	McCort	MCCORT 1-28H	39.91963	-81.21521	Belmont	12 12.2	6/6/2013 3/20/2015
		MCCORT 2-28H					
		MCCORT 3-28H					
		MCCORT 4-28H					
06-34-00-5072	Milliken	MILLIKEN 1-4H	40.17478	-81.23982	Harrison	12 12.2	9/26/2013 1/8/2015
		MILLIKEN 2-4H					
		MILLIKEN 3-4H					

* Although the permit is labeled as a GP PTIO 12.1, the permit language is instead based on the Jan. 2012 GP 12, which includes Condition B. 3: "The permittee shall comply with any applicable requirements of 40 CFR Part 60 Subpart OOOO once it becomes rule."

Facility Air Permit ID	Facility Name	Wells Supplying the Facility	Facility GPS Latitude	Facility GPS Longitude	County	Air permit type	Permit issue date
06-34-00-5049	Ryser	RYSER 1-25H	40.21567	-81.20079	Harrison	12.1* 12.2	4/25/2013 2/5/2015
		RYSER 2-25H					
		RYSER 3-25H					
		RYSER 4-25H					
06-07-04-5002	Sandra	SANDRA 1-31H	40.04085	-81.10851	Belmont	12.2	8/29/2014
		SANDRA 2-31H					
06-07-01-5003	Shugert 12	SHUGERT 1-12H	40.03269	-81.14577	Belmont	12.1* 12.2	4/25/2013 1/13/2015
		SHUGERT 1-1H					
		SHUGERT 2-12H					
		SHUGERT 2-1H					
		SHUGERT 3-12H					
		SHUGERT 3-1H					
		SHUGERT 4-12H					
SHUGERT 4-1H							
06-56-05-5001	Stutzman	STUTZMAN 1-14H	39.89056	-81.17089	Belmont	12 12.2	6/6/2013 3/20/2015
		STUTZMAN 3-14H					

* Although the permit is labeled as a GP PTIO 12.1, the permit language is instead based on the Jan. 2012 GP 12, which includes Condition B.3: "The permittee shall comply with any applicable requirements of 40 CFR Part 60 Subpart OOOO once it becomes rule."

ATTACHMENT B

Facility Air Permit ID	Facility Name	Wells Supplying the Facility	Facility GPS Latitude	Facility GPS Longitude	County	Air permit type	Permit issue date
06-34-00-5070	Gustina-Bear	GUSTINA-BEAR 1-23H	40.19058	-81.18653	Harrison	12 12.2	3/11/2014 1/30/2015
		GUSTINA-BEAR 2-23H					
		GUSTINA-BEAR 3-23H					
06-07-01-5009	Hayes	HAYES 1-1H	40.04481	-81.12047	Belmont	12.2	8/19/2014
		HAYES 2-1H					
		HAYES 3-1H					
		HAYES 4-1H					
06-07-01-5012	Swallie	SWALLIE 210041 1C	40.03896	-81.13895	Belmont	12.2	8/29/2014
		SWALLIE 210041 2B					

Appendix D: List of Subject Facilities and Tank Systems

Category 1A Subject Facilities and Tank Systems
Boy Scout Well Pad
Milliken Well Pad
Ryser #1-25H Well Pad
County Line – Gustina Bear Well Pad

Category 1B Subject Facilities and Tank Systems
BK Stephens Well Pad
Clay Well Pad
Shugert 12 Well Pad

Category 2A Subject Facilities and Tank Systems
Lyons Well Pad
Miller Well Pad
Ripley Well Pad
Davidson Well Pad
County Line – Puskarich Well Pad
Vozar Well Pad

Category 2B Subject Facilities and Tank Systems
Groh Well Pad
Karen 23-9-7 Well Pad
Michael Well Pad
Stout Well Pad