



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
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March 2, 2022

Via Electronic Mail – JDomike@babstcalland.com; TEagan@rascoklock.com

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Re: Questions Regarding Refinery Restart

Dear Ms. Domike and Mr. Eagan:

In this letter, EPA provides information in response to a question West Indies Petroleum Limited (“WIPL”) and Port Hamilton Refining and Transportation LLLP (“PHRT”) posed to the U.S. Department of Justice (“DOJ”) in late December 2021 regarding permitting and other requirements that need to be met before the restart of the refinery (“Refinery”) located at 1 Estate Hope, Christiansted, U.S. Virgin Islands (“Facility”). This letter should be read in tandem with the accompanying letter from DOJ. The information provided below and in the accompanying letter are not intended to be nor should be read as an exhaustive list of the environmental obligations that WIPL and PHRT will need to meet as an owner and operator of the Refinery.

Clean Air Act (“CAA”)

EPA issued Prevention of Significant Deterioration (“PSD”) permits to HOVENSA L.L.C. (“HOVENSA”), a prior owner of the Facility, on August 15, 2007, May 9, 2011, and August 17, 2011. On October 3, 2018, Limetree Bay Terminals, LLC (“LBT”) submitted a request to EPA for the transfer of these PSD permits from HOVENSA after LBT’s 2016 purchase of the Facility. On November 5, 2018, EPA transferred these permits to LBT. EPA expects to send you a separate letter shortly regarding additional PSD permitting issues.

On March 15, 2016, the Virgin Islands Department of Planning and Natural Resources (“VIDPNR”) approved HOVENSA’s request for an administrative permit amendment to its CAA Title V permit, which sought to replace HOVENSA with LBT as the permittee. In 2019, LBT and Limetree Bay Refining, LLC (“LBR”) submitted a Title V permit application which sought to add LBR to the Facility’s permit; that application is still pending with VIDPNR.

It is very important to avoid any repeat of the incidents that occurred at the Refinery in the first half of 2021, involving emissions of hydrogen sulfide (H₂S), sulfur dioxide (SO₂), uncombusted hydrocarbons, and/or flare rainout from the Refinery. Among other things, the Refinery must comply with the H₂S gas concentration limits specified in 40 C.F.R. § 60.103a(h) and the Refinery's Title V operating permit of: (a) 162 parts per million volume (ppmv), determined hourly on a 3-hour rolling average basis, for Flare #8 and the East Mix Drum Fuel Gas System, and (b) 75 ppmv at the coker process heaters. During incidents where emissions exceed the 500-lb. SO₂ threshold in a twenty-four hour period, the Refinery is also subject to requirements in 40 C.F.R. Part 60, Subpart Ja. Subpart Ja requires a regulated entity to conduct a root cause and corrective action analysis whenever SO₂ emissions from a flare exceed the 500-lb/day threshold. The Refinery must also comply with the requirements of 40 C.F.R. Part 63, Subpart CC, such as the requirement that the pilot light at Flare #8 be lit and meeting 270 BTU/scf in the combustion zone of the flare when regulated material is sent to Flare #8 and that the required continuous emission monitoring system ("CEMS") be operating.

In addition, Subpart CC requires that the Refinery conduct benzene fence-line monitoring and, if that monitoring shows annual exceedances above the specified action level, conduct a root cause analysis ("RCA") to determine the causes and undertake appropriate corrective action. EPA believes that Limetree's RCA was inadequate and needs to be reevaluated to identify the root causes of the action level exceedance and the corrective actions needed to avoid future benzene fence-line exceedances. *See* email from EPA to Limetree on January 20, 2022, attached.

For any processes at the Refinery that are subject to the risk management requirements of Section 112(r)(7) of the CAA and the implementing regulations at 40 C.F.R. Part 68 (the Chemical Accident Prevention Provisions), pursuant to 40 C.F.R. § 68.10(a)(3), compliance with the applicable requirements of 40 C.F.R. Part 68 is required no later than the date on which a regulated substance is first present above a threshold quantity in a process. The definition of process is very broad, as set forth in 40 C.F.R. § 68.3, and includes "any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities." The list of the regulated substances and threshold quantities are set forth at 40 C.F.R. § 68.130. The general requirements, set forth in 40 C.F.R. § 68.12, include submitting a Risk Management Plan to the Agency reflecting all regulated processes. Prior operations at the Refinery included a number of processes that were subject to program level 3 requirements, which are detailed at 40 C.F.R. § 68.12(d).

WIPL and PHRT must also comply with the Federal Implementation Plan for Regional Haze for the United States Virgin Islands, codified at 40 C.F.R. § 52.2781(d), including requirements at §52.2781(d)(4) that the source notify EPA 60 days in advance of startup and resumption of operation of refinery process units and provide required information. The companies need to comply with the ongoing obligations of CAA §§ 169A and 169B and 40 C.F.R. § 51.308.

Clean Water Act ("CWA")

The CWA's National Pollutant Discharge Elimination System ("NPDES") permitting authority has been delegated by EPA to VIDPNR, which administers the program as the Territorial Pollutant Discharge Elimination System ("TPDES") permit program. There is currently one TPDES permit for the oil

terminal and Refinery, which was originally issued by VIDPNR to HOVENSA on February 22, 2008.¹ The permit authorized discharges into waters of the Virgin Islands from certain waste streams that were identified in HOVENSA's permit application, from both the terminal and the Refinery, including storm water runoff, non-process wastewater, ballast water, and process wastewater. By letter dated June 2, 2016, VIDPNR provided notice to HOVENSA and LBT that the permit was automatically transferred to LBT on April 1, 2016, to reflect the transfer of ownership. The permit has been administratively extended and remains in full force and effect, but only as it relates to LBT. The permit cannot be transferred to WIPL and PHRT pursuant to 40 C.F.R. Part 122, Subpart D. Rather, WIPL and PHRT must timely submit TPDES permit applications and secure TPDES permit(s) prior to starting up Refinery operations.

The only permit application option currently is the submittal to VIDPNR of NPDES individual permit applications (Form 1, Form 2C and Form 2F) for all proposed waste streams to be discharged through Internal Outfall 401 (effluent from Industrial Wastewater Treatment Plant), Outfall 001 (effluent from IWWTP and stormwater runoff), and all other stormwater outfalls associated with industrial activity.^{2,3}

If you have any questions about the CAA issues in this letter, please reach out to Liliana Villatora at 212-637-3218 or at villatora.liliana@epa.gov, Sara Froikin at 212-637-3263 or at froikin.sara@epa.gov, or Jennifer Pierce at 212-637-3228 or at pierce.jennifer@epa.gov. If you have any questions about the CWA issues in this letter, please reach out to Phyllis Feinmark at 212-637-3232 or at feinmark.phyllis@epa.gov or Lauren Fischer at 212-637-3231 or at fischer.lauren@epa.gov.

Sincerely,

Paul Simon
Acting Regional Counsel
U.S. EPA, Region 2

Attachment

Cc: Commissioner Jean-Pierre Oriol
John Fehrenbach, Esq.
Stephane Sebor, Esq.

¹ The Permit effective date is March 1, 2008 and the expiration date is February 28, 2013.

² Coverage for all regulated stormwater discharges associated with industrial activity (except for Outfall 001) under the 2017 Virgin Islands TPDES Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activities ("MSGP") is no longer available because the MSGP expired on February 28, 2022. EPA has issued guidance to VIDPNR on an option for a path forward until the MSGP is re-issued.

³ DPNR uses EPA permit applications. The applications are available at <https://www.epa.gov/npdes/npdes-applications-and-forms-epa-applications>.