



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10**

1200 Sixth Avenue, Suite 155  
Seattle, Washington 98101-3140

OFFICE OF  
COMPLIANCE AND ENFORCEMENT

**JUL 19 2018**

**CLEAN AIR ACT**  
**NOTICE OF VIOLATION**

**Attention:** Bertrand Andre Valdman, Director, President  
Delta Western, Inc.

**Address:** 450 Alaskan Way S,  
Suite 707,  
Seattle, Washington 98104

The Environmental Protection Agency, Region 10 (“EPA”) is issuing this Notice of Violation to Delta Western, Inc. (“Delta Western”) pursuant to Section 113(a) of the Clean Air Act (“CAA”). The EPA has information indicating that Delta Western’s bulk gasoline terminal, located at 120 Mt. Roberts Street, Juneau, Alaska (“Juneau Terminal”) is in violation of Sections 111 and 112 of the CAA, 42 U.S.C. §§ 7411 & 7412, and implementing regulations. Additionally, EPA has information indicating that Delta Western violated Section 112 of the CAA, 42 U.S.C. § 7412, at seven of the company’s gasoline dispensing facilities (“GDFs”) throughout Alaska. The Juneau Terminal includes one loading rack and three gasoline storage tanks with the following specifications:

**Juneau Terminal Gasoline and AvGas Storage Tank Capacity**

Tank #2	Tank #3	Tank #8
517,874 gallons	516,325 gallons	304,180 gallons
Regular Gasoline	Regular Gasoline	Premium Gasoline AvGas - Prior to October 2015

EPA discovered the violations, in part, after reviewing Delta Western’s May 17, 2018, response to the EPA’s April 4, 2018, information request as well as reviewed the October 7, 2010, Oil Discharge Prevention and Contingency Plan. Based on your May 17, 2018, responses, we have determined that Delta Western is in violation of the National Emissions Standards for Hazardous Air Pollutants (“NESHAP”) applicable to the Juneau Terminal. EPA has also determined that Delta Western has also violated the New Source Performance Standards of Performance for Volatile Organic Liquid Storage Vessels, as well as the New Source Performance Standards of Performance for Bulk Gasoline Terminals at the Juneau Terminal. In addition, we have determined that Delta Western has violated the NESHAP applicable to seven of its GDFs at the following locations:

1. 120 Mt. Roberts Street, Juneau, Alaska
2. 920 W 10<sup>th</sup> Street, Juneau, Alaska
3. 9102 Mendenhall Mall Road, Juneau, Alaska
4. 2141 Airport Beach Road, Dutch Harbor, Alaska

5. 900 Main Street, Haines, Alaska
6. 603 Halibut Point Road, Sitka, Alaska
7. 5311 Halibut Point Road, Sitka, Alaska

In particular, Delta Western is in violation of the NESHAP for bulk gasoline terminals, bulk plants, and pipeline facilities, codified at 40 C.F.R. Part 63, Subpart BBBBBB (“NESHAP 6B”). In addition, Delta Western violated 40 C.F.R. Part 60, Subpart Kb (“NSPS Kb”) – Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984 and 40 C.F.R. Part 60, Subpart XX (“NSPS XX”) – Standards of Performance for Bulk Gasoline Terminals. Delta Western also violated the NESHAP for Gasoline Distribution Facilities, codified at 40 C.F.R. Part 63, Subpart CCCCCC (“NESHAP 6C”), at seven of its GDFs in Alaska.

### **Applicability**

#### NESHAP 6B: Bulk Gasoline Terminals

On January 10, 2008, EPA promulgated NESHAP 6B. The regulations at NESHAP 6B state that the affected source to which this subpart applies is each area source bulk gasoline terminal, pipeline breakout station, and bulk gasoline plant. 40 C.F.R. § 63.11081. Bulk gasoline terminal is defined at 40 C.F.R. § 63.11100 as “any gasoline storage and distribution facility that receives gasoline by pipeline, ship or barge, or cargo tank and has a gasoline throughput of 20,000 gallons per day or greater. Gasoline throughput shall be the maximum calculated design throughput as may be limited by compliance with an enforceable condition under Federal, State, or local law and discoverable by the Administrator and any other person.” Based on your responses, the Juneau Terminal is located at an area source of hazardous air pollutants and receives gasoline by barge into three storage tanks.

In accordance with 40 C.F.R. § 63.11081(f), “if the affected source’s throughput ever exceeds an applicable throughput threshold in the definition of “bulk gasoline terminal” or in item 1 in Table 2 to this subpart, the affected source will remain subject to the requirements for sources above the threshold, even if the affected source throughput later falls below the applicable throughput threshold.” Prior to 2013, Delta Western obtained Pre-Approved Emission Limit #AQ0809PL101 from Alaska Department of Environmental Conservation limiting Facility throughput to 19,900 gallons per day. However, the Juneau Terminal had a gasoline throughput of greater than 20,000 gallons per day on at least August 29, 2008, July 31, 2012, April 20, 2013, July 30, 2013, January 31, 2014, July 18, 2014 and July 24, 2014. Therefore, the Juneau Terminal is a bulk gasoline terminal and is an affected source subject to NESHAP 6B.

#### NSPS XX: Bulk Gasoline Terminals

On August 18, 1983, EPA issued NSPS XX. NSPS XX applies to the total of all the loading racks at a bulk gasoline terminal which deliver liquid product into gasoline tank trucks for which construction, reconstruction, or modification commenced after July 23, 1984. According to the

regulation at 40 C.F.R. § 60.501, bulk gasoline terminal means any gasoline facility which receives gasoline by pipeline, ship or barge, and has a gasoline throughput of 75,700 liters (19,997.824 gallons) per day. Gasoline throughput shall be the maximum calculated design throughput as may be limited by compliance with an enforceable condition under Federal, State or local law and discoverable by the Administrator and any other person. Loading rack is defined at 40 C.F.R. § 60.501 as “the loading arms, pumps, meters, shutoff valves, relief valves, and other piping and valves necessary to fill delivery tank trucks.”

Based on your responses, the Juneau Terminal receives gasoline by barge and had a throughput exceeding 19,997.824 gallons per day on at least August 29, 2008, July 31, 2012, April 20, 2013, July 30, 2013, January 31, 2014, July 18, 2014 and July 24, 2014. Moreover, on these dates, as well as numerous other days, Delta Western failed to comply with the daily throughput limit of 19,900 gallons in Pre-Approved Emission Limit #AQ0809PL101 at the Juneau Terminal. Consequently, the Juneau Terminal constitutes a bulk gasoline terminal as defined by 40 C.F.R. § 60.501. In addition, the Juneau Terminal includes one loading rack. Accordingly, the loading rack at the Juneau Terminal is subject to the requirements of NSPS XX for bulk gasoline terminals.

#### NSPS Kb: Volatile Organic Liquid Storage Vessels

On April 8, 1987, EPA promulgated NSPS Kb. NSPS Kb applies to each storage vessel with a capacity greater than or equal to 75 cubic meters (m<sup>3</sup>) that is used to store volatile organic liquids (“VOL”) for which construction, reconstruction, or modification is commenced after July 23, 1984. In accordance with 40 C.F.R. § 60.110b(b)(5), NSPS Kb does not apply to vessels located at bulk gasoline plants, which is defined in 40 C.F.R. § 60.111b to mean a gasoline distribution facility that has a gasoline throughput less than or equal to 75,700 liters per day.

Based on your responses, the tanks at the Juneau Terminal were installed in 1994, store gasoline, have a capacity greater than 75 cubic meters, and have a throughput greater than 20,000 gallons per day. Gasoline and AvGas are volatile organic liquids with vapor pressures in excess of 3.5 kilopascals. As discussed above, on at least August 29, 2008, July 31, 2012, April 20, 2013, July 30, 2013, January 31, 2014, July 18, 2014 and July 24, 2014, the Juneau Terminal had a gasoline throughput in excess of 20,000 gallons and therefore failed to comply with the state throughput limit and did not meet the definition of bulk gasoline plant in 40 C.F.R. §§ 60.110b and 60.111b. Accordingly, the storage vessels storing gasoline at the Juneau Terminal are subject to NSPS Kb.

#### NESHAP 6C: Gasoline Dispensing Facilities

The regulations at NESHAP 6C state that “the affected source to which this subpart applies is each gasoline dispensing facility (“GDF”) that is located at an area source. The affected source includes each gasoline cargo tank during the delivery of product to GDF and includes each storage tank.” 40 C.F.R. § 63.11111. GDF is defined at 40 C.F.R. § 63.11132 to mean, “any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on- and off-road, street, or highway motor vehicles, lawn equipment, boats, test

engines, landscaping equipment, generators, pumps, and other gasoline-fueled engines and equipment.” Delta Western operates a total of seven GDFs throughout Alaska where it loads gasoline into the fuel tanks of motor vehicles and boats. The seven GDFs are located at area sources of hazardous air pollutants. Accordingly, Delta Western’s GDFs are subject to NESHAP 6C requirements.

## **Compliance Dates**

### **NESHAP 6B: Bulk Gasoline Terminals**

According to the regulation at 40 C.F.R. § 63.11082-83, an affected source is an existing source if it commenced construction prior to November 9, 2006. In accordance with 40 C.F.R. § 63.11083(c), “If . . . an existing affected source . . . becomes subject to the control requirements in this subpart because of an increase in the daily throughput, as specified in option 1 of Table 2 to this subpart, you must comply with the standards in this subpart no later than 3 years after the affected source becomes subject to the control requirements in [NESHAP 6B].” According to your responses, Delta Western commenced construction and operation of the tanks and racks in the Juneau Terminal sometime during 1994. Your responses indicate that the Juneau Terminal’s throughput exceeded 20,000 gallons per day on at least August 29, 2008, July 31, 2012, April 20, 2013, July 30, 2013, January 31, 2014, July 18, 2014 and July 24, 2014. Therefore, Delta Western was required to comply with NESHAP 6B at the Juneau Terminal by August 29, 2011.

### **NESHAP 6C: Gasoline Dispensing Facilities**

According to the regulation at 40 C.F.R. § 63.11112, an affected source is a new affected source if the owner or operator commenced construction after November 9, 2006 and the GDF met the applicability criteria in 40 C.F.R. § 63.11111 at the time owner or operator commenced construction. An affected source is an existing affected source if it is not new or reconstructed. According to the regulation at 40 C.F.R. § 63.11113, the owner or operator of a new affected source that starts up before January 10, 2008, must comply with the standards no later than January 10, 2008. The owner or operator of a new affected source that starts up after January 10, 2008, must comply upon startup. The owner or operator of an existing affected source must comply with NESHAP 6C no later than January 10, 2011.

## **Violations**

### **NESHAP 6B**

#### *Violation 1*

In accordance with 40 C.F.R. § 63.11087, owners and operators of gasoline storage tanks at bulk gasoline terminals must meet each emission limit and management practice in Table 1 to Subpart BBBBBB that applies to the gasoline storage tank. Therefore, by August 29, 2011, Delta Western was required to reduce emission of total organic hazardous air pollutant or total organic compounds by 95 weight-percent with a closed vent system and control device or install and

operate a floating roof on the gasoline tanks at the Juneau Terminal. To date, Delta Western has failed to reduce emissions of total organic hazardous air pollutant or total organic compounds by 95 weight-percent with a closed vent system and control device or install and operate a floating roof on the gasoline tanks at the Juneau Terminal. Therefore, Delta Western is in violation 40 C.F.R. § 63.11087(a) and Table 1 at the Juneau Terminal.

#### *Violation 2*

In accordance with 40 C.F.R. § 63.11087, owners and operators of gasoline storage tanks at bulk gasoline terminals must comply with applicable testing and monitoring requirements specified in 40 C.F.R. § 63.11092(e) and keep records and submit reports as specified in 40 C.F.R. §§ 63.11094 and 63.11095. At no time since August 29, 2011, has Delta Western conducted the testing and/or monitoring required by 40 C.F.R. § 63.11092(e). At no time since August 29, 2011, has Delta Western kept the records required by 40 C.F.R. § 63.11094 or submitted the reports required by 40 C.F.R. § 63.11095.

#### *Violation 3*

In accordance with 40 C.F.R. § 63.11093(c), owners and operators of bulk gasoline terminals must submit notifications as required by 40 C.F.R. § 63.9. Section (j) of 40 C.F.R. § 63.9 requires a notification of any change in the information already provided within 15 calendar days after the change. At no time since August 29, 2008, has Delta Western notified EPA that the Juneau Terminal met the definition of a bulk gasoline terminal, as required by 40 C.F.R. §§ 63.11093(c) and 63.9(j).

#### NSPS XX

#### *Violation 4*

As discussed above, on at least August 29, 2008, July 31, 2012; April 20, 2013; July 30, 2012; January 31, 2014; July 18, 2014; and July 24, 2014 the Juneau Terminal had a throughput of greater than 19,997.824 gallons per day. Moreover, on these dates, as well as numerous other days, Delta Western failed to comply with the daily throughput limit of 19,900 gallons in Pre-Approved Emission Limit #AQ0809PL101 at the Juneau Terminal. Consequently the Juneau Terminal constitutes a bulk gasoline terminal as defined by 40 C.F.R. § 60.501. The regulation at 40 C.F.R. § 60.502 requires that on or after the date on which 40 C.F.R. § 60.8(a) requires a performance test to be completed, each loading rack in a bulk gasoline terminal shall be equipped with a vapor collection system designed to collect the total organic compounds vapors displaced from tank trucks during product loading. At no time since August 29, 2008, was the loading rack at the Juneau Terminal equipped with a vapor collection system designed to collect the total organic compounds vapors displaced from tank trucks during product loading. Therefore, Delta Western violated 40 C.F.R. § 60.502 at the Juneau Terminal. By virtue of its failure to install a vapor collection and control system on the loading racks, emissions from the loading of tank trucks exceeded 35 milligrams of total organic compounds per liter of gasoline loaded. In addition, NSPS XX contains performance testing (40 C.F.R. § 60.503(a) and 60.8),

notification (40 C.F.R. § 60.7), and recordkeeping requirements (40 C.F.R. § 60.505). Delta Western failed to conduct the performance test required by 40 C.F.R. § 60.503(a) and 60.8, submit notifications required by 40 C.F.R. § 60.7, or maintain reports required by 40 C.F.R. § 60.505.

### NSPS Kb

#### *Violation 5*

The regulation at 40 C.F.R. § 60.112(b)(a) requires that owner or operator of each storage vessel either with a design capacity greater than or equal to 151 m<sup>3</sup> containing a VOL that, as stored, has a maximum true vapor pressure equal to or greater than 5.2 kPa but less than 76.6 kPa or with a design capacity greater than or equal to 75 m<sup>3</sup> but less than 151 m<sup>3</sup> containing a VOL that, as stored, has a maximum true vapor pressure equal to or greater than 27.6 kPa but less than 76.6 kPa, shall equip each storage vessel with either an internal floating roof, and external floating roof, or a closed vent system with a control device, according to the specifications in 40 C.F.R. § 60.112b. As discussed above, the Juneau Terminal was not continuously exempt from NSPS Kb as a bulk gasoline plant. Therefore, the emissions control requirements in 40 C.F.R. § 60.112(b) applied to the three gasoline storage vessels at the Juneau Terminal. At no time since installation in 1994 have the three gasoline storage vessels at the Juneau Terminal been equipped with emissions controls meeting the requirements of 40 C.F.R. § 60.112b. Therefore, Delta Western violated 40 C.F.R. § 60.112b. In addition, the owner or operator of storage vessels subject to NSPS Kb is required to submit the notifications specified by 40 C.F.R. § 60.7. At no time since installing the tanks in 1994 has Delta Western submitted the required notifications.

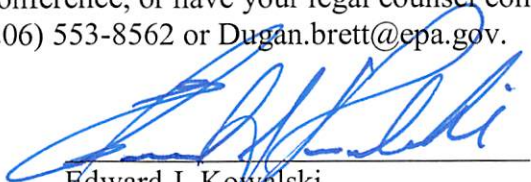
### NESHAP 6C

#### *Violation 6*

The regulation at 40 C.F.R. § 63.11124(a) requires that each owner or operator subject to the requirements of 40 C.F.R. § 63.11117, must submit an initial notification by May 9, 2008, or at the time the GDF becomes subject to the requirements of 40 C.F.R. § 63.11117. On March 30, 2017, Delta Western submitted a notification for all GDFs listed above except the GDF located at 120 Mt. Roberts Street, Juneau, Alaska. The six notifications state that each GDF is subject to the requirements of 40 C.F.R. § 63.11117. Each of these six notifications were submitted late. In addition, Delta Western failed to submit an initial notification and notification of compliance status for the GDF located at 120 Mt. Roberts Street, Juneau, Alaska in violation of 40 C.F.R. §§ 60.11124(a)(1) and 60.11124(a)(2). Delta Western also submitted the initial notifications and notifications of compliance status for six other GDFs late, in violation of 40 C.F.R. §§ 60.11124(a)(1) and 60.11124(a)(2).

**Opportunity for Conference**

We encourage you to request a conference with EPA to discuss the substance of this Notice of Violation and steps Delta Western must take to come into compliance. Please contact John Keenan, EPA Region 10, at (206) 553-1817 or Keenan.john@epa.gov within 14 days of receipt of this Notice if you wish to schedule a conference, or have your legal counsel contact Brett Dugan, Assistant Regional Counsel, at (206) 553-8562 or Dugan.brett@epa.gov.



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Edward J. Kowalski  
Director