

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
2017 SEP -5 PM 2: 27
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF: §
 § EPA DOCKET NO. CAA-06-2017-3319
ALON USA, LP, §
 §
 § CONSENT AGREEMENT
RESPONDENT § AND FINAL ORDER
 §
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CONSENT AGREEMENT AND FINAL ORDER

The Director, Compliance Assurance and Enforcement Division, United States Environmental Protection Agency, Region 6 (“EPA” or “Complainant”), and Alon USA, LP (“Respondent” or “Alon”), in the above referenced action, have agreed to simultaneously commence and resolve this matter, through issuance of this Consent Agreement and Final Order (“CAFO”).

I. PRELIMINARY STATEMENT

1. This proceeding for the assessment of civil penalties pursuant to Section 113(d) of the Clean Air Act, as amended (“CAA” or “Act”), 42 U.S.C. § 7413(d), is simultaneously commenced and concluded by the issuance of this CAFO pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2), 22.18(b)(3), and 22.34.

2. This CAFO serves as notice pursuant to Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A).

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

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contained in this CAFO.

4. 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 monetary penalties for the violations and facts alleged in this CAFO, including the violations described in Paragraph 39 through the effective date of this CAFO.

6. Respondent consents to the issuance of this CAFO, and consents to the assessment and payment of the stated federal civil monetary penalty in the amount and by the method set out in this CAFO.

7. Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, or claim-splitting for violations not alleged in this CAFO.

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

9. The Parties represent that the undersigned representative is fully authorized to enter into the terms and conditions of this CAFO, to execute this CAFO, and to legally bind the Party to the terms and conditions of this CAFO.

10. Respondent agrees that the provisions of this CAFO shall be binding on its officers,

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directors, employees, agents, servants, authorized representatives, successors, and assigns.

II. STATUTORY AND REGULATORY BACKGROUND

11. Section 112(r)(1) of the Clean Air Act, 42 U.S.C. § 7412(r)(1), provides that the objective of the regulations and programs authorized under Section 112(r) shall be to prevent the accidental release of regulated substances or other extremely hazardous substances and to minimize the consequences of any such release that does occur.

12. Pursuant to CAA § 112(r)(7), 42 U.S.C. § 7412(r)(7), the Administrator is authorized to promulgate regulations dictating release prevention, detection, and correction requirements.

13. On June 20, 1996, the EPA promulgated a final rule known as the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68, which implements Section 112(r)(7), 42 U.S.C. § 7412(r)(7), of the Act.

14. Under 40 CFR § 68.10(a), an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process ("Covered Process"), as determined under 40 CFR § 68.115, shall comply with the requirements of 40 CFR Part 68 no later than the latest of the following dates: (1) June 21, 1999; (2) three years after the date on which a regulated substance is first listed under Section 68.130; or (3) the date on which a regulated substance is first present above a threshold quantity in a process.

15. Under 40 CFR § 68.12(a), an owner or operator of a stationary source subject to Part 68 requirements must submit a Risk Management Plan ("RMP") as provided in 40 CFR Part 68 Subpart G (§§ 68.150-68.185) that reflects all covered processes at the stationary source.

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16. 40 CFR Part 68 provides general requirements applicable to owners or operators of a stationary source subject to Part 68. It also establishes requirements that apply to an owner or operator based on whether the stationary source operates processes subject to one of three "Programs" -- Program 1, Program 2, and Program 3.

17. Under 40 CFR § 68.12(d)(3), the owner or operator of a stationary source with a process subject to the "Program 3" requirements of the Part 68 regulations, as determined pursuant to 40 CFR § 68.10(d), must comply with the chemical accident prevention requirements of 40 CFR Part 68, Subpart D (Program 3 Prevention Program, at 40 CFR §§ 68.65-68.87).

18. Under Sections §§ 113(a)(3) and 113(d)(1)(B) of the Clean Air Act, 42 U.S.C. §§ 7413(a)(3) and 7413(d)(1)(B), whenever the Administrator finds that any person has violated or is violating a requirement of the Clean Air Act including, but not limited to, a requirement or prohibition of any rule promulgated under the Clean Air Act, other than those requirements specified in Sections 113(a)(1), 113(a)(2) or 113(d)(1)(A) of the Clean Air Act, 42 U.S.C. § 7413(a)(1), 7413(a)(2), or 7413(d)(1)(A), the Administrator may issue an order assessing a civil administrative penalty.

19. As adjusted by the Civil Penalty Inflation Adjustment Rule of December 11, 2008 (73 Fed. Reg. 75340, 75346), 40 CFR § 19.4, the Administrator may assess a civil penalty of up to \$37,500 per day of violation for a violation occurring between January 12, 2009 and November 2, 2015. For violations occurring after November 2, 2015 the Administrator may assess a civil penalty of up to \$44,539 per day of violation for each violation pursuant to the 2016 Civil Monetary Penalty Inflation Adjustment Rule (81 Fed. Reg. 43091, 43095), 40 C.F.R.

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20. "Covered process" is defined in 40 CFR § 68.3 as a process that has a regulated substance present in more than a threshold quantity as determined under § 68.115.

21. "Person" is defined in Section 302(e) of the Clean Air Act, 42 U.S.C. § 7602(e), as including an individual, corporation, partnership, association, state, municipality, political subdivision of a state, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

22. "Process" is defined in 40 CFR § 68.3 as any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

23. "Regulated substance" is defined in 40 CFR § 68.3 as any substance listed pursuant to Section 112(r)(3) of the Clean Air Act as amended, in § 68.130.

24. "RMP" is defined in 40 CFR § 68.3 as the risk management plan required under subpart G of 40 CFR Part 68.

25. "Stationary source" is defined in Section 112(r)(2)(C) of the Clean Air Act and 40 CFR § 68.3, in relevant part, as any buildings, structures, equipment, installations or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

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26. "Threshold quantity" is defined in 40 CFR § 68.3 as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the Clean Air Act as amended, listed in § 68.130 and determined to be present at a stationary source as specified in § 68.115 of this part.

27. "Owner or operator" shall mean any person who owns, leases, operates, controls, or supervises a stationary source.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

28. Respondent is a limited partnership and authorized to do business in the State of Texas.

29. 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).

30. At all times relevant to this CAFO, Respondent owned and operated the Big Spring Refinery located at 200 Refinery Road, Big Spring, Texas 79721 ("Facility").

31. At the Facility, the Respondent produces, processes, handles, or stores, over the threshold amount, hydrogen, methane, ethane, ethylene, propane, propylene, butane, iso-butane, pentane, pentene, and iso-pentane. All are listed at 40 C.F.R. § 68.130 as regulated substances based on their flammability.

32. At the Facility, the Respondent also produces, processes, handles, or stores, over the threshold amount, hydrofluoric acid, which is listed at 40 C.F.R. § 68.130 as a regulated substance based on its toxicity.

33. Respondent's Facility contains buildings, structures, equipment, installations, and other substance emitting stationary activities belonging to the same industrial group and are

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located on a contiguous property and under the control of a single entity. An accidental release could occur from the Facility. The Facility is a stationary source.

34. Respondent's Facility is subject to the requirements of 42 U.S.C. 7412(r)(7) and the implementing regulations at 40 C.F.R. Part 68.

35. Based on the quantity of regulated substances present at the facility, the facility's NAICS code, and an evaluation of off-site receptors, the covered processes at Respondent's facility are subject to Program 3 of the RMP regulations.

36. On March 25-28, 2013, EPA conducted an on-site CAA 112(r) and 40 C.F.R. Part 68 inspection at the Facility.

37. Respondent submitted a Risk Management Plan on March 14, 2006. The Facility's next plan was submitted on October 29, 2012. This later plan was in effect at the time of the inspection.

38. Based on the on-site inspection, EPA identified five areas of concern, including:
- a. an inaccurate five-year accident history,
 - b. operating procedures that were not annually certified,
 - c. a required RMP audit that was more than three years apart,
 - d. risk management plan that was submitted more than five years apart, and
 - e. the offsite consequence analyses were reviewed and updated more than five years apart.

IV. VIOLATIONS

39. The following violations were identified as a result of the inspection and post-

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inspection submittals by Respondent:

A. 40 C.F.R. § 68.168 requires owners or operators to update the RMP to reflect an accurate accident history. Respondent's accident history did not accurately reflect accidents, pursuant to 40 C.F.R. § 68.42, at the time of the inspection.

B. 40 C.F.R. § 68.69(c) requires owners or operators to review and update as necessary operating procedures for covered process units. Respondent failed to ensure that this process occurred on procedures for operating units subject to RMP regulation.

C. 40 C.F.R. § 68.190(b)(1) mandates that owners or operators shall update their RMPs at least once every five years. Respondent did not revise and update its RMP within five years and failed to ensure it complied with the requirements of 40 C.F.R. §§ 68.175 - 68.195.

D. 40 C.F.R. § 68.36(a) identifies that the owner or operator shall review and update the off-site consequence analyses at least once every five years. Respondent failed to update the off-site consequence analysis within five years of the prior consequence analysis.

E. 40 C.F.R. § 68.79(a) requires owners or operators to undertake an audit once every three years to evaluate compliance with RMP requirements. Respondent failed to perform an audit within three years of the prior audit, failed to verify that procedures and practices developed under Part 68 are adequate and being followed.

F. 40 C.F.R. § 68.79(d) additionally requires the owner or operator to promptly determine and document an appropriate response to each of the findings of the audit. Respondent failed to determine and document an appropriate response to audit deficiencies. The audit deficiencies constitute violations of Part 68. Respondent also failed to promptly address

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process hazard analysis findings and recommendations, per 40 C.F.R. § 68.67(e).¹

V. CIVIL PENALTY AND TERMS OF SETTLEMENT

40. Respondent has agreed to pay a civil penalty which has been determined in accordance with Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), 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.²

41. Upon consideration of the entire record herein, including 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, specific facts and equities, litigation risks, and other factors as justice may require, including the Respondent's agreement to perform the Supplemental Environmental Projects set forth below and the Respondent's agreement to undertake certain injunctive projects as described in an associated Administrative Compliance Order, the Parties have agreed that a penalty in the amount of one hundred and eighty-seven thousand and five hundred dollars (\$187,500) is an appropriate penalty to resolve this matter. However, the

¹ These allegations are also referenced in an associated Administrative Compliance Order.

² 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 violation occurring after January 30, 1997 through March 15, 2004; up to \$32,500 per day for each 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. As adjusted by the 2016 Civil Monetary Penalty Inflation Adjustment Rule (81 Fed. Reg. 43091), 40 C.F.R. § 19.4, the Administrator may assess a civil penalty of up to \$44,539 per day of violation for a violation occurring after November 2, 2015.

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*IN THE MATTER OF ALON USA, LP
EPA DOCKET NUMBER CAA-06-2017-3319*

Respondent has agreed to undertake a Supplemental Environmental Project (SEP) to mitigate \$140,625 of the penalty. The Region has determined that Respondent should perform a SEP valued at \$168,750 to mitigate the \$140,625 in penalty. Thus, Respondent shall perform a SEP, spending no less than \$168,750 to implement the SEP described below. Additionally, the Respondent shall pay \$46,875 to the United States Treasury as the required minimum penalty payment as required by U.S. EPA's March 10, 2015, SEP Policy. These amounts are premised, in part, on Respondent's willingness to enter into an Administrative Compliance Order relating to the violations described in this CAFO.

42. Within thirty (30) days of this fully executed CAFO, Respondent shall pay Forty-Six Thousand, Eight Hundred and Seventy-Five dollars (\$46,875) 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; 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. FedEx), the check(s) should be remitted to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties

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*IN THE MATTER OF ALON USA, LP
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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:

WWW.PAY.GOV
Enter sfo 1.1 in search field
Open form and complete required fields.

PLEASE
NOTE:

The docket number CAA 06-2017-3319 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

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IN THE MATTER OF ALON USA, LP
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such payment, including a copy of the money order, or check, and the transmittal letter to the following:

Carlos Flores
Enforcement Officer (6EN-AS)
Chemical Accident Enforcement Section
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue Suite 1200
Dallas, Texas 75202-2733;

Lorena Vaughn
Region 6 Hearing Clerk (6RC-D)
U.S. EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

43. 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.

44. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 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. § 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. § 13.11(b).

45. EPA will also assess a fifteen dollar (\$15.00) administrative handling charge for

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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 (6%) 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. § 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. § 901.9(d). Other penalties for failure to make a payment may also apply.

46. 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, attorney's 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 ten percent (10%) of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

47. This CAFO shall not relieve the 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, nor shall it be construed to constitute EPA approval of any equipment or technology installed by the Respondent in connection with any additional settlement terms undertaken pursuant to this CAFO. Nothing in this CAFO shall be construed to prohibit or prevent the federal, state, or local government from

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developing, implementing, and enforcing more stringent standards through rulemaking, the permit process, or as otherwise authorized or required.

48. This document constitutes 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. SUPPLEMENTAL ENVIRONMENTAL PROJECT (SEP)

49. Respondent shall undertake the following SEP to enhance the fire-fighting capacity of local and Facility first responders. In the event of a major incident at the Facility, Respondent will provide the primary response to on-site needs; however, two local fire departments will support Respondent on-site and have primacy off-site. The two local departments include the City of Big Spring and the Howard County fire departments. Both fire departments were strongly supportive of this project as it will increase their ability to adequately train first responders in multi-story structure fires and emergency response activities. This ability – to train first responders on a multi-story prop – was deemed very beneficial to area first responders who would otherwise not have the capacity to undertake such training.

50. Within sixty (60) days of the effective date of this CAFO, Respondent shall supply to U.S. EPA a plan and schedule for upgrading the fire training facility located at Respondent's Facility. These upgrades shall include, but not be limited to, the construction of a multi-story prop structure to be used in fire training exercises. Respondent shall spend no less than \$168,750 to enhance and upgrade the fire training facilities at their Facility. Respondent shall complete the upgrades within 365 days of the effective date of this CAFO. Respondent shall make this training area available to the City of Big Spring and Howard County fire departments for no less

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than two training events every month. The cost of fuel and other associated expenses for the two days a month that the training area is available to local fire departments shall be subsumed by Respondent during the five-year term of this requirement. Although Respondent is required only to make the training events available to the City of Big Spring and the Howard County fire departments, Respondent will seek input on the training event schedule from both fire departments prior to applying for its TCEQ-issued outdoor burning authorizations. Respondent may make additional training events available to the City of Big Spring and the Howard County fire departments in accordance with its TCEQ-issued outdoor burning authorizations; however, Respondent is only required to make this training area available for two training events each month. Respondent shall make the above-described training events available to the City of Big Spring and Howard County fire departments for five (5) years. Respondent will make its best effort to accommodate any future requests by the fire department(s) for access to the training grounds.

51. Respondent hereby certifies that, as of the effective date of this CAFO, Respondent is not required to perform or develop the SEP, or any part thereof, by any federal, state or local law or regulation; nor is Respondent required to perform or develop the SEP, or any part thereof, by any other agreement, grant or as injunctive relief in this or any other case. Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP, or any part thereof, or that Respondent will not receive reimbursement for any portion of the SEP from another person or entity.

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52. Respondent hereby certifies the following:

I certify that I am not party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. I further certify that, to the best of my knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired."

53. Respondent shall submit a SEP implementation report every 60 days, including a detailed description of the SEP as implemented to that date including costs incurred in implementing the SEP.

54. When Respondent believes the upgrades described in Paragraph 50 are complete, they shall submit a Completion Report. Respondent shall, by its representative, who is fully authorized to legally commit and bind Respondent, sign and certify under penalty of law that the information contained in such documents or reports are true, accurate, and not misleading, by signing the following statement:

"I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

55. Certain costs are prohibited from inclusion into overall SEP costs. These include: overhead, employee time and salary, administrative expenses, legal fees, contractor

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oversight, or any other costs occurring in the normal course of Respondent's business. For income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis or deduct any costs or expenditures incurred in performing the SEP.

56. After receipt of the Final SEP Completion Report EPA will notify Respondent, in writing, regarding: (i) any deficiencies in the SEP Completion Report itself along with a grant of an additional thirty (30) days, from receipt of that notification, for Respondent to correct any deficiencies in the SEP Completion Report; or (b) indicate that EPA concludes that the project has been completed satisfactorily; or (c) determine that the project has not been completed satisfactorily.

57. If Respondent fails to implement the SEP or if Respondent fails to satisfactorily complete the SEP, by the deadlines identified in this document, then the releases provided by U.S. EPA to Respondent as identified in this document are void. If Respondent fails to spend \$168,750 implementing the SEP, then Respondent agrees to pay the difference between the amount spent and \$168,750 to the U.S. Treasury. Additionally, if Respondent is delayed in fully implementing this SEP according to the timeframes identified in this SEP, then Respondent agrees to a stipulated penalty in the amount of \$1,000 per day that the SEP remains incomplete.

VII. RETENTION OF ENFORCEMENT RIGHTS

58. EPA does not waive any rights or remedies available to EPA for any violations by the Respondent of federal or state laws, regulations, statutes, or permitting programs other than the violations that have been specifically released by this CAFO.

59. Nothing in this CAFO shall relieve Respondent of the duty to comply with all

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applicable provisions of the CAA.

60. Nothing in this CAFO shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, contaminants, or regulated or other extremely hazardous substances at, on, or from the Respondent's Facility. Furthermore, nothing in this CAFO shall be construed to prevent or limit EPA's civil, injunctive, or criminal authorities, or that of other federal, state, or local agencies or departments to obtain penalties or injunctive relief under federal, state, or local laws, regulations, or subparts thereof; however, Respondent's federal civil monetary liabilities for the violations and facts alleged in this CAFO are resolved as described in Paragraph 5.

61. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except as otherwise specified in this CAFO, or upon the written agreement of the Complainant and Respondent, and approved by the Regional Judicial Officer, and such modification or amendment being filed with the Regional Hearing Clerk.

VIII. COSTS

62. Each party shall bear its own costs and attorney's fees.

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IN THE MATTER OF ALON USA, LP
EPA DOCKET NUMBER CAA-06-2017-3319

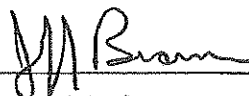
IT IS SO AGREED:

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IN THE MATTER OF ALON USA, LP
EPA DOCKET NUMBER CAA-06-2017-3319

FOR THE RESPONDENT:

Date: 8/29/17

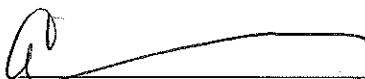


Jeff Broman

VP & General Manager - BIG SPRING Refinery

FOR THE COMPLAINANT:

Date: 8/29/2017



Cheryl T. Seager
Director
Compliance Assurance and
Enforcement Division

IN THE MATTER OF ALON USA, LP
EPA DOCKET NUMBER CAA-06-2017-3319

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 Section IV of this CAFO as described in Paragraph 5. 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, including the assessment of civil penalties. 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

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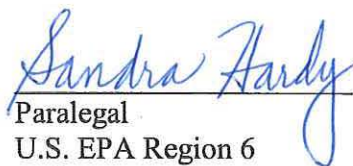


Thomas Rucki
Regional Judicial Officer
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of September, 2017, the original and one copy of the foregoing Consent Agreement and Final Order 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:

Ms. Alexandra Magill Bromer, Partner
Perkins Coie, LLP
700 13th Street, N.W.
Suite 600
Washington, D.C. 20005-3960


Paralegal
U.S. EPA Region 6
Dallas, Texas