



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10**

1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101-3140

JAN 10 2013

OFFICE OF  
COMPLIANCE AND ENFORCEMENT

Reply to: OCE-127

**Certified Mail - Return Receipt Requested**

C T Corporation System  
Registered Agent for  
Shell Gulf of Mexico Inc.  
9360 Glacier Hwy, Suite 202  
Juneau, Alaska 99801

Re: Notice of Violation issued to Shell Gulf of Mexico Inc.  
Notice of Termination of Administrative Compliance Order on Consent  
Docket No. CAA-10-2012-0195

Dear Registered Agent:

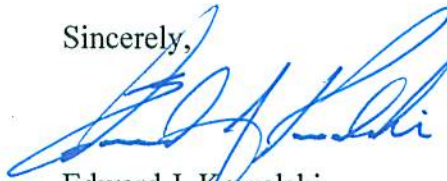
The U.S. Environmental Protection Agency ("EPA") is issuing the enclosed Notice of Violation ("Notice") to Shell Gulf of Mexico Inc. ("Shell") in accordance with Section 113(a) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(a), regarding operation of the Discoverer drillship ("Discoverer") and its fleet of associated vessels ("Associated Fleet") in the Chukchi Sea. EPA is also notifying Shell that EPA is terminating the Administrative Compliance Order on Consent, Docket No. CAA-10-201200195, issued to Shell on September 7, 2012 ("COC").

EPA has determined that Shell has violated Outer Continental Shelf/Prevention of Significant Deterioration Permit No. R10OCS/PSD-AK-09-01 issued on September 19, 2012 and effective on January 27, 2012 (the "Permit"). The Permit authorizes air emissions from exploratory oil and gas drilling operations on the Outer Continental Shelf ("OCS") in the Chukchi Sea by the Discoverer and the Associated Fleet. Based on information in Excess Emission/Permit Deviation Reports, other reports and information submitted by Shell, and observations during an EPA inspection of the Discoverer during September 2012, EPA has determined that Shell violated numerous conditions in the Permit during the 2012 drilling season. Violations of the Permit constitute violations of Section 111(e) of the CAA, 42 U.S.C. §§ 7411(e).

As also discussed in the Notice, EPA has also determined that Shell has violated emission limits in the COC. Accordingly, as provided in Paragraph 6.10.3 of the COC, EPA is notifying Shell that, based on EPA's findings in Paragraphs 43-48 and 52-54 of the Notice, EPA has determined that Shell has not complied with the material provisions of the COC. EPA, therefore, is terminating the COC immediately upon receipt of this letter.

If Shell wishes to request an opportunity to confer on this Notice, please contact Ms. Julie Vergeront, Office of Regional Counsel, at 206-553-1497 within seven days of receipt of this letter. Please also contact Ms. Vergeront if you have any questions regarding this Notice.

Sincerely,



Edward J. Kowalski  
Director

Enclosure

cc: Pete Slaiby  
Shell Gulf of Mexico Inc.

Susan Childs  
Shell Gulf of Mexico Inc.

Lance Tolson  
Shell Gulf of Mexico Inc.

Justin Savage  
U.S. Department of Justice

**BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of: )  
 )  
**Shell Gulf of Mexico Inc.,** ) **NOTICE OF VIOLATION**  
 )  
 )  
Respondent. )

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Pursuant to Section 113(a) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(a), the U.S. Environmental Protection Agency (“EPA”), through the Director of the Office of Compliance and Enforcement, upon the basis of available information, hereby issues the following Notice of Violation (“Notice”) to Shell Gulf of Mexico Inc. (“Shell” or “Respondent”). The Notice alleges violations of the CAA arising out of Respondent’s operation of the Discoverer drillship (“Discoverer”) and a fleet of associated vessels (“Associated Fleet”) in 2012 on the Outer Continental Shelf (“OCS”) in the Chukchi Sea off the North Slope of Alaska.

**I. STATUTORY AND REGULATORY AUTHORITIES**

1. Pursuant to Section 328 of the CAA, 42 U.S.C. § 7627, EPA promulgated air quality regulations applicable to OCS sources, which are set forth in 40 C.F.R. Part 55.
2. Under 40 C.F.R. § 55.13(d)(2), an OCS source that is a major stationary source and which proposes to locate on the OCS more than 25 miles beyond a state’s seaward boundary is required to obtain a Prevention of Significant Deterioration (“PSD”) permit before beginning

construction. The requirements of the PSD program are established under Part C of Title I of the CAA, 42 U.S.C. §§ 7470-7492, and are found at 40 C.F.R. § 52.21.

3. 40 C.F.R. § 52.21(r)(1) provides that any owner or operator who operates a source or modification not in accordance with the application submitted pursuant to 40 C.F.R. § 52.21 or with the terms of any approval to construct shall be subject to appropriate enforcement action.

4. Section 328(a)(1) of the CAA, 42 U.S.C. § 7627(a)(1), provides that a requirement established under Section 328 shall be treated for purposes of Sections 113, 114, 116, 120, and 304 of the CAA, 42 U.S.C. §§ 7413, 7414, 7416, 7420, and 7604, as a standard established under Section 111 of the CAA, 42 U.S.C. § 7411, and a violation of any such requirement shall be considered a violation of Section 111(e) of the CAA, 42 U.S.C. § 7411(e).

5. 40 C.F.R. § 55.9(a) provides that failure to comply with the requirements of 40 C.F.R. Part 55 or a permit issued pursuant to that part shall be considered a violation of Section 111(e) of the CAA, 42 U.S.C. § 7411(e).

6. Section 113 of the CAA, 42 U.S.C. § 7413, authorizes EPA to issue compliance orders and take enforcement action whenever, on the basis of available information, EPA finds that any person has violated or is in violation of any permit, order or other requirement of the CAA.

## **II. FACTUAL BACKGROUND**

7. Shell is a Delaware corporation.

8. Shell is a "person," as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

9. At all times relevant to this Notice, Shell was the owner or operator of the

10. Pursuant to the authority of Section 328 of the CAA, 42 U.S.C. § 7627, and Part C of Title I of the CAA, EPA issued to Shell Outer Continental Shelf/Prevention of Significant Deterioration Permit No. R10OCS/PSD-AK-09-01 (the "Permit") to authorize air emissions associated with exploratory oil and gas drilling operations in the Chukchi Sea from the Discoverer and the Associated Fleet.

11. The Permit became effective on January 27, 2012 and authorizes operation of the Discoverer and the Associated Fleet between July 1 and November 30 of each year at drill sites on certain lease blocks in the Chukchi Sea for which Shell has received an authorization to drill from the Bureau of Ocean Energy Management.

12. All of the locations at which Shell is authorized to operate under the Permit are beyond 25 miles of Alaska's seaward boundary.

13. Shell submitted to EPA an application dated June 28, 2012, an amendment to that application dated August 6, 2012, and a supplement to the amendment dated August 14, 2012 (collectively, the "First Revision Application"), in which Shell requested certain revisions to the Permit.

14. The changes requested in the First Revision Application were based on emission tests conducted on emission units on the Discoverer and the Associated Fleet prior to Shell's operation under the Permit as an "OCS source," as that term is defined in the Permit ("OCS Source").

15. On September 6, 2012, the first day that the Discoverer operated as an OCS Source, Shell submitted to EPA an Excess Emission/Permit Deviation Report in which it notified EPA that on that day it had exceeded the "best available control technology" emission limits for Oxides of Nitrogen ("NO<sub>x</sub>") (Condition C.3.1) and likely exceeded the aggregate hourly NO<sub>x</sub>

emission limit established in the Permit (Condition C.5.1) for the Main Generator Engines on the Discoverer (Units FD-1 to FD-6).

16. On September 7, 2012, after receipt of the Excess Emission/Permit Deviation Report, EPA issued and Shell agreed to issuance of a Compliance Order on Consent under Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3) (“COC”).

17. The COC imposed additional interim limits on Shell’s operations based on Shell’s First Revision Application, including additional NO<sub>x</sub> emission limits for the Main Generator Engines on the Discoverer (Units FD-1 to FD-6) and additional particulate matter limits on the Nanuq oil spill response vessel, as well as additional operating, monitoring, and reporting requirements.

18. By its terms, the COC terminates on the earlier of (a) one year after September 6, 2012, the effective date of the COC; (b) the effective date of any final agency action taken by EPA on the First Revision Application; (c) immediately upon receipt by Shell of notice from EPA finding that Shell has not complied with the material provisions of the COC; or (d) immediately upon receipt by Shell of notice from EPA finding an imminent and substantial endangerment to public health, welfare, or the environment.

19. Shell reported to EPA that it operated the Discoverer and the Associated Fleet as an OCS Source on 43 days between September 6 and October 28, 2012 (the “2012 Drilling Season”).

20. From September 7, 2012 to November 30, 2012, Shell submitted to EPA 32 additional Excess Emission/Permit Deviation Reports identifying additional excess emissions and permit deviations under the Permit and COC.

21. From September 25 to 27, 2012, EPA conducted an inspection of the Discoverer under the authority of Section 114 of the CAA, 42 U.S.C. § 7414.

22. In follow-up to that inspection, EPA requested, and Shell provided, records and reports regarding Shell's operations under the Permit during the 2012 Drilling Season.

23. Shell submitted to EPA an Application to Revise OCS/PSD Permit to Construct #R10OCS/PSD-AK-09-01 dated November 29, 2012 ("Second Revision Application") that updates and expands on the permit revisions requested by Shell in the First Revision Application. The Second Revision Application states that the changes requested are based on actual operating experience during the 2012 Drilling Season.

### **III. NOTICE AND FINDING OF VIOLATIONS**

#### **Violation 1**

24. Condition B.8 of the Permit states that, except for the MLC Diesel Compressor Engines (Units FD- 9 to FD-11) and the Caterpillar C7 Logging Winch Engine (Unit FD-19), each diesel internal combustion ("IC") engine on the Discoverer shall be equipped with a closed crankcase ventilation system.

25. From September 6 through October 8, 2012, the Emergency Generator Engine (Unit FD-8) was not equipped with a closed crankcase ventilation system.

26. The Emergency Generator Engine (Unit FD-8) is a diesel IC engine on the Discoverer.

27. Therefore, Shell violated Condition B.8 of the Permit and Section 111(e) of the CAA, 42 U.S.C. § 7411(e), on one or more days during the 2012 Drilling Season.

### **Violations 2 and 3**

28. Condition B.14 of the Permit states that, for any emission unit that is required by the Permit to be controlled by an SCR control device, Shell must install, calibrate, operate, and maintain (in accordance with manufacturer specifications) continuous monitoring systems ("CMS") to measure and record inlet temperature, urea feed rate, and catalyst activity (NO<sub>x</sub> parts per million ("ppm") concentration). That condition also requires that Shell prepare and submit to EPA 60 days before the first drilling season a site-specific monitoring plan and to install, calibrate, operate, and maintain each CMS according to the procedures in the approved site-specific monitoring plan.

29. Permit Condition B.15 states that, for any emission unit that is required by the Permit to be controlled by an oxidation catalyst control device, Shell must install, calibrate, operate, and maintain (in accordance with manufacturer specifications) CMS to measure and record inlet temperature and catalyst activity (carbon monoxide ("CO") ppm concentration). That condition also requires that Shell prepare and submit to EPA 60 days before the first drilling season a site-specific monitoring plan and to install, calibrate, operate, and maintain each CMS according to the procedures in the approved site-specific monitoring plan.

30. Shell submitted to EPA a CMS plan for the control systems on the Main Generator Engines (the "CMS Plan").

31. Section A.4 of the CMS Plan describes the calibration procedures that will be followed when using a Testo 350 handheld instrument for monitoring NO<sub>x</sub> and CO emissions from the Main Generator Engines. Included in this section is a statement that Shell will supply each vessel with a set of up to 11 EPA protocol gases for calibrating the Testo 350 handheld instrument.



32. During EPA's inspection of the Discoverer from September 25 through 27, 2012, the full range of calibration gases for monitoring stack emissions of NO<sub>x</sub> and CO as specified in the CMS Plan were not available. Three calibration gases were still in their shipping containers and had not yet been used by the technician performing the weekly testing required by the Permit and two required gases were not on board the Discoverer at the time of EPA's inspection.

33. At the time of EPA's inspection, Shell had performed at least two sets of testing of the Main Generator Engines with the Testo 350 handheld instrument.

34. Therefore, Shell violated Conditions B.14 and B.15 of the Permit and Section 111(e) of the CAA, 42 U.S.C. § 7411(e), on one or more days during the 2012 Drilling Season.

#### **Violation 4**

35. Condition C.1 of the Permit states that at all times that any of the Main Generator Engines (Units FD-1 to FD-6) are in operation, the exhaust from each emission unit shall be directed to an operating Selective Catalytic Reduction Unit ("SCR").

36. Emissions from the six Main Generator Engines on the Discoverer (Units FD-1 to FD-6) are controlled with E-PODs, which combine both SCR control technology and a catalytic diesel particulate filter ("CDPF") control device. A CDPF is constructed with an oxidation catalyst plus a particulate filter.

37. Based on Excess Emission/Permit Deviation Reports submitted by Shell, observations of the EPA inspector, the First and Second Revision Applications, and other reports submitted by Shell to EPA, the urea pumps on the E-POD control technology systems did not operate during startup of the Main Generator Engines (Units FD-1 to FD-6) and the SCR control technology did not achieve the control efficiency necessary to achieve the NO<sub>x</sub> emission reductions required by the Permit and the COC during other periods of operation.

38. On one or more days during the 2012 Drilling Season, the exhaust from one or more Main Generator Engines (Units FD-1 to FD-6) was directed to an SCR unit when the urea pump was not on or when the SCR unit was not otherwise operating.

39. Therefore, Shell violated Condition C.1 of the Permit and Section 111(e) of the CAA, 42 U.S.C. § 7411(e), on one or more days during the 2012 Drilling Season.

#### **Violation 5**

40. Condition C.3.1 of the Permit states that NO<sub>x</sub> emissions from each Main Generator Engine on the Discoverer (Units FD-1 to FD-6) shall not exceed 0.50 grams per kilowatt-hour (“g/kW-hr”).

41. On one or more days during the 2012 Drilling Season, during both startup and at other times, NO<sub>x</sub> emissions from each Main Generator Engine (Units FD-1 to FD-6) exceeded 0.50 g/kW-hr.

42. Therefore, Shell violated Condition C.3.1 of the Permit and Section 111(e) of the CAA, 42 U.S.C. § 7411(e), on one or more days during the 2012 Drilling Season.

#### **Violation 6**

43. Condition 4.4 of the COC and COC C.3.1 of Attachment A to the COC state that NO<sub>x</sub> emissions from Main Generator Engine Units FD-1, FD-3, FD-4, and FD-5 shall not exceed 1.2 g/kW-hr.

44. On one or more days during the 2012 Drilling Season, during both startup and at other times, NO<sub>x</sub> emissions from Main Generator Engine Units FD-1, FD-3, FD-4, and FD-5 each exceeded 1.2 g/kW-hr.

45. Therefore, Shell violated Condition 4.4 of the COC and COC C.3.1 of Attachment A to the COC on one or more days during the 2012 Drilling Season.

### **Violation 7**

46. Condition 4.4 of the COC and COC C.3.2 of Attachment A to the COC state that NO<sub>x</sub> emissions from Main Generator Engine Units FD-2 and FD-6 shall not exceed 2.0 g/kW-hr.

47. On one or more days during the 2012 Drilling Season, during both startup and at other times, NO<sub>x</sub> emissions from Main Generator Engine Units FD-2 and FD-6 each exceeded 2.0 g/kW-hr.

48. Therefore, Shell violated Condition 4.4 of the COC and COC C.3.2 of Attachment A to the COC on one or more days during the 2012 Drilling Season.

### **Violation 8**

49. Condition C.5.1 of the Permit states that NO<sub>x</sub> emissions from all six Main Generator Engines (Units FD-1 to FD-6) in aggregate shall not exceed 4.64 pounds per hour ("lb/hr").

50. On one or more days during the 2012 Drilling Season, during both startup and at other times, NO<sub>x</sub> emissions from all six Main Generator Engines in aggregate exceeded 4.64 lb/hr.

51. Therefore, Shell violated Condition C.5.1 of the Permit and Section 111(e) of the CAA, 42 U.S.C. § 7411(e), on one or more days during the 2012 Drilling Season.

### **Violation 9**

52. Condition 4.4 of the COC and COC C.5.1 of Attachment A to the COC state that NO<sub>x</sub> emissions from all six Main Generator Engines (Units FD-1 to FD-6) in aggregate shall not exceed 13.6 lb/hr.

53. On one or more days during the 2012 Drilling Season, during both startup and at other times, NO<sub>x</sub> emissions from all six Main Generator Engines in aggregate exceeded 13.6 lb/hr.

54. Therefore, Shell violated Condition 4.4 of the COC and COC C.5.1 of Attachment A to the COC on one or more days during the 2012 Drilling Season.

#### **Violation 10**

55. Condition D.1 of the Permit states that Shell shall not operate the Discover Propulsion Engine (Unit FD-7) for any reason when operating the Discoverer as an OCS Source.

56. On October 27, 2012, Shell operated the Propulsion Engine (Unit FD-7), for approximately four hours. Shell reported that this occurred in the process of unmooring the Discoverer from the drill site in order to prevent the Discoverer from drifting when high seas prevented the Tor Viking Icebreaker/Anchor Handling Vessel (Icebreaker #2) from connecting to the Discoverer.

57. Therefore, Shell violated Condition D.1 of the Permit and Section 111(e) of the CAA, 42 U.S.C. § 7411(e), on one or more days during the 2012 Drilling Season.

#### **Violation 11**

58. Condition E.2.3 of the Permit states that the Emergency Generator Engine (Unit FD-8) shall only operate for reliability testing during the period of 12 pm to 2 pm.

59. On September 9 and 30, 2012, Shell operated the Emergency Generator Engine (Unit FD-8) for reliability testing at times other than during the period of 12 pm to 2 pm.

60. Therefore, Shell violated Condition E.2.3 of the Permit and Section 111(e) of the CAA, 42 U.S.C. § 7411(e), on one or more days during the 2012 Drilling Season.

## **Violation 12**

61. Condition G.1 of the Permit states that, at all times that any of the Hydraulic Power Unit (“HPU”) HPU Engines (Units FD-12 and FD-13) are in operation, the exhaust from each emission unit shall be directed to an operating CleanAIR Systems CDPF, Part No. FDA300.

62. Condition G.1.2 of the Permit states that, during each day that each HPU Engine (Units FD-12 and FD-13) is operated, the exhaust temperature shall be above 300° Celsius (“C”) or 572° Fahrenheit (“F”) for at least 30 percent of the time.

63. On one or more days during the 2012 Drilling Season, one or more HPU Engines (Units FD-12 and FD-13) operated without reaching a temperature of 300° C or 572° F for at least 30 percent of the time.

64. Therefore, Shell violated Condition G.1.2 of the Permit and Section 111(e) of the CAA, 42 U.S.C. § 7411(e), on one or more days during the 2012 Drilling Season.

## **Violation 13**

65. Condition H.1 of the Permit states that, at all times that any of the Deck Crane Engines (Units FD-14 and FD-15) are in operation, the exhaust from each emission unit shall be directed to an operating CleanAIR Systems CDPF, Part No. 07040401AF.

66. Condition H.1.2 of the Permit states that, during each day that each Deck Crane Engine (Units FD-14 and FD-15) is operated, the exhaust temperature shall be above 300° C or 572° F for at least 30 percent of the time.

67. On one or more days during the 2012 Drilling Season, one or more Deck Crane Engines (Units FD-14 and FD-15) operated without reaching a temperature of 300° C or 572° F for at least 30 percent of the time.

68. Therefore, Shell violated Condition H.1.2 of the Permit and Section 111(e) of the CAA, 42 U.S.C. § 7411(e), on one or more days during the 2012 Drilling Season.

#### **Violation 14**

69. Condition H.5.1 of the Permit states that NO<sub>x</sub> emissions from both Deck Crane Engines (Units FD-14 and FD-15) in aggregate shall not exceed 2.48 lb/hr.

70. On one or more days during the 2012 Drilling Season, NO<sub>x</sub> emissions from the Deck Crane Engines (Units FD-14 and FD-15) in aggregate exceeded 2.48 lb/hr.

71. Therefore, Shell violated Condition H.5.1 of the Permit and Section 111(e) of the CAA, 42 U.S.C. § 7411(e), on one or more days during the 2012 Drilling Season.

#### **Violation 15**

72. Condition I.1 of the Permit states that, at all times that any of the Cementing Unit and Logging Winch Engines (Units FD-16 to FD-20) is in operation, the exhaust from each emission unit shall be directed to an operating CleanAIR Systems CDPF, Part No. FDA300 for Units FD-16 and FD-17, Part No. FDA225 for Unit FD-18, and as specified by CleanAIR Systems for Units FD-19 and FD-20.

73. Condition I.1.2 of the Permit states that, during each day that each of Units FD-16 to FD-20 is operated, the exhaust temperature shall be above 300° C or 572° F for at least 30 percent of the time.

74. On one or more days during the 2012 Drilling Season, one or more Cementing Unit engines (Units FD-16 and FD-17) operated without reaching a temperature of 300° C or 572° F for at least 30 percent of the time.

75. Therefore, Shell violated Condition I.1.2 of the Permit and Section 111(e) of the CAA, 42 U.S.C. § 7411(e), on one or more days during the 2012 Drilling Season.

### **Violation 16**

76. Condition N.1 of the Permit states that at all times that any of the propulsion or generator engines on board Icebreaker #1 are in operation, the exhaust from each engine shall be directed to an operating SCR unit.

77. On one or more days during the 2012 Drilling Season, the exhaust from one or more of the propulsion or generator engines on board the Fennica (Icebreaker #1) was directed to an SCR unit when the urea pump was not on or when the SCR unit was not otherwise operating.

78. Therefore, Shell violated Condition N.1 of the Permit and Section 111(e) of the CAA, 42 U.S.C. § 7411(e), on one or more days during the 2012 Drilling Season.

### **Violation 17**

79. Condition O.1 of the Permit states that at all times that any of the propulsion or generator engines on board Icebreaker #2 are in operation, the exhaust from each engine shall be directed to an operating SCR unit.

80. On one or more days during the 2012 Drilling Season, the exhaust from one or more of the propulsion or generator engines on board the Tor Viking (Icebreaker #2) was directed to an SCR unit when the urea pump was not on or when the SCR unit was not otherwise operating.

81. Therefore, Shell violated Condition O.1 of the Permit and Section 111(e) of the CAA, 42 U.S.C. § 7411(e), on one or more days during the 2012 Drilling Season.

### **Violation 18**

82. Condition O.6.1 of the Permit states that NO<sub>x</sub> emissions from all emission sources on Icebreaker #2 in aggregate shall not exceed 69.06 lb/hr.

83. On one or more during the 2012 Drilling Season, aggregate NO<sub>x</sub> emissions from the Tor Viking (Icebreaker #2) Main Propulsion Engines (TV-1, TV-2, and TV-4) and Non-propulsion Generator Engines (TV-5 and TV-6) exceeded 69.09 lb/hr.

84. Therefore, Shell violated Condition O.6.1 of the Permit and Section 111(e) of the CAA, 42 U.S.C. § 7411(e), on one or more days during the 2012 Drilling Season.

#### **Violation 19**

85. Condition Q.1 of the Permit states that, at all times while the Discoverer is an OCS Source and the Nanuq is within 25 miles of the Discoverer, and any of the Nanuq propulsion engines (Units N-1 and N-2) or non-propulsion generator engines (Units N-3 and N-4) are in operation, the exhaust from each emission unit shall be directed to an operating CleanAIR Systems CDPF, as specified by CleanAIR Systems.

86. Condition Q.1.2 of the Permit states that, during each day that each of Units N-1 to N-4 is operated, the exhaust temperature shall be above 300° C or 572° F for at least 30 percent of the time.

87. On one or more days during the 2012 Drilling Season, one or more of Units N-1 to N-4 operated without reaching a temperature of 300° C or 572° F for at least 30 percent of the time.

88. Therefore, Shell violated Condition Q.1.2 of the Permit and Section 111(e) of the CAA, 42 U.S.C. § 7411(e), on one or more days during the 2012 Drilling Season.

#### **Violations 20 and 21**

89. Conditions F.7.3, G.9.3, H.8.3, and I.9.3 of the Permit state that, while conducting stack tests required by the Permit, Shell shall monitor and record the following information



during each test run: quantity of fuel used (in gallons), density of fuel used (in lb/gallon), heat content of the fuel used (in Btu/gallon), and mechanical power output (in kW).

90. Page 13 of the Permit states that permit conditions contained in Sections B through Q of the Permit addressing notification, reporting, and testing apply at all times as specified.

91. During stack testing of Units FD-9 to FD-17 (nine engines total) between March 28 and May 15, 2012, fuel samples were collected each time the fuel storage tanks were refilled and not during each test run.

92. Therefore, Shell violated Conditions F.7.3, G.9.3, H.8.3, and I.9.3 of the Permit and Section 111(e) of the CAA, 42 U.S.C. § 7411(e), on one or more days while conducting stack testing required by the Permit.

#### **Violation 22**

93. Condition A.15.2 of the Permit requires Shell to report an unavoidable emergency, malfunction, or non-routine repair that causes emissions in excess of a technology based emission standard; any other exceedance of an emission limit; or any exceedance of a throughput limit within two working days after the event commenced or is discovered.

94. On one or more days during 2012, Shell failed to report exceedances of an emission limit in the Permit within two working days after the event commenced or was discovered.

95. Therefore, Shell violated Condition A.15.2 of the Permit and Section 111(e) of the CAA, 42 U.S.C. § 7411(e), on one or more days during 2012.

### **Violation 23**

96. Condition 4.5.6 of the COC requires Shell to report all emissions in excess of and deviations from the requirements of the COC as provided in Condition A.15 of the Permit.

97. Condition A.15.2 of the Permit requires Shell to report an unavoidable emergency, malfunction, or non-routine repair that causes emissions in excess of a technology based emission standard; any other exceedance of an emission limit; or any exceedance of a throughput limit within two working days after the event commenced or is discovered.

98. On one or more days during 2012, Shell failed to report exceedances of an emission limit in the COC within two working days after the event commenced or was discovered.

99. Therefore, Shell violated Condition 4.5.6 of the COC on one or more days during 2012.

### **IV. ENFORCEMENT**

100. Section 113 of the CAA, 42 U.S.C. § 7413, authorizes EPA to take any of the following actions whenever, on the basis of available information, EPA finds that any person has violated or is in violation of any permit, order or other requirement of the CAA:

- a. Issue an order requiring such person to comply with the requirements of the CAA;
- b. Issue an administrative penalty order in accordance with Section 113(d) of the CAA, 42 U.S.C. § 7413(d), for civil administrative penalties;
- c. Bring a civil action in accordance with Section 113(b) of the CAA, 42 U.S.C. § 7413(b), for injunctive relief and/or civil penalties.

101. Section 113(c) of the CAA, 42 U.S.C. § 7413(c), authorizes EPA to request the Attorney General to commence a criminal action for knowing violations of the CAA.

102. Under Section 306 of the CAA, the regulations promulgated thereunder (40 C.F.R. Part 32), and Executive Order 11738, facilities to be used in federal contracts, grants, and loans must be in full compliance with the CAA and all regulations promulgated pursuant to it. Violation of the CAA may result in the subject facility being declared ineligible for participation in any federal contract, grant, or loan.

103. Section 120 of the CAA, 42 U.S.C. § 7420, authorizes EPA to assess penalties for noncompliance aimed at recovering the economic benefits which the violator has received by operating the facility out of compliance.

104. Section 113 of the CAA authorizes civil penalties of up to \$37,500 per day for each such violation occurring on or after January 13, 2009 pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701, 40 C.F.R. § 19.4, and 74 Fed. Reg. 626 (Jan. 7, 2009).


#### **V. NOTICE OF CONFERENCE OPPORTUNITY**

105. Respondent may request a conference with EPA to discuss the substance of this Notice. Please contact Julie Vergeront, EPA Region 10, (206-553-1497) within seven days of receipt of this Notice if you wish to schedule a conference.

106. This Notice does not waive or limit EPA's right to any remedy available to it under the CAA.

107. This Notice shall become effective immediately upon issuance.

Issued this 10th day of January 2013.



Edward J. Kowalski, Director  
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