



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

U.S. Environmental  
Protection Agency-Reg 2  
2014 SEP 30 PM 3:11  
REGIONAL HEARING  
CLERK

September 30, 2014

BY ELECTRONIC MAIL  
FOLLOWED BY CERTIFIED MAIL-  
RETURN RECEIPT REQUESTED

Jim Cantrell  
Vice President & Associate General Counsel  
Crestwood Equity Partners LP  
Crestwood Midstream Partners LP  
700 Louisiana, Suite 2550  
Houston, TX 77002

Re: Consent Agreement and Final Order, In the Matter of Crestwood Services LLC, Peekskill Terminal

Dear Mr. Cantrell:

Enclosed please find a fully executed copy of the Consent Agreement and Final Order in this matter. Please do not hesitate to contact me if you have any questions.

Thank you again for your assistance throughout this settlement process.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jean H. Regna".

Jean H. Regna  
Assistant Regional Counsel

Enclosure

cc: Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

U.S. Environmental  
Protection Agency-Reg 2  
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REGIONAL HEARING  
CLERK

**In the Matter of:**

Crestwood Services LLC  
Peekskill Terminal  
Peekskill, New York,

**Respondent.**

**CONSENT AGREEMENT AND  
FINAL ORDER**

Docket No. CAA-02-2014-1225

**PRELIMINARY STATEMENT**

1. This Consent Agreement and Final Order (“CA/FO”) is issued pursuant to Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d). The Complainant in this action is the Director of the Emergency and Remedial Response Division of the United States Environmental Protection Agency (“EPA”), Region 2, who has been delegated the authority to institute this action. Respondent is Crestwood Services LLC, operator of Peekskill Terminal (“Respondent”).

2. EPA has determined, pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), that this matter is appropriate for administrative enforcement action.

3. Pursuant to Section 22.13(b) of the revised Consolidated Rules of Practice, 40 Code of Federal Regulations (“C.F.R.”) § 22.13(b), where parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a CA/FO pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3).

4. It has been agreed by the parties that settling this matter by entering into this CA/FO pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) is an appropriate means of resolving specified claims against Respondent without litigation.

**STATUTORY BACKGROUND**

5. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), provides for the assessment of penalties for violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

6. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires the Administrator to promulgate release prevention, detection, and correction requirements regarding regulated



substances in order to prevent accidental releases of regulated substances. EPA promulgated regulations in 40 C.F.R. Part 68 to implement Section 112(r)(7) of the CAA, which set forth the requirements of risk management programs that must be established and implemented at stationary sources subject to this section of the CAA. The regulations at 40 C.F.R. Part 68, Subparts A through G, require owners and operators of stationary sources to, among other things, develop and implement: (a) a management system to oversee the implementation of the risk management program elements; and (b) a risk management program that includes, but is not limited to, a hazard assessment, a prevention program, and an emergency response program. Pursuant to 40 C.F.R. Part 68, Subparts A and G, the risk management program for a stationary source that is subject to these requirements is to be described in a risk management plan (“RMP”) that must be submitted to EPA.

7. Sections 112(r)(3) and (5) of the CAA, 42 U.S.C. §§ 7412(r)(3) and (5), require the Administrator to promulgate a list of regulated substances, with threshold quantities. EPA promulgated a regulation known as the List Rule, at 40 C.F.R. Part 68, Subpart F, which implements Sections 112(r)(3) and (5) of the CAA, and which lists the regulated substances and their threshold quantities.

8. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. §§ 68.10(a), 68.12, and 68.150, an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process shall comply with the requirements of 40 C.F.R. Part 68 (including, but not limited to, submission of an RMP to EPA), no later than June 21, 1999, or three years after the date on which such regulated substance is first listed under 40 C.F.R. § 68.130, or the date on which the regulated substance is first present in a process above the threshold quantity, whichever is latest.

9. The regulations set forth at 40 C.F.R. Part 68 separate the covered processes into three categories, designated as Program 1, Program 2, and Program 3. A covered process is subject to Program 3 requirements, as per 40 C.F.R. § 68.10(d), if the process: (a) does not meet one or more of the Program 1 eligibility requirements set forth in 40 C.F.R. § 68.10(b); and (b) if either one of the following conditions is met: the process is listed in one of the specific North American Industry Classification System (generally referred to as “NAICS”) codes found at 40 C.F.R. § 68.10(d)(1) or the process is subject to the United States Occupational Safety and Health Administration process safety management standard set forth in 29 C.F.R. § 1910.119. As required by 40 C.F.R. § 68.10(c), a facility must register its RMP-covered process as a Program 2 process if it does not meet the requirements of either Program 1 or Program 3.

10. The regulations set forth at 40 C.F.R. § 68.12(d) require that the owner or operator of a stationary source with a Program 3 process undertake certain tasks, including, but not limited to, development and implementation of a management system (pursuant to 40 C.F.R. § 68.15), the implementation of prevention program requirements, which include mechanical integrity (pursuant to 40 C.F.R. §§ 68.65-68.87), the development and implementation of an emergency response program (pursuant to 40 C.F.R. §§ 68.90-68.95), and the submission of additional information on prevention program elements regarding Program 3 processes (pursuant to 40 C.F.R. § 68.175).



## FINDINGS OF FACT

11. Respondent is the owner and/or operator of a facility located at 1060 Lower South Street, Peekskill, New York (the "Facility"), which stores liquid propane ("LP") for wholesale distribution.

12. Respondent filed an RMP for the Facility with EPA on or about October 18, 2013 that identified a covered propane process at the Facility as a Program 3 process, and that specified a quantity of 822,500 pounds of propane for this process.

13. EPA conducted an inspection of the Facility on or about April 8, 2014 to assess compliance with Section 112(r) of the Act and the applicable regulations, including those listed in 40 C.F.R. Part 68 (the "Inspection").

14. On June 16, 2014, EPA issued a letter to Respondent regarding the results of the Inspection, which, among other things, included a copy of the Inspection Report. On September 4, 2014, Respondent submitted documentation to EPA regarding compliance with Section 112(r) of the Act and 40 C.F.R. Part 68.

## EPA CONCLUSIONS OF LAW

15. Respondent is, and at all times referred to herein was, a "person" within the meaning of Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

16. The Facility is a stationary source pursuant to 40 C.F.R. § 68.3.

17. Propane is a regulated substance pursuant to Sections 112(r)(2) and (3) of the CAA and 40 C.F.R. § 68.3. The threshold quantity for propane, as listed in 40 C.F.R. § 68.130, Tables 3 and 4, is 10,000 pounds.

18. Respondent handles and stores, and has handled and stored, propane in its processes at its Facility in quantities exceeding the threshold quantity for propane.

19. At the time of EPA's Inspection, EPA identified violations of the following requirements:

- a. there was no schedule to address the action items identified in the initial Process Hazard Analysis ("PHA"). The facility must ensure that all PHA action items are resolved in a timely manner, as required by 40 C.F.R. § 68.67(e); and
- b. the Facility did not currently have a preventative maintenance program for the LP process, pursuant to the requirements of 40 C.F.R. § 68.73. The two 30,000-gallon LP storage tanks had not been inspected internally, for remaining life, or pressure tested since their original installation in 1994.

20. In addition, at the time of EPA's Inspection, EPA Inspectors noted another safety concern at the Facility, in that substantial rust was observed on propane process equipment, including tank car loading towers, and storage tank piping and pumps, which is indicative of the lack of a preventative maintenance program for the propane process.

21. Respondent's failure to fully comply with the requirements of 40 C.F.R. Part 68 regarding the Facility constitutes violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). Respondent is therefore subject to the assessment of penalties under Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

### CONSENT AGREEMENT

Based upon the foregoing, and pursuant to Section 113(d) of the CAA and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits" (40 C.F.R. Part 22), it is hereby agreed by and between Complainant and Respondent, as follows:

22. For the purpose of this proceeding and in the interest of an expeditious resolution of this matter, pursuant to 40 C.F.R. § 22.18(b)(2), Respondent (a) admits the jurisdictional basis for this matter, (b) admits the Findings of Fact set forth above, (c) consents to the assessment of the civil penalty set forth below, (d) consents to the issuance of the attached Final Order, and (e) waives its right to contest the allegations and its right to appeal the attached Final Order.

23. Respondent neither admits nor denies the EPA Conclusions of Law set forth above.

24. Respondent has addressed the violations listed above and now has a schedule by which it is timely addressing the action items identified in the PHA, and has a preventative maintenance program for the LP process. Respondent hereby certifies that it is now in compliance with all applicable requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the regulations at 40 C.F.R. Part 68, at the Facility.

25. Respondent agrees to pay a civil penalty in the total amount of \$21,300.00, as described below. Such payment shall be made by cashier's or certified check or by Electronic Fund Transfer ("EFT"). Payment of the penalty must be received by EPA **on or before thirty (30) calendar days** after the date of signature of the Final Order at the end of this document (hereinafter referred to as the "due date").

If the payment is made by check, then the check shall be made payable to the "Treasurer, United States of America" and shall be mailed to:



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

The check shall be identified with a notation listing the following: "In the Matter of Peekskill Terminal" and shall bear thereon "Docket Number CAA-02-2014-1225."

If payment is made by check, Respondent shall simultaneously furnish proof that such payment has been made to:

Jean Regna  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 17th Floor  
New York, New York 10007-1866

and

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16th Floor  
New York, NY 10007-1866.

If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- a. Amount of Payment: \$21,300.00
- b. SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- c. Account Code for Federal Reserve Bank of New York receiving payment: 68010727
- d. Federal Reserve Bank of New York ABA routing number: 021030004
- e. Field Tag 4200 of the Fedwire message should read: "D 68010727 Environmental Protection Agency"
- f. Name of Respondent: Crestwood Services LLC
- g. Case Number: CAA-02-2014-1225

If payment is made by EFT, Respondent shall simultaneously send a letter to Ms. Regna and the Regional Hearing Clerk at their addresses above which references the date of the EFT, the payment amount, the name of the case, the case number, and Respondent's name and address.

26. If Respondent fails to make full and complete payment of the civil penalty that it is required to pay by this CA/FO, this case may be referred by EPA to the United States

Department of Justice and/or the United States Department of the Treasury for collection. In such an action, pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), and 31 U.S.C. § 3717, Respondent shall pay the following amounts:

- a. Interest. If Respondent fails to make payment, or makes partial payment, interest shall accrue on any unpaid portion of the assessed penalty at the rate established pursuant to 31 U.S.C. § 3717 and 26 U.S.C. § 6621 from the payment due date.
- b. Handling Charges. Pursuant to 31 U.S.C. § 3717(e)(1), a handling charge of fifteen dollars (\$15.00) shall be paid per month, or any portion thereof, if any portion of the assessed penalty is not paid within thirty (30) days of the payment due date.
- c. Attorney Fees, Collection Costs, Nonpayment of Penalty. If Respondent fails to pay the amount of an assessed penalty on time, pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), in addition to such assessed penalty and interest and handling assessments, Respondent shall also pay the United States' enforcement expenses, including but not limited to attorney fees and costs incurred by the United States for collection proceedings, and a quarterly non-payment penalty for each calendar quarter during which such a failure to pay persists. Such non-payment penalty shall be ten percent (10%) of the aggregate amount of Respondent's outstanding penalties and non-payment penalties accrued from the beginning of such quarter.

27. The penalty specified in Paragraph 25, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of state or federal taxes.

28. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full settlement of Respondent's alleged violations of the CAA set forth above in the Findings of Fact and EPA Conclusions of Law.

29. This CA/FO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit. This CA/FO shall not affect the right of the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. Compliance with this CA/FO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

30. This CA/FO and any provision herein is not intended to be an admission of liability in any adjudicatory or administrative proceeding except in an action, suit, or proceeding to enforce this CA/FO or any of its terms and conditions.



31. Respondent explicitly waives any right to request a hearing and/or contest any allegations in this Consent Agreement and explicitly waives any right to appeal the attached Final Order.

32. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with, or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator, Deputy Regional Administrator, or Regional Judicial Officer, where the purpose of such discussion, memorandum, or communication is to recommend that such official accept this Consent Agreement and issue the attached Final Order.

33. Each party hereto shall bear its own costs and attorneys' fees in the action resolved by this CA/FO.


34. This CA/FO shall be binding on Respondent and its successors and assignees.

35. Each of the undersigned representatives to this CA/FO certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms and conditions of the CA/FO and to bind that party to it.

36. Respondent consents to service upon Respondent of a copy of this CA/FO by any EPA employee, in lieu of service made by the EPA Region 2 Regional Hearing Clerk.

**In the Matter of Crestwood Services LLC, Peekskill Terminal  
Docket Number CAA-02-2014-1225**

**For Respondent  
Crestwood Services LLC**

  
\_\_\_\_\_  
Signature

Date: 9/29/14

William Goutreau  
Name (Printed or Typed)

President - Crude/NGL  
Title (Printed or Typed)



**In the Matter of Crestwood Services LLC, Peekskill Terminal  
Docket Number CAA-02-2014-1225**

**For Complainant  
U.S. Environmental Protection Agency, Region 2**



Walter Mugdan, Director  
Emergency and Remedial Response Division  
U.S. Environmental Protection Agency, Region 2

Date: September 29, 2014

**In the Matter of Crestwood Services LLC, Peekskill Terminal  
Docket Number CAA-02-2014-1225**

**FINAL ORDER**

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement, entered into by the Complainant and Respondent to this matter, is hereby approved, incorporated herein, and issued as a Final Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 2, New York, New York.



Helen Ferrara  
Regional Judicial Officer  
U.S. Environmental Protection  
Agency – Region 2  
290 Broadway  
New York, New York 10007-1866

Date: September 29, 2014



**In the Matter of Crestwood Services LLC, Peekskill Terminal  
Docket Number CAA-02-2014-1225**

**CERTIFICATE OF SERVICE**

This is to certify that I have this day caused (or am causing) to be sent the foregoing fully executed Consent Agreement and Final Order, in the following manner to the respective addressees below:

✓ Original and One Copy

By Hand:

Office of Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007

Copy by

Certified Mail,

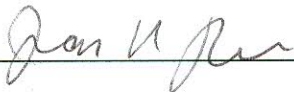
Return Receipt Requested:

Jim Cantrell  
Vice President & Associate General Counsel  
Crestwood Equity Partners LP  
Crestwood Midstream Partners LP  
700 Louisiana, Suite 2550  
Houston, TX 77002

Dated:

9/30/14

New York, New York

  
\_\_\_\_\_