



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

DEC 07 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7007 2560 0002 7737 4333

Greg Lucchesi
Refinery Manager, Alliance Refinery
ConocoPhillips Company
P.O. Box 176
Belle Chasse, Louisiana 70037-0176

RE: In the Matter of ConocoPhillips Company, Docket No. CAA-06-2012-3400

Dear Mr. Lucchesi,

This is to acknowledge receipt of the signed "Complaint and Consent Agreement and Final Order" (combo). The Environmental Protection Agency hereby issues this combo. The penalty payment is due within thirty (30) days after the effective date.

If you have any questions, please feel free to contact Andrea Carrillo, Assistant Regional Counsel, at (214) 665-8144. Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "John Blevins".

John Blevins
Compliance Assurance and
Enforcement Division

Enclosure (1)

Electronic Cc: Steve Ellison
Senior Counsel
ConocoPhillips Company

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED

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REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:)
)
CONOCOPHILLIPS COMPANY.) DOCKET NO. CAA-06-2012-3400
ALLIANCE REFINERY) COMPLAINT AND
BELLE CHASSE, LOUISIANA) CONSENT AGREEMENT
) AND
RESPONDENT) FINAL ORDER
)

COMPLAINT AND
CONSENT AGREEMENT AND FINAL ORDER

The Director, Compliance Assurance and Enforcement Division, United States Environmental Protection Agency, Region 6 (EPA) (Complainant), and ConocoPhillips Company located in Belle Chasse, Louisiana (Respondent), in the above referenced action, have agreed to resolve this matter, through issuance of this Complaint and Consent Agreement and Final Order (Complaint and CAFO).

I.
PRELIMINARY STATEMENT

1. This enforcement proceeding is a civil administrative action initiated by EPA pursuant to Section 113(d) of the Clean Air Act, as amended (CAA or the Act), 42 U.S.C. § 7413(d). This proceeding was instituted by the issuance of a Complaint and Notice of Opportunity for Hearing (Complaint) incorporated herein, and is simultaneously concluded by the issuance of this CAFO against Respondent pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b), and 22.34.

2. The Complaint alleges that Respondent has violated the provisions governing National Emission Standards for Benzene Waste Operations, and specifically the requirements that restrict the total annual benzene quantity in wastes, as required by 40 C.F.R. Part 61 and Section 112 of the Act, 42 U.S.C. § 7412 at its Belle Chasse, Louisiana facility.

3. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of this Complaint; however, the Respondent neither admits nor denies the specific factual allegations contained in this Complaint.

4. By signature on this Complaint and CAFO, Respondent waives any right to contest the allegations in the CAFO and its right to appeal the Final Order set forth herein, and waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.

5. Compliance with all the terms and conditions of this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

6. The Respondent consents to the issuance of the CAFO hereinafter recited and consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO set forth below.

7. Nothing in this CAFO shall be construed to prevent or limit EPA's civil and criminal authorities, or that of other Federal, State, or local agencies or departments to obtain penalties or injunctive relief under other Federal, State, or local laws or regulations.

8. Respondent hereby certifies that as of the date of its execution of this CAFO, the Facility has corrected the violation alleged herein, and is now, to the best of its knowledge, in compliance with all the requirements of Part 61 of the Act.

9. Respondent represents that the undersigned representative is fully authorized by the Party whom he or she represents to enter into the terms and conditions of this CAFO, to execute this CAFO and to legally bind the Respondent to the terms and conditions of this CAFO.

10. Respondent agrees that the provisions of this CAFO shall be binding on its officers, directors, employees, agents, servants, authorized representatives, successors, and assigns, but not

limited to, subsequent purchasers. Nothing in the previous sentence shall adversely affect any right of EPA under applicable law to assert successor or assignee liability against Respondent's successor or assignee, even if not owned in whole or in part, directly or indirectly, by Respondent.

II.
STATUTORY AND REGULATORY BACKGROUND

11. Pursuant to CAA § 112(d), 42 U.S.C. § 7412(d), the Administrator is authorized to promulgate emission standards for categories of hazardous air pollutant sources listed for regulation pursuant to CAA § 112(c).

12. On March 7, 1990, the EPA promulgated a final rule known as the National Emission Standard for Benzene Waste Operations, 40 C.F.R. Part 61, Subpart FF, which implements Section 112(d), 42 U.S.C. § 7412(d), of the Act. These regulations contain emission standards and requirements for owners and operators of chemical manufacturing plants, coke by-product recovery plants, petroleum refineries, or hazardous waste treatment, storage, or disposal facilities that treat, store, or dispose of hazardous waste generated from those facilities.

13. The regulations at 40 C.F.R. Part 61, Subpart FF, set forth the requirements of a benzene waste program that must be established at each applicable stationary source. Some of those requirements include restrictions on, and how to manage and treat, total annual benzene quantity from facility waste.

14. Pursuant to 40 C.F.R. § 61.342(e), an owner or operator of a facility at which the total annual benzene quantity from facility waste is equal to or greater than 10 Mg/yr (11 ton/yr), as

determined in paragraph 40 C.F.R. § 61.342(a), may elect to manage and treat the facility waste as required by 40 C.F.R. § 61.342(e)(2)(i).

15. 40 C.F.R. § 61.342(e)(2)(i) provides the following:

[B]enzene quantity for the wastes described in paragraph (e)(2) of this section must be equal to or less than 6.0 Mg/yr (6.6 ton/yr), as determined in § 61.355(k). Wastes as described in paragraph (e)(2) of this section that are transferred offsite shall be included in the determination of benzene quantity as provided in § 61.355(k).

16. "Owner or operator" shall mean any person who owns, leases, operates, controls, or supervises a stationary source. 42 U.S.C. § 7412(a)(9).

17. "Stationary source" shall mean any building, structure, facility, or installation, which emits or may emit any air pollutant which has been designated hazardous by the Administrator. 40 C.F.R. § 61.02.

18. "Facility" shall mean all process units and product tanks that generate waste within a stationary source, and all waste management units that are used for waste treatment, storage, or disposal within a stationary source. 40 C.F.R. § 61.341.

19. "Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through the distillation of petroleum, or through the redistillation, cracking, or reforming of unfinished petroleum derivatives. 40 C.F.R. § 61.341.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

20. The Respondent is a State of Delaware corporation authorized to do business in the State of Louisiana. The Respondent's principal place of business is located at 600 N. Dairy Ashford, Houston, Texas.

21. The Respondent is a “person” as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the Act, 42 U.S.C. § 7413(d).

22. At all times relevant to this CAFO, Respondent owns and/or operates a petroleum refinery, Alliance Refinery, located at 15551 Highway 23 South, Belle Chasse, Louisiana 70037 (Facility).

23. The Facility processes about 247,000 barrels of crude oil per day.

24. The Facility generates over 10 Mg/yr of Benzene waste from petroleum operations.

25. Benzene National Emission Standard for Hazardous Air Pollutants (NESHAP) regulations set forth in 40 C.F.R. § 61.342 apply to owners and operators of chemical manufacturing plants, coke by-product recovery plants, and petroleum refineries.

26. Respondent elected that the Facility will comply with the compliance option set forth at 40 C.F.R. § 61.342(e)(2)(i) (the “6 BQ compliance option”). See ConocoPhillips Consent Decree with EPA under Civil Action No. H-05-0258, filed in the United States District Court for the Southern District of Texas on January 27, 2005 (CD).

27. Respondent sent EPA the Facility’s 2010 Benzene Waste Operations, National Emission Standard for Hazardous Air Pollutants (NESHAP) Annual Report and 2010 Total Annual Benzene (TAB) Report, dated April 7, 2011, as directed by 40 C.F.R. § 61.357(d)(8).

28. As provided in the 2010 TAB Report, Table 1, page 1 of 29, shows the Facility generated an uncontrolled amount of Benzene waste totaling 22.399 Mg for the 2010 year.

29. The Facility exceeded their uncontrolled Benzene waste limit of 6 Mg/yr set forth in the CD by 16.399 Mg.

30. Therefore, the Respondent violated the regulations set forth in 40 C.F.R. § 61.342(e) by

exceeding their uncontrolled Benzene waste limit.

IV.
VIOLATIONS

31. The Respondent violated the regulations set forth in 40 C.F.R. § 61.342(e) by exceeding their total annual uncontrolled Benzene waste limit.

V.
CIVIL PENALTY AND TERMS OF SETTLEMENT

32. For the reasons set forth above, Respondent has agreed to pay a civil penalty which has been determined in accordance with Section 113(d) of the CAA, 42 U.S.C. § 7413(d), which authorizes EPA to assess a civil penalty of up to twenty-five thousand dollars (\$25,000) per day for each violation of the CAA.¹

33. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the Penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and other factors as justice may require, it is ORDERED that Respondent be assessed a civil penalty in the amount of Eighty-Nine Thousand and Six Hundred Dollars

¹ The Civil Penalty Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701 provides for increases in the statutory penalty provisions (\$25,000) cited in the Clean Air Act Stationary Source Civil Penalty Policy dated October 25, 1991 (CAA Penalty Policy). It provides for up to \$25,000 per day of violation for violations occurring on or before January 30, 1997; up to \$27,500 per day for each such violation occurring after January 30, 1997 through March 15, 2004; up to \$32,500 per day for each such violation occurring after March 15, 2004 through January 12, 2009; and up to \$37,500 per day for each such violation occurring after January 12, 2009.

(\$89,600).

34. Within thirty (30) days of the effective date of this Complaint and CAFO, Respondent shall pay the assessed civil penalty by cashier's check, certified check, or wire transfer made payable to "Treasurer, United States of America, EPA - Region 6." Payment shall be remitted in one of five (5) ways: regular U.S. Postal Service mail, to include certified mail; overnight mail; or wire transfer; Automated Clearinghouse for receiving US currency; or On Line Payment. For regular U.S. Postal Service mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, the check(s) should be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

For overnight mail (non-U.S. Postal Service, e.g. Fed Ex), the check(s) should be remitted to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Contact: Natalie Pearson
314-418-4087

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

For Automated Clearinghouse (also known as REX or remittance express):

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: Jesse White (301) 887-6548

For On Line Payment:

<https://www.pav.gov/paygov/>
Enter sfo 1.1 in search field
Open form and complete required fields.

PLEASE NOTE: The docket number CAA-06-2012-3400 shall be clearly typed on the check to ensure proper credit. The payment shall also be accompanied by a transmittal letter and shall reference Respondent's name and address, the case name, and docket number of the administrative complaint and CAFO. Respondent's adherence to this request will ensure proper credit is given when penalties are received for the Region. Respondent shall also send a simultaneous notice of such payment, including a copy of the money order, or check, and transmittal letter to the following:

Ryan Rosser
Enforcement Officer (6EN-AI)
Toxics Enforcement Section
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733;

Ms. Lorena Vaughn
Region 6 Hearing Clerk (6RC-D)

U.S. EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

35. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

36. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. Part 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. Part 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. See 40 C.F.R. Part 13.11(b).

37. EPA will also assess a fifteen dollar (\$15.00) administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional fifteen dollars (\$15.00) for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. See 40 C.F.R. Part 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. See 31 C.F.R. Part 901.9(d). Other penalties for failure to make a payment may also apply.

38. Pursuant to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5), any person who fails to

pay on a timely basis, a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including but not limited to, attorneys fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

39. This document is a "Final Order" as that term is defined in the CAA Penalty Policy for the purpose of demonstrating a history of "prior such violations."

VI.
RETENTION OF ENFORCEMENT RIGHTS

40. EPA does not waive any rights or remedies available to EPA for any violations by the Respondent of Federal laws, regulations, statutes, or permitting programs.

41. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the CAA.

VII.
COSTS

42. Each party shall bear its own costs and attorneys fees.

IT IS SO AGREED:

FOR THE RESPONDENT:

Date: 11/28/11



Greg Lucchesi
Manager
ConocoPhillips Company Alliance Refinery

FOR THE COMPLAINANT:

Date: 12.7.11

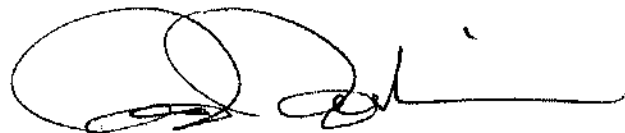


John Blevins
Director
Compliance Assurance and
Enforcement Division

FINAL ORDER

Pursuant to Section 113(d) of the Clean Air Act (Act), 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in this CAFO. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement as set forth in the Consent Agreement. In accordance with 40 C.F.R. Part 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated 12/14/11



Pat Rankin
Regional Judicial Officer
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of December, 2011, the original and one copy of the foregoing Complaint and Consent Agreement and Final Order (Complaint and CAFO) was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and a true and correct copy was delivered to the following individual(s) by the method indicated below:

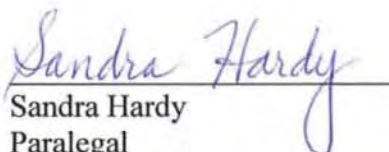
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Greg Lucchesi
Refinery Manager, Alliance Refinery
ConocoPhillips Company
P.O. Box 176
Belle Chasse, Louisiana 70037-0176

Electronic Copy: Steve Ellison
Senior Counsel
ConocoPhillips Company

Chris Piehler
Administrator
Inspection Division
LDEQ

Celena Cage
Administrator
Enforcement Division
LDEQ


Sandra Hardy
Paralegal
U.S. EPA Region 6
Dallas, Texas