



C R O W E
— & —
D U N L E V Y
ATTORNEYS AND
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Legal Updates: CAA Enforcement

32nd EFO Annual Meeting

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Presented by: Donald K. Shandy

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Member

LexMundi
World Ready

Legal Updates: CAA Enforcement

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




Legal Updates: CAA Enforcement

II. Where do you stand?

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

Detailed Facility Report



Detailed Facility Report
Facility Summary
 NUCOR STEEL LOUISIANA LLC
 9101 HWY 3125, CONVENT, LA 70723
 FRS (Facility Registry Service) ID: 110056317677
 EPA Region: 06
 Latitude: 30.101623
 Longitude: -90.867748
 Locational Data Source: FRS
 Industry: Primary Metal Manufacturing
 Indian Country: N

Enforcement and Compliance Summary

State	CAA
Compliance Monitoring Activity (5 year)	1
Date of Last Compliance Monitoring Activity	09/19/2023
Compliance Status	High Priority Violation
Clean Air Noncompliance (of 12)	12
Clean Air Significant Violation	12
Informal Enforcement Actions (5 year)	3
Formal Enforcement Actions (5 year)	4
Penalties from Formal Enforcement Actions (5 year)	\$81,880
EPA Cases (5 year)	-
Penalties from EPA Cases (5 year)	-
State	CWA
Compliance Monitoring Activity (5 year)	-
Date of Last Compliance Monitoring Activity	-
Compliance Status	Terminated Permit
Clean Air Noncompliance (of 12)	0
Clean Air Significant Violation	0
Informal Enforcement Actions (5 year)	-
Formal Enforcement Actions (5 year)	-
Penalties from Formal Enforcement Actions (5 year)	-
EPA Cases (5 year)	-
Penalties from EPA Cases (5 year)	-

RCRA

State	RCRA
Compliance Monitoring Activity (5 year)	1
Date of Last Compliance Monitoring Activity	09/19/2023
Compliance Status	No Violation Identified
Clean Air Noncompliance (of 12)	1
Clean Air Significant Violation	0
Informal Enforcement Actions (5 year)	1
Formal Enforcement Actions (5 year)	-
Penalties from Formal Enforcement Actions (5 year)	-
EPA Cases (5 year)	-
Penalties from EPA Cases (5 year)	-

Regulatory Information

Clean Air Act (CAA): Operating Major (LA000002209300281)
 Clean Water Act (CWA): Non-Major, Permit Terminated; Compliance Tracking Of (LAG34715)
 Resource Conservation and Recovery Act (RCRA): Active LOG (LA0000080614)
 Safe Drinking Water Act (SDWA): No Information
 Go To Enforcement/Compliance Details / Open Data Problems

Other Regulatory Reports

Air Emissions Inventory (EIS): 16858911
 Greenhouse Gas Emissions (eGGR): No Information
 Toxic Releases (TR): 7072WNCRST911HW
 Resource Conservation and Recovery Act (RCRA): Compliance and Emissions Data Reporting Interface (CEDRI): CEDRI10117519, CEDRI10117520

Facility/System Characteristics

System	State	Identifier	License	Status	Area	Permit Expiration Date	Indian Country	Latitude	Longitude
FRS	LA	110056317677					N	30.101623	-90.867748
ICS Air	CAA	LA000002209300281	Major Emissions	Operating	COMACT, CAHVSP, CAAPSD, CASR, CAATP		N	30.101623	-90.867748
CDR	CAA	CE0810117519					N	30.101623	-90.867748
CDR	CAA	CE0810117520					N	30.101623	-90.867748
IS	CAA	16858911					N	30.101623	-90.867748
ICS NPDES	CWA	LAG34715	Non-Major General Permit Covered Facility	Terminated; Compliance Tracking Off		11/20/2017	N	30.101623	-90.867748
TR	SP13	7072WNCRST911HW	Toxic Release Inventory	Last Reported for 2022			N	30.101623	-90.867748
RCRA Info	RCRA	LA0000080614	LOG	Active (1)			N	30.101623	-90.867748

Facility Address

System	State	Identifier	Facility Name	Facility Address	Facility County
FRS	LA	110056317677	NUCOR STEEL LOUISIANA LLC	9101 HWY 3125, CONVENT, LA 70723	St. James Parish
ICS Air	CAA	LA000002209300281	NUCOR STEEL LOUISIANA LLC - DIRECT REDUCED IRON FACILITY	9101 HWY 3125, CONVENT, LA 70723	St. James Parish
CDR	CAA	CE0810117519	NUCOR STEEL LOUISIANA LLC	9101 HWY 3125, CONVENT, LA 70723	St. James Parish
CDR	CAA	CE0810117520	NUCOR STEEL LOUISIANA LLC	9101 HWY 3125, CONVENT, LA 70723	St. James Parish
IS	CAA	16858911	NUCOR STEEL LOUISIANA LLC - DIRECT REDUCED IRON FACILITY	9101 HWY 3125, CONVENT, LA 70723	St. James Parish
ICS NPDES	CWA	LAG34715	NUCOR STEEL LOUISIANA LLC	9101 HWY 3125, CONVENT, LA 70723	St. James Parish
TR	SP13	7072WNCRST911HW	NUCOR STEEL LOUISIANA LLC	9101 HWY 3125, CONVENT, LA 70723	St. James Parish
RCRA Info	RCRA	LA0000080614	NUCOR STEEL LOUISIANA LLC - DIRECT REDUCED IRON FACILITY	9101 HWY 3125, CONVENT, LA 70723	St. James Parish

Facility SIC (Standard Industrial Classification) Codes

System	Identifier	SIC Code	SIC Description
ICS Air	LA000002209300281	3312	Iron, Turnings And Steel Mills
ICS NPDES	LAG34715	3312	Iron, Turnings And Steel Mills

Facility NAICS (North American Industry Classification System) Codes

System	Identifier	NAICS Code	NAICS Description
IS	16858911	33110	Iron and Steel Mills and Ferroalloy Manufacturing
TR	7072WNCRST911HW	33110	Iron and Steel Mills and Ferroalloy Manufacturing
ICS Air	LA000002209300281	33110	Iron and Steel Mills and Ferroalloy Manufacturing
RCRA Info	LA0000080614	33110	Iron and Steel Mills and Ferroalloy Manufacturing

Facility Industrial Effluent Guidelines

Identifier	Effluent Guidelines (40 CFR Part)	Effluent Guidelines Description
		No data records returned

Facility Tribe Information

Reservation Name	Tribal Name	EPA Tribal ID	Distance to Tribe (miles)
			No data records returned

Enforcement and Compliance

Compliance Monitoring History Last 5 Years

State	Source ID	System	Activity Type	Compliance Monitoring Type	Lead Agency	Date	Finding (if applicable)
CAA	LA000002209300281	ICS Air	Inspection/Evaluation	PCI On-Site	EPA	04/23/2022	
CAA	LA000002209300281	ICS Air	Inspection/Evaluation	PCI Title VCCR	State	03/31/2022	Reviewed 04/25/2022 Facility Reported Deviations
CAA	LA000002209300281	ICS Air	Inspection/Evaluation	PCI On-Site Monitoring/Sampling	State	03/20/2022	
CAA	LA000002209300281	ICS Air	Inspection/Evaluation	PCI Title VCCR	State	03/31/2021	Reviewed 03/09/2021 Facility Reported Deviations
CAA	LA000002209300281	ICS Air	Inspection/Evaluation	PCI Stack Test	State	11/02/2020	Findings: Pass
CAA	LA000002209300281	ICS Air	Inspection/Evaluation	PCI On-Site	State	09/10/2020	
CAA	LA000002209300281	ICS Air	Inspection/Evaluation	PCI Title VCCR	State	03/31/2020	Reviewed 03/19/2020 Facility Reported Deviations
CAA	LA000002209300281	ICS Air	Inspection/Evaluation	PCI Title VCCR	State	03/29/2019	Reviewed 04/25/2019 Facility Reported Deviations
CAA	LA000002209300281	ICS Air	Inspection/Evaluation	PCI Off-Site	EPA	03/22/2019	
CAA	LA000002209300281	ICS Air	Inspection/Evaluation	PCI Off-Site	State	12/03/2018	
RCRA	LA0000080614	RCRA Info		Compliance Evaluation/Inspection	State	03/15/2023	Violations Or Compliance Issues Were Found

Entries in italics are not counted as EPA official inspections.

Compliance Summary Data

State	Source ID	CWA or RCRA (Standard Noncompliance) / SDWA (High Priority Violation)	Current Air Off	CWA with SIC (Reporting Status) (of 12)	Data Last Refreshed
CAA	LA000002209300281	Yes	09/20/2023	12	09/29/2023
CWA	LAG34715	No	06/20/2023	0	09/29/2023
RCRA	LA0000080614	No	09/20/2023	1	09/29/2023

Three-Year Compliance History by Quarter

State	Program/Pollutant/Violation Type	QTR 1	QTR 2	QTR 3	QTR 4	QTR 5	QTR 6	QTR 7	QTR 8	QTR 9	QTR 10	QTR 11	QTR 12
CAA (Source ID: LA000002209300281)	Facility-Level Status	High Priority Violation	High Priority Violation	High Priority Violation	High Priority Violation	High Priority Violation	High Priority Violation	High Priority Violation	High Priority Violation	High Priority Violation	High Priority Violation	High Priority Violation	High Priority Violation
	HPV History	Addressed	Addressed	Addressed	Addressed	Addressed	Addressed	Addressed	Addressed	Addressed	Addressed	Addressed	Addressed
	Violation Type	Agency	Program	Pollutant									
CAA	HPV	LA	CAATP	FACIL	08/11/2014	→	→	→	→	01/28/2022			
CAA	HPV	LA	CAATP	Hydrogen Sulfide	11/08/2019	→	→	→	→	→	→	→	→

Quarterly Noncompliance Report History

State	Program/Pollutant/Violation Type	QTR 1	QTR 2	QTR 3	QTR 4	QTR 5	QTR 6	QTR 7	QTR 8	QTR 9	QTR 10	QTR 11	QTR 12
CWA (Source ID: LAG34715)	Facility-Level Status	Terminated Permit	Terminated Permit	Terminated Permit	Terminated Permit	Terminated Permit	Terminated Permit	Terminated Permit	Terminated Permit	Terminated Permit	Terminated Permit	Terminated Permit	Terminated Permit

Quarterly Noncompliance Report History

State	Program/Pollutant/Violation Type	QTR 1	QTR 2	QTR 3	QTR 4	QTR 5	QTR 6	QTR 7	QTR 8	QTR 9	QTR 10	QTR 11	QTR 12
RCRA (Source ID: LA0000080614)	Facility-Level Status	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified
	Violation	Agency											
RCRA	262-A: Generators - General	LA										02/15/2023	03/30/2023
RCRA	262-M: Preparation, Storage, and Emergency Procedures	LA										02/15/2023	03/30/2023

Informal Enforcement Actions Last 5 Years

State	System	Source ID	Type of Action	Lead Agency	Date
CAA	ICS Air	LA000002209300281	Notice of Violation	EPA	11/04/2022
CAA	ICS Air	LA000002209300281	Warning Letter	State	04/07/2021
CAA	ICS Air	LA000002209300281	Notice of Violation	EPA	03/02/2019
RCRA	RCRA Info	LA0000080614	Written Informal	State	04/12/2023

Entries in italics are not counted as "informal enforcement actions" in EPA policies pertaining to enforcement response tools.

Legal Updates: CAA Enforcement

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



Legal Updates: CAA Enforcement

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



Legal Updates: CAA Enforcement

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



Legal Updates: CAA Enforcement

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



Legal Updates: CAA Enforcement

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



Legal Updates: CAA Enforcement

IV. Key Cases (cont.)

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



Legal Updates: CAA Enforcement

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



Legal Updates: CAA Enforcement

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



IV. Key Cases (cont.)

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



IV. Key Cases (cont.)

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



Legal Updates: CAA Enforcement

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



Legal Updates: CAA Enforcement

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 third-party audit of company's Environmental Management System



Legal Updates: CAA Enforcement

IV. Key Cases (cont.)

G. Defeat Devices

- Consent Decree against Power Performance Enterprises, Inc. on May 2, 2022
 - Manufactured and sold devices that disable emissions control devices to avoid CAA compliance with emission standards.
 - Consent decree requirements:
 - \$1,550,000 in civil penalties
 - Cease sale and manufacture 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



Legal Updates: CAA Enforcement

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



Legal Updates: CAA Enforcement

IV. Key Cases (cont.)

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



Legal Updates: CAA Enforcement

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



Legal Updates: CAA Enforcement

IV. Key Cases (cont.)

- **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



Legal Updates: CAA Enforcement

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)



Legal Updates: CAA Enforcement

V. USEPA Priorities – FY 2024 - 2027

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



Legal Updates: CAA Enforcement

VI. Questions





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