

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

REGIONAL HEARING CLERK
EPA REGION III, PHILADELPHIA, PA

2013 JUN 27 PM 5:11

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In the Matter of: :
: :
: CONSENT AGREEMENT
Royal Chemical Company Limited, :
: EPA No. CAA-03-2013-0176
Respondent. :
:

I. PRELIMINARY STATEMENT

The Director, Air Protection Division, Region III, United States Environmental Protection Agency (EPA), has the authority to make findings of violation and issue notices of violation to persons who have violated or are in violation of requirements or prohibitions of applicable implementation plans or permits under the federal Clean Air Act (CAA), 42 U.S.C. §§ 7401-7671q. The geographical jurisdiction of EPA - Region III includes the Commonwealth of Pennsylvania.

II. STIPULATIONS

1. Permit 45-00012, issued to Royal Chemical Company Limited (Royal) on November 25, 2009, is an operating permit issued by the Commonwealth of Pennsylvania Department of Environmental Protection (PADEP) under the applicable Pennsylvania State Implementation Plan (Pennsylvania SIP) under the CAA.

2. Section C. I. #008 (page 13) of such permit provides:

“To ensure that the emissions of inorganic fumes and particulate matter do not exceed the 100 TPY threshold of Title V applicability, the following facility-wide restrictions shall apply:

(a) The permittee shall ensure that the scrubbers (Control Devices C01-C03) maintain a minimum overall removal efficiency of not less than 95% for inorganic fumes.

(b) The permittee shall ensure that the baghouses (Control Devices C04, C05A & C05B) maintain a minimum overall removal efficiency of not less than 99.9% for particulate matter.”

3. Section C. II. #012(a)(1) (page 14) of such permit provides, in pertinent part:

“(a) To verify compliance with the Control Device Efficiency Restrictions, the permittee shall conduct two (2) tests of the emission of the capture efficiency (CE) of each of the scrubbers and baghouses (Control Devices C01-C04, C05A & C05B) within the term of this permit. The emission tests shall occur on the following schedule:

(1) The first CE test shall be performed within one year of the issuance of this permit.”

4. As noted in Paragraph 1 above, Permit 45-00012 was issued to Royal on November 25, 2009. As a consequence, the first CE test required by Section C. II. #012(a)(1) (page 14) of such permit was required to be performed by Royal by November 25, 2010.

5. Royal did not perform the first CE test required by Section C. II. #012(a)(1) (page 14) of the permit by November 25, 2010.

6. Section C. II. #012(b) (page 14) of such permit provides, in pertinent part:

“(b) The permittee shall notify the Department within thirty (30) days of the date(s) upon which a test will occur, to provide the Department with sufficient time to provide an observer(s) if it is deemed necessary. If the permittee is unable to provide prior notice of a test, written justification for this shall be provided within thirty (30) days following the date(s) the test occurred.”

7. On November 17-18, 2011, Royal performed a test, purportedly for the purpose of compliance with the permit. With regard to this test, Royal did not provide either the prior notice or the post-test written justification required by Section C. II. #012(b) (page 14) of the permit.

8. The above-referenced facts indicate violations by Royal of:

1) Section C. II. #012(a)(1) (page 14) of Permit 45-00012, and

2) Section C. II. #012(b) (page 14) of Permit 45-00012.

9. Section 113(a)(1)(A) of the CAA, 42 U.S.C. § 7413(a)(1)(A), provides, in pertinent part, that “...whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated...any requirement...of an applicable implementation plan or permit, the Administrator shall notify the person and the State in which the plan applies of such finding. At any time after the expiration of 30 days following the date on which such notice of a violation is issued, the Administrator may...issue an administrative penalty order in accordance with [Section 113(d) of the CAA]...”.

10. Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), provides, in pertinent part, that "...The Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to \$25,000 per day of violation, whenever, on the basis of any available information, the Administrator finds that such person...has violated...any... requirement...of an applicable implementation plan...more than 30 days following the date of the Administrator's notification under [Section 113(a)(1) of the CAA] of a finding that such person has violated...such requirement...".
11. By letter dated April 16, 2012, EPA transmitted to Royal a Notice of Violation (NOV) issued to Royal by EPA under Section 113(a)(1) and (4) of the federal Clean Air Act (CAA), 42 U.S.C. § 7413(a)(1) and (4).
12. On May 14, 2012, EPA and Royal met to discuss this NOV and the violations found by EPA.
13. By letter dated May 31, 2012, Royal transmitted to EPA a written follow-up to the May 14 meeting.
14. EPA and the U.S. Department of Justice have made a joint determination that this administrative penalty action is appropriate and that, as a consequence, the 12-month time limitation of Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), is waived.

III. GENERAL PROVISIONS

1. This proceeding is governed by the Consolidated Rules, 40 C.F.R. Part 22. As provided in 40 C.F.R. Part 22, § 22.18(b)(1), EPA encourages settlement of a proceeding at any time if the settlement is consistent with the provisions and objectives of the CAA and applicable regulations. 40 C.F.R. § 22.13 provides that where the 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 consent agreement and final order. In the event a settlement is reached, the provisions of 40 C.F.R. Part 22, § 22.18(b)(2) and (3), and (c), govern the process of effectuating the settlement and concluding the proceeding.
2. Any and all terms and conditions of this settlement are recorded herein.
3. For the purpose of this proceeding, Respondent Royal Chemical Company Limited admits the jurisdictional allegations set forth in this consent agreement but neither admits nor denies the remaining allegations in this consent agreement.
4. For the purpose of this proceeding, Respondent Royal Chemical Company Limited waives any right to contest the findings of violation contained in the above-referenced

NOV, and waives any right to appeal the proposed final order. Respondent Royal Chemical Company Limited consents to the issuance of the proposed final order.

5. The parties agree to bear their own costs and attorneys fees.

IV. SETTLEMENT

1. The civil penalty noted below for the above-referenced CAA violations was determined in accordance with 1) Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and 2) EPA's Clean Air Act Stationary Source Civil Penalty Policy, dated October 25, 1991 (CAA penalty policy), as modified. Relevant modifications to the CAA penalty policy since its issuance on October 25, 1991 include modifications dated May 9, 1997, September 21, 2004, and December 29, 2008, to implement the Civil Monetary Penalty Inflation Rule (40 C.F.R. Part 19), pursuant to the Debt Collection Improvement Act of 1996 (inflation modifications). These inflation modifications essentially increased penalty policy amounts by 10%, 17.23%, and 9.83%, respectively.

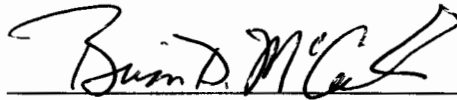
2. To develop the CAA civil penalty, EPA took into account the CAA civil penalty policy, as modified, and the particular facts and circumstances of this case.

3. For the purpose of this proceeding, Respondent Royal Chemical Company Limited consents to the assessment of a civil penalty of twenty-five thousand dollars (\$25,000) against it for the violations referenced above. Respondent Royal Chemical Company Limited agrees to pay the full amount of this civil penalty in accordance with the proposed final order accompanying this consent agreement.

4. Full payment of the civil penalty provided for herein shall only resolve Respondent Royal Chemical Company Limited's civil penalty liability for the violations referenced above. Nothing in this consent agreement is intended to, or shall be construed to, operate in any way to resolve any criminal liability of Respondent. Nothing in this consent agreement shall be construed to limit the authority of EPA to undertake action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health or welfare, or the environment.

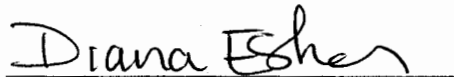
5. The undersigned representative of Respondent Royal Chemical Company Limited certifies that he is fully authorized by Respondent Royal Chemical Company Limited to execute this consent agreement and to legally bind Respondent Royal Chemical Company Limited to its terms and conditions.

Date: 5/21/13



Brian D. McCue, General Manager
Royal Chemical Company Limited

Date: 6/24/2013



Diana Esher, Director
Air Protection Division
U.S. EPA - Region III

7. This final order is effective upon filing with the Regional Hearing Clerk.

II. CIVIL PENALTY

1. A civil penalty in the amount of twenty-five thousand dollars (\$25,000) is assessed against Respondent Royal Chemical Company Limited.

2. Payment by Respondent Royal Chemical Company Limited of the civil penalty amount set forth in Paragraph 1 immediately above shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:

a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, CAA-03-2013-0176;

b. All checks shall be made payable to **United States Treasury**;

c. All payments made by check and sent by regular mail shall be addressed to:

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

Contact: Eric Volck (513-487-2105)

d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

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

Contact: (314-418-1028)

e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 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

g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: John Schmid (202-874-7026) or REX (1-866-234-5681)

h. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

i. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

j. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

James M. Baker
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code: 3RC10)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code: 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

3. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to 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, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

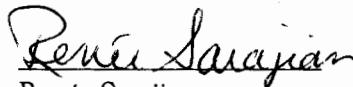
4. Interest on the civil penalty assessed in this Final Order will begin to accrue on the date that a true and correct copy of this Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will

be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

5. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$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 \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

6. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). The late payment penalty on any portion of the civil penalty that remains delinquent for more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

Date: 6/27/13


Renée Sarajian
Regional Judicial Officer

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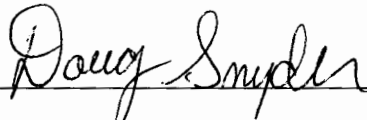
CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date shown below, the original of the signed Consent Agreement and Final Order in this matter was filed with the EPA Region III Regional Hearing Clerk, and a true and correct copy of the Consent Agreement and Final Order was sent via first class mail, return receipt requested, to the following person at the address listed;

Julie Beddingfield, Esq.
Counsel for Royal Chemical Limited
Klehr Harrison Harvey Branzberg
1835 Market Street
Philadelphia, PA 19103

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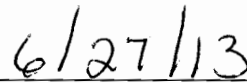
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Doug Snyder

Assistant Regional Counsel

EPA Region III



Date