



32nd EFO Annual Meeting

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Presented by: Donald K. Shandy

October 11, 2023





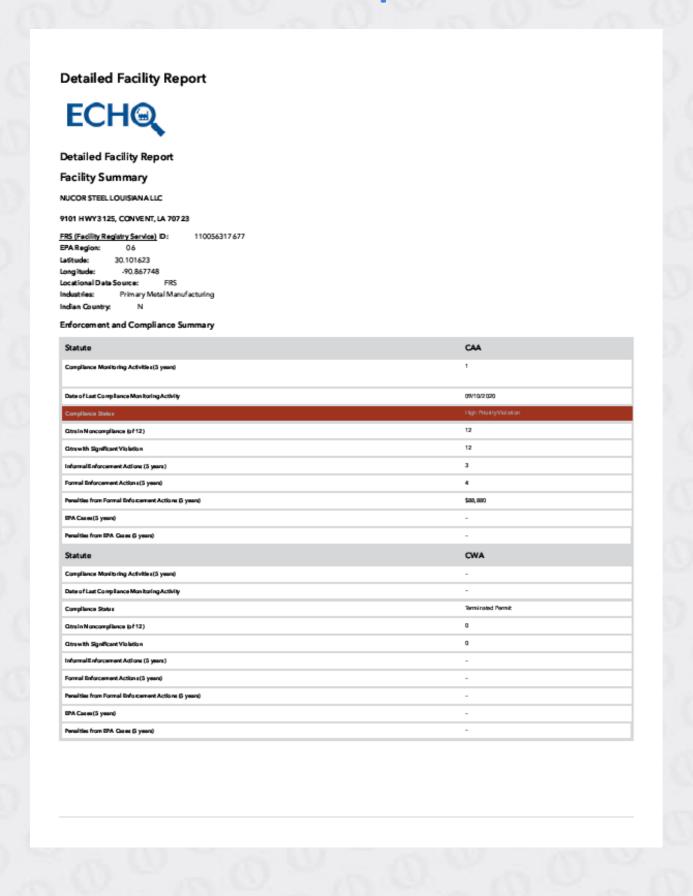
I. Current USEPA Region 6 Enforcement (CAA)

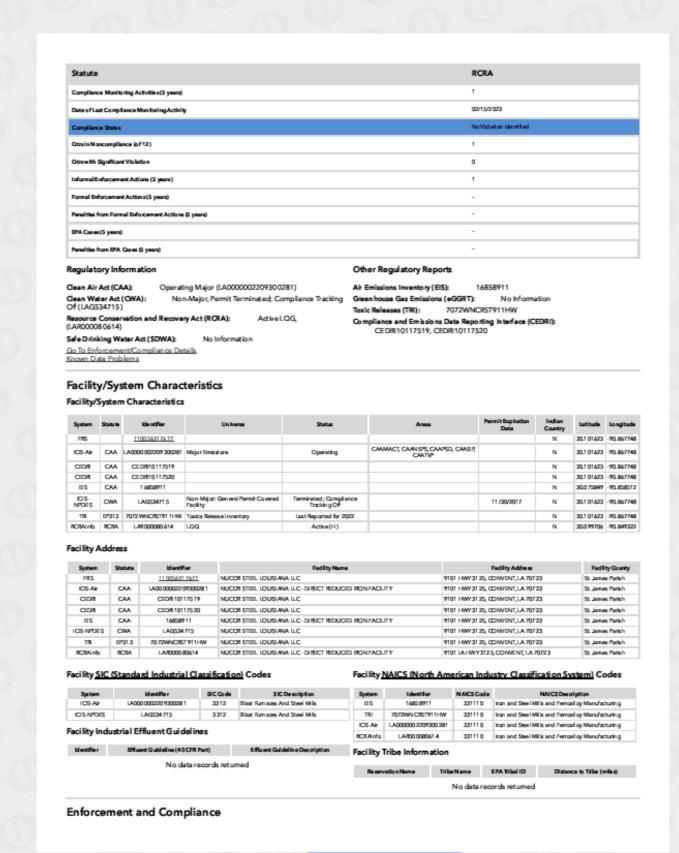
- 476 Facilities with recent violations
- 204 Facilities with High Priority Violation (HPVs)
- 1,650 Facilities with violations in past 3 years
- 1,998 Facilities with violations in the past 5 years
- 2,539 Facilities with informal enforcement during past 5 years
- 6,700 Facilities with Full Compliance Evaluations over past 5 years
- 31,196 Facilities without FCE during past 5 years

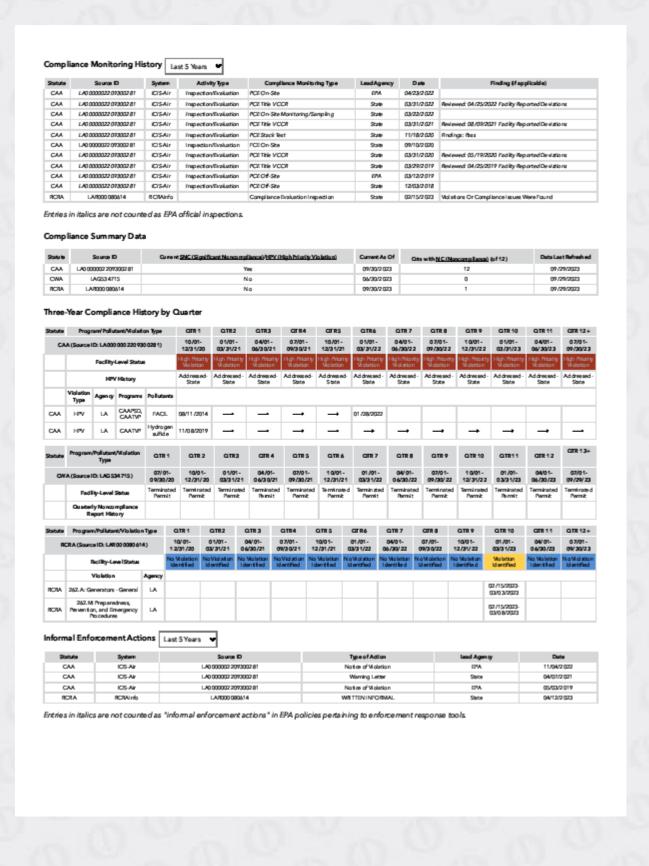


II. Where do you stand?

- ECHO Database (Enforcement and Compliance History Online)
- Example Nucor Steel Louisiana LLC

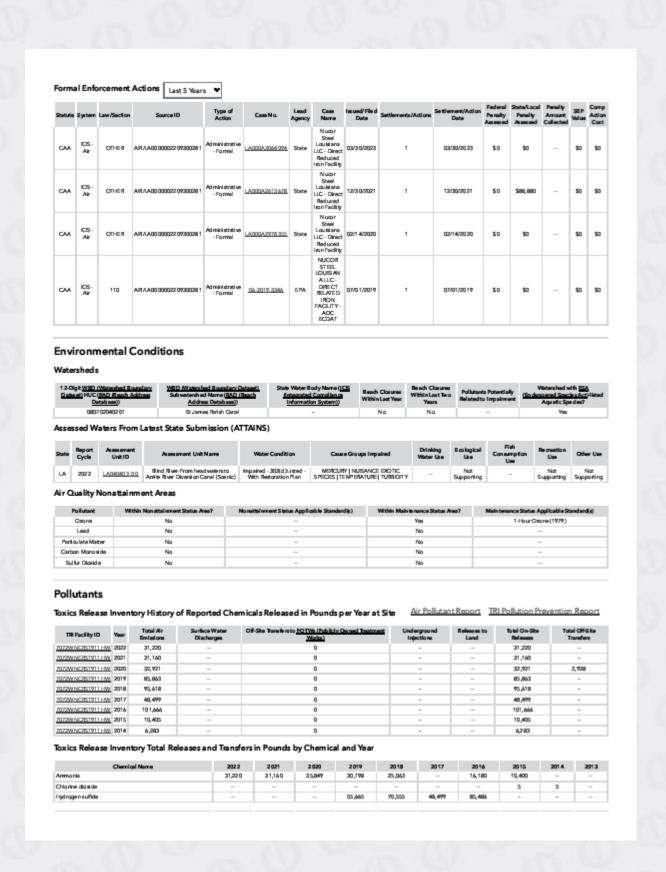


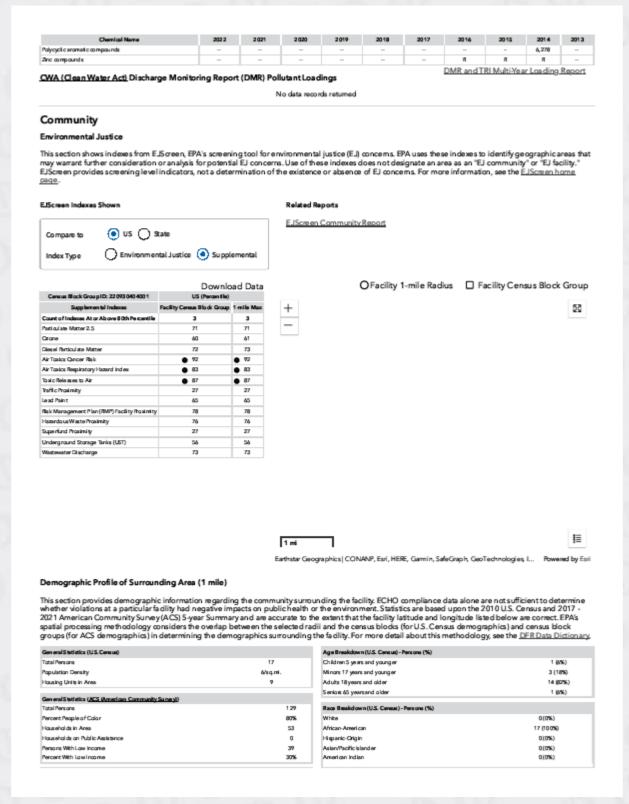




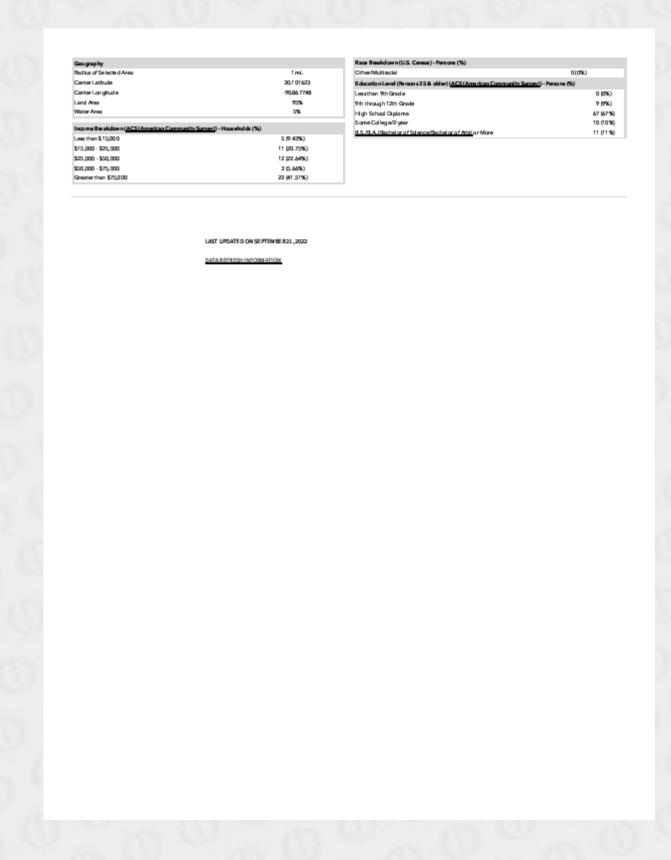
II. Where do you stand?

Example – Nucor Steel Louisiana LLC (cont.)









III. USEPA Focus – 2020 - 2023

A. Greenhouse Gas Standards and Programs

- Vehicle and Engine standards
- Methane from landfills
- Methane from oil & gas operations
- Greenhouse Gas Reporting
 - **BE CAREFUL HERE**
- Hydrofluorocarbons (HFCs)
 - American Innovation and Manufacturing Act of 2020
 - HFC phase down by 85% by 2036



III. USEPA Focus – 2020 – 2023 (cont.)

B. Environmental Justice

- Focus on criteria & hazardous air pollutants
- Discussed in prior presentations

C. Excess emissions from Storage Tanks

- NSPS & NESHAP focus
- Optical imaging



III. USEPA Focus – 2020 – 2023 (cont.)

D. Flaring

- NSPS A, Kb, DDD & NNN
- NESHAP A, F, G, H, SS, XX, YY & FFFF
- Focus is excess flaring & on operational issues

E. CAA Emergency Orders (Section 303 Orders)

- "Imminent & Substantial Endangerment"
- Unilateral Orders
- Two Facilities received orders in 2021
- Historically 303 orders rarely used but is becoming a trend



III. USEPA Focus – 2020 – 2023 (cont.)

- F. The "usual" suspects
 - NSR
 - Coal Fired Plants
 - Sulfuric & Nitric Acid Plants
 - Glass Manufacturing
 - Cement
 - Mobile Sources
 - "Defeat devices"
 - Illegal Imports
 - * Tampering



IV. Key Cases

- A. Section 303
- Lawsuit filed Against Denka Performance Elastomer LLC on February 28, 2023
 - > Complaint alleges manufacturing operations resulted in Section 303 violation.
 - > DOJ and EPA requested immediate relief against Denka to incorporate significant pollution controls and reduce chloroprene emissions.
 - Complaint also named DuPont Specialty Products USA LLC as owner of land beneath facility and landlord of Denka
 - Case filed in the Eastern District of Louisiana
 - EPA noted priority to address environmental concerns of overburdened communities and children near the facility



- A. Section 303 (cont.)
- Consent Decree against New Indy Containerboard Catawba LLC on November 17, 2022
 - Emissions of elevated levels of hydrogen sulfide in violation of Section 303.
 - > Consent decree requirements:
 - \$1,100,000 in civil penalties
 - Mandated compliance with operational requirements and emissions monitoring and concentration levels that are focused on maintaining low H2S emissions
 - Consent decree may be terminated upon request in three years, but operational requirements will remain in effect under enforceable permits
 - EPA noted priority to increase Section 303 enforcement and compliance



- IV. Key Cases (cont.)
 - B. Diesel Engines
 - Consent Decree against Japan-based Tadano Ltd. On August 31, 2023
 - Imported and sold uncertified diesel crane engines in violation of Title II of CAA.
 - > Consent decree requirements:
 - \$40,000,000 in civil penalties
 - \$3,200,000 contribution to mitigate harm caused by noncompliant crane engines
 - Mitigation project will include tugboat replacement in the Port of Port Arthur,
 Texas
 - EPA noted priority to address environmental justice concern for low-income communities near the Tadano facility



- IV. Key Cases (cont.)
 - B. Diesel Engines (cont.)
 - Consent Decree against Navistar, Inc. on December 14, 2021
 - CAA violation based on introduction into commerce of 7,749 heavy-duty diesel engines not certified in compliance with EPA.
 - Consent decree requirements:
 - \$52,000,000 in civil penalties
 - Mandated mitigation of at least 10,000 tons of oxides of nitrogen structured through EPA-approved program
 - EPA program accounts for geographic diversity and overburdened communities



- C. Storage Tanks
- Consent Decree against Canadian-based Crescent Point Energy on March 29, 2022
 - ➤ Violation of requirements to control VOC emissions from storage tanks at 30 previously owned oil and gas production facilities.
 - Consent decree requirements:
 - \$3,000,000 in civil penalties

- D. E & P
- Consent Decree against Texas-based EP Energy E & P Co., L.P. on March 20, 2022
 - ➤ Violation of requirements to control VOC emissions across 246 production facilities.
 - > Consent decree requirements:
 - \$700,000 in civil penalties
 - \$1,200,000 mitigation project to install pollution controls at facilities

- IV. Key Cases (cont.)
 - E. Flares & VOC
 - Consent Decree against Chevron Phillips Chemical Company, LP on June 2,
 2022
 - > Flares resulted in excessive emissions of VOC compounds and air pollutants.
 - > Consent decree requirements:
 - \$3,400,000 in civil penalties
 - \$118,000,000 in mandated upgrade and compliance performance

- IV. Key Cases (cont.)
 - F. 112(R)
 - Consent Decree against West Texas Gas Inc. on February 3, 2022
 - > Section 112(r) CAA violations at four facilities of subsidiaries.
 - > Consent decree requirements:
 - \$3,000,000 in civil penalties including claims from fatal chemical accidents
 - Compliance reviews, third-party audit of all eight natural gas plants, and thirdparty audit of company's Environmental Management System

- G. Defeat Devices
- Consent Decree against Power Performance Enterprises, Inc. on May 2, 2022
 - Manufactured and sold devises that disable emissions control devices to avoid CAA compliance with emission standards.
 - Consent decree requirements:
 - \$1,550,000 in civil penalties
 - Cease sale and manufacturer of +323 products, cease providing technical support for such devices, and destroy remaining inventory
 - Entity and owner both plead guilty to criminal charges in federal court for conspiracy to violate CAA and violation of CAA by tampering monitoring devices

- IV. Key Cases (cont.)
 - G. Defeat Devices (cont.)
 - Consent Decree against FCA US LLC (formerly Chrysler Group LLC) on August 1, 2022
 - Conspiracy to defraud regulators and customers by making false and misleading representations about the design, calibration, and function of emissions control systems on +100,000 vehicles.
 - > Consent decree requirements:
 - \$96,145,078 in fines and \$203,572,892 forfeiture money judgment
 - Three-year term of organization probation



- G. Defeat Devices (cont.)
- Consent Decree against four individuals for conspiracy to violate CAA by tampering monitor devices through companies Spartan Diesel Technologies
 & Patriot Diagnostics.
 - > Consent decree requirements of primary violator:
 - \$1,300,000 in civil penalties to the EPA and \$1,200,000 in restitution to the IRS
 - One year prison sentence for conspiracy; three years of supervised release with six months of home confinement for tax evasion
 - > Consent decree requirements of co-conspirators:
 - +\$200,000 in criminal fines
 - Six months of home detention and three years of probation for conspiracy
 - Hundreds of hours of community service



- IV. Key Cases (cont.)
 - H. H2S
 - Consent Decree against Big Lake Gas Plant LP on February 27, 2022
 - ➤ Negligent release of 525 pounds of hydrogen sulfide into ambient air and employee death.
 - > Consent decree requirements:
 - \$3,000,000 in criminal fines

- Consent Decree against The Williams Companies, Inc. on April 20, 2023
 - Failure to comply with VOC emission control requirements at 15 natural gas processing plants. Also violated construction and operating permits related to a flare operation.
 - > Consent decree requirements:
 - \$3,750,000 in civil penalties
 - Injunctive relief valued at over \$8,500,000

- V. USEPA Priorities FY 2024 2027
 - A. August 17, 2023 Memorandum from David Uhlman to Regional Administrators
 - 1. Mitigating Climate Change
 - 2. Addressing exposure to PFAS
 - 3. Coal Ash
 - 4. Reducing Air Toxics in overburdened communities
 - 5. Increasing Compliance with Drinking Water Standards
 - 6. Chemical Accident Risk Reduction (112r)

V. USEPA Priorities – FY 2024 - 2027

B. EPA's Strategic Plan (FY 2022 – 2026)

VI. Questions







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