

## PUBLIC NOTICE

### Heritage-Crystal Clean, LLC – Clean Water Act Public Notice

#### Case Docket No. CWA-05-2024-0008

The U.S. Environmental Protection Agency (EPA), Region 5 is providing this notice of its intent to file a Proposed Consent Agreement and Final Order (Proposed CAFO) against Heritage-Crystal Clean, LLC (HCC) resolving alleged violations of 40 C.F.R. Part 112, promulgated under Section 311(j) of the Clean Water Act (CWA), 42 U.S.C. §1321(j), by failing to comply with Facility Response Plan (FRP) and Spill Prevention, Control, and Countermeasure (SPCC) Plan requirements, in violation of Section 311(b)(3) of the Clean Water Act (CWA), 33 U.S.C. § 1321(b)(3). HCC agreed to pay a civil penalty of \$96,600 to the Oil Spill Liability Trust Fund.

HCC owns and operates a bulk oil processing, storage, and distribution facility at 3970 West 10th Street, Indianapolis, Indiana (the Facility), that engages in storing, processing, refining, distributing or consuming oil or oil products. EPA conducted an inspection of the Facility from April 15 through April 17, 2013, and issued HCC a request for information on September 13, 2018, to gather information about the Heritage’s development and implementation of its FRP and SPCC Plan, as required under Section 311(j) of the CWA and the Oil Pollution Prevention Regulations at 40 C.F.R. Part 112. Based on the inspection and follow-up information, EPA alleged HCC failed to comply with the FRP and SPCC requirements of 40 C.F.R. Part 112, at specified times, by failing to: provide management approval for its SPCC Plan; include in it certain controls, descriptions, diagrams, and predictions; keep written records of inspections and tests for three years; design facility drainage systems from undiked areas with a potential to discharge to flow into ponds, lagoons, or catchment basins designed to retain or return oil; construct all bulk storage tank installations to provide a secondary means of containment for the entire capacity of the largest single container and sufficient freeboard to contain precipitation and to ensure that diked areas are sufficiently impervious to contain discharged oil; test or inspect each aboveground container for integrity on a regular schedule and at repairs; determine in accordance with industry standards the appropriate qualifications for personnel performing tests and inspections; and prepare and submit an FRP that met requirements. The CAFO mentions steps HCC has taken and an order it signed with EPA to address the alleged violations.

A copy of the Proposed CAFO may be viewed online at: [www.epa.gov/aboutepa/epa-region-5#events](http://www.epa.gov/aboutepa/epa-region-5#events) by clicking on the “Proposed Consent Agreement and Final Order” link on the Region 5 events calendar for the docket number identified above. Alternatively, the Proposed CAFO may be received by contacting the Regional Hearing Clerk at the email address below.

## **OPPORTUNITY FOR COMMENT:**

Section 309(g) of the CWA, 33 U.S.C. § 1319(g), requires that interested persons be given notice of the proposed penalty order and a reasonable opportunity to comment on such order. Any person who wishes to comment on this Proposed CAFO may submit written comments, may attend or present evidence at any hearing scheduled on this matter, or both, by following the procedures in Title 40 of the Code of Federal Regulations, Part 22, Section 45 (40 C.F.R. § 22.45), particularly subpart (c) *comment by a person who is not a party*. This portion of the Code of Federal Regulations may be accessed at <https://www.gpo.gov/fdsys/pkg/CFR-2015-title40-vol1/pdf/CFR-2015-title40-vol1-sec22-45.pdf> or through <http://www.archives.gov/federal-register/cfr/>. You may also wish to review 40 C.F.R. Part 22 to learn more about the procedures and rules of practice governing the administrative assessment of civil penalties.

EPA requests that all written comments be sent via email to the Regional Hearing Clerk at [r5hearingclerk@epa.gov](mailto:r5hearingclerk@epa.gov). If you are unable to submit written comments by email, please contact the Regional Hearing Clerk at 312-353-4890.

Your comments should include the case name, docket number, and your complete mailing address. Comments and documents sent to any EPA employee other than the Regional Hearing Clerk are not assured of consideration in this matter. Note that the Agency requires your mailing address because we must use the U.S. Postal Service should we need to reply, request additional information, or notify you of a hearing, and to provide a copy of the Proposed CAFO.

**All written comments must be received in the Regional Hearing Clerk's Office no later than 4:30 p.m., Central Time, on the Comment Period End Date shown on the Region 5 events calendar page for this docket number: [www.epa.gov/aboutepa/epa-region-5#events](http://www.epa.gov/aboutepa/epa-region-5#events).** All documents filed in this proceeding (including documents submitted by the Respondent or by the public) are available electronically on the EPA website: <http://yosemite.epa.gov/oa/rhc/epaadmin.nsf>.

If this Proposed CAFO is filed in its present form, no hearing will be held in this matter. If a hearing is held, EPA will advise members of the public who, during the public comment period, submitted a written request to participate in a hearing of the date, time, and place of the hearing, which they may attend and present evidence on the appropriateness of the proposed penalty assessment by following the instructions in 40 C.F.R. § 22.45(c)(1).

Only persons who, during the comment period, submit written comments or ask to participate in any hearing held in this matter preserve a right to petition the Regional Administrator to set aside the Proposed CAFO on the basis that material evidence was not considered, as described in 40 C.F.R. § 22.45(c)(4).

In order to provide opportunity for public comment, EPA will not issue a final order assessing a penalty in this proceeding prior to forty (40) calendar days from the date of this notice.