



June 6, 2024

*VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED*

Shell Oil Company  
150 North Dairy Ashford Road  
Houston, TX 77079  
Cert. Mail # 9589071052701618440784

Shell Polymers Monaca Site  
William Watson, General Manager  
Kimberly Kaal, Environmental Manager  
Shell Chemical Appalachia LLC  
300 Frankfort Road  
Monaca, PA 15061  
Cert. Mail # 9589071052701618440791

Re: Notice of Intent to Sue the Owner and Operator of the Shell Polymers Monaca Site in Beaver County, Pennsylvania, for Violations of the Clean Air Act and the Air Pollution Control Act

To the Owners and Operators of the Shell Polymers Monaca Site:

On behalf of Clean Air Council and its individual members, we are writing to provide you with notice that Clean Air Council intends to file a civil lawsuit against you for repeated violations, described below, of the federal Clean Air Act, 42 U.S.C. § 7401 et seq., and the Pennsylvania Air Pollution Control Act, 35 P.S. § 4001 et seq., which have occurred and will continue to occur at the Shell Polymers Monaca Site in Beaver County, Pennsylvania.

Shell Chemical Appalachia, LLC (“Shell”), a subsidiary of Shell Oil Company, owns and operates the Shell Polymers Monaca Site, located at 300 Frankfort Road, Monaca, Beaver County, Pennsylvania 15061-2210 (the “Plant”). Based on publicly available information and reasonable belief, the Plant has repeatedly violated, and is in violation of, the federal Clean Air Act, the Pennsylvania State Implementation Plan, the Pennsylvania Air Pollution Control Act, and Shell’s Clean Air Act permit. Shell has emitted and continues to emit particulate matter 10 micrometers or less in diameter (“PM10”) and particulate matter 2.5 micrometers or less in diameter (“PM2.5”) from the Plant’s ethane cracking furnaces in amounts in excess of, and not authorized by, the applicable permits; and has failed to conduct initial performance tests on the Plant’s ethane cracking furnaces for volatile organic compounds (“VOCs”) in accordance with the applicable permit requirements in order to demonstrate compliance with applicable VOC emission limits.

Particulate matter (“PM”) is a mixture of solid or liquid particles, including organic materials, metals, and ash, which can cause serious health problems when inhaled.<sup>1</sup> While exposure to PM of any size can present health risks, particle size is directly related to the potential for causing health problems, and PM<sub>2.5</sub> emissions pose the greatest risks due to their ability to penetrate deep into the lungs and enter the bloodstream.<sup>2</sup> EPA has determined, based on a decades-long review of thousands of peer-reviewed studies and its own assessments, that there is a particularly strong causal link between both short- and long-term exposure to PM<sub>2.5</sub> emissions and a wide array of serious health risks, including acute and chronic respiratory issues (such as wheezing, difficulty breathing, aggravated asthma, reduced lung function, and chronic obstructive pulmonary disease), cardiovascular issues (such as clogged arteries, irregular heartbeat, congestive heart failure, heart attacks, and strokes), cancer, reproductive issues, and premature death.<sup>3</sup> Risks from PM are especially high in vulnerable populations, such as children, the elderly, and those with preexisting heart or lung disease.<sup>4</sup> EPA has not identified any truly safe level of exposure to PM, and health risks generally increase in proportion to increases in PM concentration.<sup>5</sup> It is similarly well-established that reduced visibility and haze associated with air pollution are caused primarily by emissions of “particulate matter, especially fine particulate matter, from inadequate[ly] controlled sources.”<sup>6</sup>

VOCs are defined as any compound of carbon, excluding CO, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participate in atmospheric photochemical reactions, or in other words can react with sunlight and other substances like NO<sub>x</sub> to form ozone.<sup>7</sup>

Because VOCs create strong odors, even relatively low levels can cause eye, nose, and throat irritation, headaches, nosebleeds, fatigue (tiredness), nausea, and dizziness. Some people may experience an allergic skin reaction, such as itching, rashes, or hives. People with asthma and other lung illnesses may have their conditions aggravated by exposure to VOCs.

Exposure to very high levels of VOCs may cause damage to the liver, kidney, or central nervous system (brain and spinal cord). High levels may also cause vision and memory problems.<sup>8</sup>

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<sup>1</sup> See e.g. U.S. EPA, Particulate Matter (PM) Basics, <https://www.epa.gov/pm-pollution/particulate-matter-pm-basics> (last visited June 5, 2024).

<sup>2</sup> See U.S. EPA, National Ambient Air Quality Standards for Particulate Matter, Final Rule, 62 Fed. Reg. 38,652, 38,655–56 (July 18, 1997).

<sup>3</sup> U.S. EPA, National Ambient Air Quality Standards for Particulate Matter, Final Rule, 78 Fed. Reg. 3086, 3103–04 (Jan. 15, 2013).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 3109 (finding “a strong and robust body of evidence” of serious health effects associated with long- and short-term exposure, even in areas with PM<sub>2.5</sub> concentrations below the daily and annual standards).

<sup>6</sup> U.S. EPA, Regional Haze Regulations, Final Rule, 64 Fed. Reg. 35714, 35715 (July 1, 1999) (quoting H.R. Rep. No. 95–294 at 204 (1977)).

<sup>7</sup> 40 C.F.R. § 51.100(s).

<sup>8</sup> Ohio Department of Health, Volatile Organic Compounds (January 2021); see also American Lung Association, Volatile Organic Compounds, <https://www.lung.org/clean-air/indoor-air/indoor-air-pollutants/volatile-organic-compounds> (last visited June 5, 2024).

In addition, some VOCs, including benzene, are carcinogens. Benzene causes a variety of serious health problems including anemia, nervous system damage, suppression of immune systems, and leukemia.<sup>9</sup> Ozone exposure can cause numerous health problems in humans, especially respiratory problems, such as coughing, inflammation of and damage to the airways, aggravating lung diseases including asthma, emphysema, and chronic bronchitis, and can even be one of the causes of asthma.<sup>10</sup>

The citizen suit provision of the Clean Air Act (“CAA”) allows Clean Air Council to commence a civil action against Shell in a United States District Court for violations of a CAA emission standard or limitation. 42 U.S.C. § 7604(a). An emission standard or limitation is defined as any requirement under 42 U.S.C. § 7411 or § 7412, any condition or requirement applicable under a state implementation plan approved by the U.S. Environmental Protection Agency (“EPA”), any Title V permit, or any requirement to obtain a permit as a condition of operations. 42 U.S.C. § 7604(f). The CAA precludes such actions only where “the Administrator or State has commenced and is diligently prosecuting a civil action in a court of the United States or a State to require compliance with the standard, limitation, or order[.]” 42 U.S.C. § 7604(b)(1)(B).

The citizen suit provision of the Pennsylvania Air Pollution Control Act (“APCA”) allows Clean Air Council to commence a civil action against Shell to compel compliance with the APCA “or any rule, regulation, order or plan approval or permit issued pursuant to [the APCA] . . . .” 35 P.S. § 4013.6(c). Clean Air Council may bring an APCA claim in federal court as a supplemental claim to the federal Clean Air Act claim, through supplemental jurisdiction. 28 U.S.C. § 1367(a). The APCA precludes such actions only where the Pennsylvania Department of Environmental Protection (“DEP”) “has commenced and is diligently prosecuting a civil action in a Federal or State court or is in litigation before the [environmental] hearing board to require the alleged violator to comply with [the APCA], any rule or regulation promulgated under [the APCA] or any order, plan approval or permit issued pursuant to [the APCA].” 35 P.S. § 4013.6(c).

As of the date of this letter, neither EPA nor DEP have commenced a civil action in federal or state court, nor has DEP initiated litigation before the Pennsylvania Environmental Hearing Board.<sup>11</sup>

In accordance with 42 U.S.C. § 7604(b), 40 C.F.R. Part 54, and 35 P.S. § 4013.6(d), this letter serves to notify Shell that Clean Air Council intends to file suit for violations of the CAA and the APCA in the United States District Court for the Western District of Pennsylvania at any time beginning 60 days after the postmarked date of this letter. Additionally, Clean Air Council

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<sup>9</sup> Agency for Toxic Substances and Disease Registry, Benzene, <https://www.atsdr.cdc.gov/ToxProfiles/tp3-c2.pdf> (last visited June 5, 2024).

<sup>10</sup> U.S. EPA, Health Effects of Ozone Pollution, available at <https://www.epa.gov/ground-level-ozone-pollution/health-effects-ozone-pollution> (last visited June 5, 2024).

<sup>11</sup> The Administrative Consent Order and Agreement (“AOC”) entered by Shell and DEP on May 24, 2023 does not address the violations identified in this notice letter and does not constitute a civil action in a court of the United States or a State or litigation before the Pennsylvania Environmental Hearing Board. Consent Order and Agreement, *In the Matter Of Shell Chem. Appalachia, LLC* at ¶ Q, (Pa. Dep’t of Env’t Prot., May 24, 2023), available at [https://files.dep.state.pa.us/RegionalResources/SWRO/SWROPortalFiles/Shell/5-24-23/Shell\\_Chem\\_Appalachia-Monaca\\_final\\_COA\\_05-24-23\\_Redacted.pdf](https://files.dep.state.pa.us/RegionalResources/SWRO/SWROPortalFiles/Shell/5-24-23/Shell_Chem_Appalachia-Monaca_final_COA_05-24-23_Redacted.pdf).

notifies Shell of its intention to sue for ongoing violations of the same type that occur after the violations outlined in this notice letter.

Clean Air Council will ask the Court to impose appropriate injunctive relief and civil penalties, and to require a beneficial environmental project under 42 U.S.C. § 7604(g)(2) in the areas directly impacted by the unauthorized air pollution and emissions from the Plant. Clean Air Council will also ask the Court to award their costs of litigation and attorneys' fees.

The name and address of the party giving notice is:

Clean Air Council  
1617 JFK Boulevard, Suite 1130  
Philadelphia, Pennsylvania 19103

You may contact parties through their counsel at:

Environmental Integrity Project  
David Bookbinder  
Sarah Kula  
888 17th Street NW, Suite 810  
Washington, D.C. 20006  
Dbookbinder@environmentalintegrity.org (301) 751-0611  
Skula@environmentalintegrity.org (202) 599-9786

Clean Air Council  
Lauren Otero  
1617 JFK Boulevard, Suite 1130  
Philadelphia, PA 19103  
Loteroc@cleanair.org (215) 567-4404 (x108)

Clean Air Council commenced a civil action in the U.S. District Court for the Western District of Pennsylvania on May 11, 2023, for Shell's violations of the CAA and APCA identified in letters dated February 2, 2023 and February 22, 2023. *Clean Air Council v. Shell Chem. Appalachia LLC*, 2:23-cv-794 (W.D. Pa. May 11, 2023). Clean Air Council filed an Amended Complaint in that action on December 12, 2023 (ECF No. 37), alleging additional violations of the three claims that occurred since the Complaint was filed on May 11, 2023 and alleging five new counts of violations of the CAA and APCA that Clean Air Council identified in letters to Shell dated July 6, 2023 and August 30, 2023. Clean Air Council now provides notice of Shell's additional violations of the CAA and APCA described below.

#### **APPLICABLE CLEAN AIR ACT AND AIR POLLUTION CONTROL ACT REQUIREMENTS**

The Plant is subject to applicable provisions of the Pennsylvania APCA and the Pennsylvania State Implementation Plan ("SIP"), which is a set of state regulations that are approved by EPA, pursuant to 42 U.S.C. § 7410.

The Plant is a “stationary source” under the CAA. Emissions of air pollutants from the Plant are governed by, among other requirements, plan approvals PA-04-00740A, PA-04-00740B, and PA-04-00740C [hereinafter “Plan Approvals”], issued to Shell by DEP pursuant to 25 Pa. Code Chapter 127 and most recently extended on April 15, 2024. The Plan Approvals contain limits, including but not limited to source-specific hourly emission limits and requirements to conduct performance testing to determine compliance with those limits at the Plant’s seven Ethane Cracking Furnaces (Source IDs 031, 032, 033, 034, 035, 036, and 037). Compliance with these permit limits is mandatory and a requirement of the Pennsylvania SIP. 25 Pa. Code § 127.25; *see* 61 Fed. Reg. 39597 (July 30, 1996) (EPA approval of 25 Pa. Code § 127.25 in SIP).

Plan Approval PA-04-00740C provides that “PM10 and PM2.5 emissions from each of the ethane cracking furnaces shall not exceed . . . 3.10 lb/hr, excluding periods of decoking.” PA-04-00740C Section E, Condition No. 005. The Plant must comply with this limit at all times except for periods of decoking. Decoking “begin[s] when air is introduced to the furnace for the purpose of decoking and end[s] when decoking air is removed.” PA-04-00740C, Section E, Condition No. 008. Plan Approval PA-04-00740C further provides that “VOC emissions from each of the ethane cracking furnaces shall not exceed 1.18 lb/hr.” PA-04-00740C, Section E, Condition No. 003. The Plant must comply with this limit at all times.

To demonstrate compliance with these limits, Shell’s Plan Approval requires that Shell “shall perform VOC, PM10, [and] PM2.5 . . . emission testing upon each of the seven ethane cracking furnaces while operating in normal operating mode and according to the requirements of 25 Pa. Code Chapter 139.” Plan Approval PA-04-00740C, Section E, Condition No. 011. Shell must conduct initial performance testing “within 180 days of startup of the furnaces or on an alternative schedule as approved by the Department,”<sup>12</sup> then subsequent testing “once every 5 years thereafter.” *Id.* “EPA Reference Method performance testing shall be conducted for the initial and subsequent performance tests.” *Id.*

Following a performance test, Shell must submit a complete test report to DEP in accordance with requirements in the Plan Approval, SIP, and Clean Air Act. PA-04-00740C, Section C, Condition No. 009. Shell’s Plan Approval states that “[a]ll testing shall be performed in accordance with the provisions of Chapter 139 of the Rules and Regulations of the Department of Environmental Protection.” PA-04-00740C, Section C, No. 009(g); *see* 25 PA Code § 139.12 (Emissions of Particulate Matter); *id.* at § 139.14 (Emissions of VOCs); *see also id.* at § 139.11(2) (“The Department will consider test results for approval where sufficient information is provided to verify the source conditions existing at the time of the test and where adequate data is available to show the manner in which the test was conducted.”). Further, “[p]ursuant to 25 Pa. Code § 139.3 all submittals shall meet all applicable requirements specified in the most current version of the Department’s Source Testing Manual.” PA-04-00740C, Section C, No. 009(f); Pennsylvania Dept. of Env’tl. Protection, “Source Testing Manual Revision 3.3” (2000) available at, <https://greenport.pa.gov/elibrary/GetDocument?docId=7737&DocName=SOURCE%20TESTING%20MANUAL%20%28REVISION%203.3%29.PDF>.

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<sup>12</sup> “Extension to the initial and subsequent performance testing deadlines may be granted by the Department in writing in response to a written request from the Owner/Operator and upon a satisfactory showing that an extension is justified.” PA-04-00740C, Section E, Condition No. 011.

If Shell's performance test report to DEP shows that emissions from any of the Plant's ethane cracking furnaces exceed applicable air pollutant limits in Shell's Plan Approval, Shell is considered to be out of compliance with the applicable emission limits until Shell successfully demonstrates compliance. The CAA requires continuous compliance with emissions limits. *See* 42 U.S.C. § 7602(k); *Sierra Club v. EPA*, 551 F.3d 1019, 1027–28 (D.C. Cir. 2008) (“Congress has required that there must be continuous section 112-compliant standards.”). In order to ensure sources comply with emissions limitations without interruption, the CAA authorizes penalties for multiple days of continuing violations, and establishes a presumption that violations are continuous until the source proves that it is in compliance. 42 U.S.C. § 7413(e). Consequently, upon a performance test that exceeds an applicable emission limit, the violation is “assumed to be continuous from the first provable date of violation until the source demonstrates compliance.” *See* U.S. EPA, Clean Air Act Stationary Source Civil Penalty Policy (October 25, 1991) at 11–12; *see also* 42 U.S.C. § 7413(e).

Failure to conduct a required performance test, according to the applicable requirements of the Plan Approval and Pennsylvania SIP, within 180 days of startup of an ethane cracking furnace, or by an alternative deadline approved by DEP, is a violation of Shell's Plan Approval. PA-04-00740C, Section E, Condition No. 011.

Each day that Shell fails to comply with each standard or limitation applicable to each ethane cracking furnace constitutes a separate violation of the Plan Approvals and the CAA, for which a penalty of up to \$117,468 can be assessed, 42 U.S.C. § 7413(b), 40 C.F.R. 19.4, and the APCA, for which a penalty of up to \$25,000 can be assessed, 35 P.S. § 4009.1(a).

## **SHELL VIOLATIONS OF THE CLEAN AIR ACT AND AIR POLLUTION CONTROL ACT**

The paragraphs below describe Shell's violations of the CAA and the APCA. Shell is a “person” pursuant to the CAA, 42 U.S.C. § 7602(e), and the APCA, 35 P.S. § 4003. Because Shell is a person and the owner and operator of the Plant, Shell is responsible for the violations set forth below. The information presented below is sufficient to enable Shell to ascertain the nature of each alleged violation and when and where it occurred.

### **A. Violations of PM10 Limit Under Normal Operating Mode at Ethane Cracking Furnaces 2, 3, 4, and 6.**

All of the information set forth above is incorporated herein in full. Shell has emitted and continues to emit PM10 from ethane cracking furnaces 2, 3, 4, and 6 (Source IDs 032, 033, 034, and 036) in excess of the limit in Shell's Plan Approval. Shell's Plan Approval requires that “PM10 . . . emissions from each of the ethane cracking furnaces shall not exceed . . . 3.10 lb/hr, excluding periods of decoking.” PA-04-00740C Section E, Condition No. 005. The Plant must comply with this limit at all times except for periods of decoking. Decoking “begin[s] when air is introduced to the furnace for the purpose of decoking and end[s] when decoking air is removed.” PA-04-00740C, Section E, Condition No. 008.

The information below encompasses all PM10 performance tests for ethane cracking furnaces 2, 3, 4, and 6 — from 2020 to the present — that CAC has been able to obtain through publicly available records. The results of these stack tests are summarized in the Table 1 below.

**Table 1. PM10 Performance Tests for Ethane Cracking Furnaces 2, 3, 4, and 6<sup>13</sup>**

Source ID	Test date	Report date	PM10 (lb/hr)
032	2/8/2023	3/30/2023	10.2
033	1/17/2023	3/18/2023	12.5
034	1/16/2023	3/18/2023	9.1
036	1/18/2023	3/18/2023	5.2

Shell’s performance test reports show that Shell has exceeded the applicable 3.10 lb/hr PM10 emissions limitation for ethane cracking furnaces 2, 3, 4, and 6, in violation of Shell’s Plan Approval, the Pennsylvania SIP, and the Clean Air Act. Shell’s excess PM10 emissions from ethane cracking furnaces 2, 3, 4, and 6 have been continuous from the first provable date of violation, are currently ongoing, and continuing for each day until Shell successfully demonstrates compliance with the applicable PM10 limit for ethane cracking furnaces 2, 3, 4, and 6 in accordance with the procedures set forth in Shell’s Plan Approval and the Pennsylvania SIP.

These excess PM10 emissions violate the CAA, the SIP, and the Plan Approvals. PA-04-00740C at Section E, Condition No. 005; 25 Pa. Code § 127.25; 61 Fed. Reg. 39597 (July 30, 1996). For each ethane cracking furnace 2, 3, 4, and 6, each day that Shell fails to comply with each applicable standard or limitation constitutes a separate violation of the Plan Approvals and the CAA, for which a penalty of up to \$117,468 can be assessed, 42 U.S.C. § 7413(b), 40 C.F.R. 19.4, and the APCA, for which a penalty of up to \$25,000 can be assessed, 35 P.S. § 4009.1(a).

**B. Violations of PM2.5 Limit Under Normal Operating Mode at Ethane Cracking Furnaces 2, 3, 4, and 6.**

All of the information set forth above is incorporated herein in full. Shell has emitted and continues to emit PM2.5 from ethane cracking furnaces 2, 3, 4, and 6 (source IDs 032, 033, 034, and 036) in excess of the limit in Shell’s Plan Approval. Shell’s Plan Approval requires that “PM2.5 emissions from each of the ethane cracking furnaces shall not exceed . . . 3.10 lb/hr, excluding periods of decoking.” PA-04-00740C Section E, Condition No. 005. The Plant must comply with this limit at all times except for periods of decoking. Decoking “begin[s] when air is introduced to the furnace for the purpose of decoking and end[s] when decoking air is removed.” PA-04-00740C, Section E, Condition No. 008.

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<sup>13</sup> Ex. A, Shell Chemical Appalachia LLC, Ethane Cracking Furnace #2 Compliance Test Report Source ID 032 (Mar. 30, 2023); Ex. B, Shell Chemical Appalachia LLC, Ethane Cracking Furnace #3 Compliance Test Report Source ID 033 (Mar. 18, 2023); Ex. C, Shell Chemical Appalachia LLC, Ethane Cracking Furnace #4 Compliance Test Report Source ID 034 (Mar. 18, 2023); Ex. D, Shell Chemical Appalachia LLC, Ethane Cracking Furnace #6 Compliance Test Report Source ID 036 (Mar. 18, 2023).

The information below encompasses all PM2.5 stack tests for ethane cracking furnaces 2, 3, 4, and 6 — from 2020 to the present — that CAC has been able to obtain through publicly available records. The results of these performance tests are summarized in the Table 2 below.

**Table 2. PM2.5 Performance Tests for Ethane Cracking Furnaces 2, 3, 4, and 6<sup>14</sup>**

<b>Source ID</b>	<b>Test date</b>	<b>Report date</b>	<b>PM2.5 (lb/hr)</b>
<b>032</b>	2/8/2023	3/30/2023	<b>7.6</b>
<b>033</b>	1/17/2023	3/18/2023	<b>12.2</b>
<b>034</b>	1/16/2023	3/18/2023	<b>8.7</b>
<b>036</b>	1/18/2023	3/18/2023	<b>4.8</b>

Shell’s performance test reports show that Shell has exceeded the applicable 3.10 lb/hr PM2.5 emissions limitation for ethane cracking furnaces 2, 3, 4, and 6, in violation of Shell’s Plan Approval, the Pennsylvania SIP, and the Clean Air Act. Shell’s excess PM2.5 emissions from ethane cracking furnaces 2, 3, 4, and 6 have been continuous from the first provable date of violation, are currently ongoing, and continuing for each day until Shell successfully demonstrates compliance with the applicable PM2.5 limit for ethane cracking furnaces 2, 3, 4, and 6 in accordance with the procedures set forth in Shell’s Plan Approval and the Pennsylvania SIP.

These excess PM2.5 emissions violate the CAA, the SIP, and the Plan Approvals. PA-04-00740C at Section E, Condition No. 005; 25 Pa. Code § 127.25; 61 Fed. Reg. 39597 (July 30, 1996). For each ethane cracking furnace 2, 3, 4, and 6, each day Shell fails to comply with each applicable standard or limitation constitutes a separate violation of the Plan Approvals and the CAA, for which a penalty of up to \$117,468 can be assessed, 42 U.S.C. § 7413(b), 40 C.F.R. 19.4, and the APCA, for which a penalty of up to \$25,000 can be assessed, 35 P.S. § 4009.1(a).

**C. Failure to Conduct Initial Performance Testing for VOCs on Ethane Cracking Furnaces 1, 5, and 7.**

All of the information set forth above is incorporated herein in full. Shell has failed to conduct initial performance testing for VOCs in accordance with the applicable requirements of the Plan Approval for each ethane cracking furnace 1, 5, and 7 (source IDs 031, 035, and 037). Shell’s Plan Approval requires that Shell “shall perform VOC . . . emission testing upon each of the seven ethane cracking furnaces while operating in normal operating mode and according to the requirements of 25 Pa. Code Chapter 139. Initial performance testing is required within 180 days of startup of the furnaces or on an alternative schedule as approved by the Department.” PA-04-00740C, Section E, Condition No. 011. This initial performance testing must meet specific criteria, and “[u]nacceptable test results cannot be used to demonstrate compliance.” Ex. E, DEP Notice of Violation to Shell Chemical Appalachia LLC, Source IDs: [031, 032, 034, 035, 036, 037] stack testing (Apr. 5, 2024); *see* PA-04-00740C, Section C, No. 009(g) (“All testing shall be performed in accordance with the provisions of Chapter 139 of the Rules and Regulations of the Department

<sup>14</sup> Ex. A (Ethane Cracking Furnace 2); Ex. B (Ethane Cracking Furnace 3); Ex. C (Ethane Cracking Furnace 4); Ex. D (Ethane Cracking Furnace 6).



of Environmental Protection.”); 25 PA Code § 139.11(2) (“The Department will consider test results for approval where sufficient information is provided to verify the source conditions existing at the time of the test and where adequate data is available to show the manner in which the test was conducted.”).

180 days of startup was on or before March 4, 2023 for ethane cracking furnace 1; March 12, 2023 for ethane cracking furnace 5; and March 5, 2023 for ethane cracking furnace 7.<sup>15</sup> DEP stated that the VOC performance tests were due at least by February 23, 2024 for ethane cracking furnace 1; February 26, 2023 for ethane cracking furnace 5; and February 2, 2023 for ethane cracking furnace 7. Ex. E. Shell conducted performance testing on December 22, 2022 for ethane cracking furnace 1; December 21, 2022 for ethane cracking furnace 5; and March 3, 2023 for ethane cracking furnace 7,<sup>16</sup> but DEP determined that Shell’s “initial performance tests were deemed to be unacceptable” for VOCs. Ex. E at 2. At least as of April 5, 2024, Shell has not conducted VOC initial performance testing for these units that meets the required criteria. *Id.*

Shell’s failure to timely conduct initial performance testing for VOCs according to the applicable requirements of the Plan Approval for each of the Plant’s ethane cracking furnaces 1, 5, and 7 violates the CAA, the SIP, and the Plan Approvals. PA-04-00740C, Section E, Condition No. 011. 25 Pa. Code § 127.25; 61 Fed. Reg. 39597 (July 30, 1996). For each ethane cracking furnace 1, 5, and 7, each day that Shell fails to comply with each applicable standard or limitation constitutes a separate violation of the Plan Approvals and the CAA, for which a penalty of up to \$117,468 can be assessed, 42 U.S.C. § 7413(b), 40 C.F.R. 19.4, and the APCA, for which a penalty of up to \$25,000 can be assessed, 35 P.S. § 4009.1(a).

## CONCLUSION

This notice letter and the attached exhibits are based on publicly available sources of information, including Shell’s own performance test reports submitted to DEP. Additional information, including information in the possession of Shell, may reveal additional details about the violations described above. This letter covers all such violations, including violations of the limits and Plan Approval conditions described above that occur after the date of this letter.

If you believe any of the facts described above are in error, have any information indicating that you have not violated the Clean Air Act or the Air Pollution Control Act, or if you have any questions concerning this letter or the described violations, please contact the undersigned attorneys for the Clean Air Council. Finally, we would welcome meeting with you to discuss resolution of this matter prior to the expiration of the 60-day pre-suit notice period.

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<sup>15</sup> Ex. F, Shell Chemical Appalachia LLC, Plan Approval No. 04-00740C, Plan Approval Construction Extension Request, Attachment B (Mar. 6, 2024).

<sup>16</sup> Ex. G, Shell Chemical Appalachia LLC, Ethane Cracking Furnaces #1 and #5 Compliance Test Report Source IDs 031 and 035 (Feb. 27, 2023); Ex. H, Shell Chemical Appalachia LLC, Ethane Cracking Furnace #7 Compliance Test Report Source ID 037 (May 4, 2023). This information encompasses all VOC performance tests for ethane cracking furnaces 1, 5, and 7 — from 2020 to the present — that CAC has been able to obtain through publicly available records.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sarah Kula', written in a cursive style.

Environmental Integrity Project  
Sarah Kula, Attorney  
Phone: (202) 599-9786  
Skula@environmentalintegrity.org  
David Bookbinder, Director of Law and Policy  
Phone: (301) 751-0611  
Dbookbinder@environmentalintegrity.org  
888 17th St. NW, Suite 810  
Washington, D.C. 20006

Clean Air Council  
Lauren Otero, Attorney  
Lotero@cleanair.org  
1617 JFK Boulevard, Suite 1130  
Philadelphia, PA 19103

Copies to (by certified mail – return receipt requested):

C.T. Corporation System  
*Agent for Service of Process for  
Shell Oil Company and  
Shell Chemical Appalachia, L.L.C.*  
600 North 2nd Street, Suite 401  
Harrisburg, Pennsylvania 17101  
Cert. Mail #9589071052701618400807

Michael S. Regan  
Administrator  
U.S. Environmental Protection Agency  
Office of the Administrator 1101A  
1200 Pennsylvania Avenue, N.W.  
Mail Code: 1101A  
Washington, D.C. 20460  
Cert. Mail # 9589071052701618440814

Adam Ortiz  
Region 3 Regional Administrator  
U.S. Environmental Protection Agency  
1650 Arch Street (3PM52)  
Philadelphia, Pennsylvania 19103-2029  
Cert. Mail #9589071052701618440555

Josh Shapiro  
Governor  
Commonwealth of Pennsylvania  
508 Main Capitol Building  
Harrisburg, Pennsylvania 17120  
Cert. Mail # 9589071052701618440579

Richard Negrin  
Acting Secretary  
Pennsylvania Department of Environmental  
Protection  
Rachel Carson State Office Building  
400 Market Street  
Harrisburg, Pennsylvania 17101  
Cert. Mail # 9589071052701618400562

Jim Miller  
Southwest Regional Director  
Pennsylvania Department of Environmental  
Protection  
400 Waterfront Drive  
Pittsburgh, Pennsylvania 15222  
Cert. Mail #70180680000053100878