



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

FEB - 2 2016

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mary LeAnne Mynatt  
Shareholder  
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC  
265 Brookview Centre Way  
Suite 600  
Knoxville, Tennessee 37919

Re: Rocore Knoxville, LLC  
Consent Agreement and Final Order  
Docket Number: EPCRA-04-2015-2012(b)

Dear Ms. Mynatt:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22. To ensure proper processing, the Respondent's Name and Docket Number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts your client on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U. S. Environmental Protection Agency Region 4. Where used in the document "SEC" refers to the Securities and Exchange Commission.

Should you or your client have any questions about this matter, or your client's compliance status in the future, please contact Ms. Lynda Crum of the EPA Region 4 staff at (404) 562-9524.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony G. Toney".

Anthony G. Toney  
Chief

Chemical Safety and Enforcement Branch

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IV**

USEPA REGION 4  
OFFICE OF REGIONAL  
COUNSEL  
2016 FEB -2 AM 8:25  
HEARINGS CLERK

**IN THE MATTER OF:** )  
 )  
Rocore Knoxville, LLC )  
 )  
Respondent. )  
\_\_\_\_\_ )

**Docket Number:** EPCRA-04-2015-2012 (b)

**CONSENT AGREEMENT AND FINAL ORDER**

**I. Nature of the Action**

1. This is a civil penalty proceeding pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045, and pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region IV, United States Environmental Protection Agency (EPA). Respondent is Rocore Knoxville, LLC.

2. The authority to take action under Section 325 of EPCRA, 42 U.S.C. § 11045, is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under EPCRA to the Regional Administrators by EPA Delegation 22-3-A, dated May 11, 1994. The Regional Administrator, Region IV, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by EPA Region IV Delegation 22-3-A, dated November 8, 1994. Pursuant to that delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

**II. Preliminary Statements**

4. Respondent is Rocore Knoxville, LLC (Rocore), a corporation doing business in the State of Tennessee.

5. Respondent is a "person" and owns and operates a "facility" as those terms are defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), respectively.

6. Respondent's facility is located at 5050 South National Drive, Knoxville, Tennessee, 37914.

## **II. EPA's Allegations of Violations**

### **Violations of Section 313 of EPCRA**

7. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 372.30, require the owner or operator of a facility that (a) has 10 or more full-time employees; (b) is in a Standard Industrial Classification (SIC) major group or industry listed in 40 C.F.R. § 372.23(a) (for which the corresponding North American Industry Classification System subsector and industry codes are listed in 40 C.F.R. §§ 372.23(b) and 372.23(c)); and (c) manufactured, processed, or otherwise used a toxic chemical listed in Section 313(c) and 40 C.F.R. § 372.65, in excess of an applicable threshold quantity established under EPCRA Section 313(f) and set forth in 40 C.F.R. § 372.25, during the calendar year, to complete and submit a toxic chemical release inventory reporting Form R (EPA Form 9350-1) to the Administrator of EPA and to the State in which the facility is located, by July 1 for the preceding calendar year for each toxic chemical known by the owner or operator to be manufactured, processed, or otherwise used in quantities exceeding the established threshold quantity during the preceding calendar year.

8. As set forth under Section 313(f) of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.25, the reporting threshold amount for a toxic chemical manufactured or processed at a facility is 25,000 pounds per calendar year. The reporting threshold for a toxic chemical otherwise used at a facility is 10,000 pounds.

9. Respondent has 10 or more full-time employees, as defined at 40 C.F.R. § 372.3 at its facility.

10. Respondent's facility is classified under SIC code 3443 and NAICS Code 333415.

11. Respondent's facility is classified in a covered SIC code as described at 40 C.F.R. § 372.22 and in a covered NAICS code as described at 40 C.F.R. § 372.23.

12. Lead and nitrate compounds are toxic chemicals, referenced at Section 313(c) of EPCRA, 42 U.S.C. § 11023, and listed under 40 C.F.R. § 372.65.

13. Respondent's facility processed the toxic chemical lead in excess of the 100 pound threshold quantity, established under Section 313(f) of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.28, during calendar years 2013, 2012, and 2011.

14. Respondent's facility processed the toxic chemical nitrate compounds in excess of the 25,000 pound threshold quantity, established under Section 313(f) of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.25, during calendar years 2011.

15. Respondent failed to submit a Form R for lead to the Administrator of EPA and to the officials designated by the Governor of the State of Tennessee by July 1 of the reporting years for calendar years 2013, 2012, and 2011. Respondent also failed to submit a Form R for nitrate compounds to the Administrator of EPA and to the officials designated by the Governor of the State of Tennessee by July 1 of the reporting year for calendar year 2011.

16. Respondent violated the reporting requirements of Section 313(f) of EPCRA, 42 U.S.C. § 11023, at its facility for calendar years 2013, 2012, and 2011, and is therefore subject to the assessment of penalties under Section 325(c) of EPCRA, 42 U.S.C. § 11045.

17. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$37,500 for each violation of Section 313 that occurred after January 12, 2009, and not more than \$37,500 after December 6, 2013. Each day a violation of Section 313 continues constitutes a separate violation. Civil penalties under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), may be assessed by an Administrative Order.

### **Violations of Section 312 of EPCRA**

18. Section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations found at 40 C.F.R. Part 370, provide that the owner or operator of a facility that is required to prepare or have available a Material Safety Data Sheet (MSDS) for hazardous chemicals under the Occupational Safety and Health Act of 1970 (OSHA) and regulations promulgated under that Act, shall submit to the Local Emergency Planning Committee (LEPC), the State Emergency Response Commission (SERC), and the fire department with jurisdiction over the facility, by March 1, 1988, and on or before March 1 annually thereafter, a completed emergency and hazardous chemical inventory form (Tier I or Tier II) as described in 40 C.F.R. Part 370, containing the information required by that part for hazardous chemicals present at the facility at any one time in the calendar year in amounts equal to or greater than 10,000 pounds and containing the information required by that part for extremely hazardous substances (EHS) present at the facility at any one time in amounts equal to or greater than the threshold planning quantity (TPQ) or 500 pounds, whichever is less.

19. At some time during the calendar years of 2013, 2012 and 2011, argon, nitrogen and propane were each present at the facility in an amount equal to or greater than 10,000 pounds. Also, at some time during the calendar years of 2013, 2012 and 2011, nitric acid was present at the facility in an amount equal to or greater than 500 pounds.

20. Argon, nitrogen, propane, and nitric acid are each "hazardous chemicals" as that term is defined under Section 329(5) of EPCRA, 42 U.S.C. § 11049(5), and 40 C.F.R. § 355.61, for which Respondent is required to prepare or have available MSDSs under OSHA at its facility.

21. Nitric acid is an "extremely hazardous substance" as defined under Section 329(3) of EPCRA, 42 U.S.C. § 11049(3), and 40 C.F.R. § 355.61, and is also listed as an extremely hazardous substance in 40 C.F.R. Part 355, Appendices A and B.

22. EPA alleges that Respondent failed to submit a completed Emergency and Hazardous Chemical Inventory Form for argon, nitrogen, propane, and nitric acid to the SERC, the LEPC, and fire department with jurisdiction over the facility for calendar years 2013, 2012, and 2011, by March 1 of the following calendar year.

23. EPA alleges that Respondent violated the reporting requirements of Section 312 of EPCRA, 42 U.S.C. § 11022, at its facility for calendar years 2013, 2012 and 2011, and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

24. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$37,500 for each violation of Section 312 that occurred after January 12, 2009, and not more than \$37,500 after December 6, 2013. Each day a violation of Section 312 continues constitutes a separate violation. Civil penalties under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), may be assessed by Administrative Order.

#### **IV. Consent Agreement**

25. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.

26. Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying the Consent Agreement.

27. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

28. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of EPCRA at the facility.

29. Compliance with the CAFO shall resolve the allegations of violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States other than as expressed herein. Complainant does not waive any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

30. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public's interest and that this CAFO is consistent with the applicable requirements of EPCRA.

#### **V. Final Order**

31. Respondent shall pay a civil penalty of **NINETY FIVE THOUSAND NINETY FIVE DOLLARS (\$95,095)**, for the violations alleged in Section III. Payment shall be paid within thirty (30) days of the effective date of this CAFO.

32. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to: "Treasurer, United States of America," to the following address:

**BY MAIL**

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

**BY OVERNIGHT**

U.S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
(314) 418-1818

The check shall reference on its face the name and the Docket Number of the CAFO.

33. At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA, Region IV  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Erika White  
U.S. EPA, Region IV  
Air, Pesticides & Toxics Management Division  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Saundi Wilson  
U.S. EPA, Region IV  
Office of Environmental Accountability  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

34. For the purposes of state and federal income taxes, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.

35. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the effective date of this CAFO if the penalty is not paid by the date required. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

36. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

37. This CAFO shall be binding upon the Respondent, its successors and assigns.

38. The following individual is authorized to receive service for EPA in this proceeding:

Robert W. Bookman  
U.S. EPA, Region 4  
Air, Pesticides & Toxic Management Division  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-8988

39. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

**THIS SECTION INTENTIONALLY LEFT BLANK**

**VI. Effective Date**

40. The effective date of this CAFO shall be the date upon which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Rocore Knoxville, LLC

By: Mary LeAnn Myratt Date: 9/21/15

Name: Mary LeAnn Myratt (Typed or Printed)

Title: Counsel for Rocore Knoxville, LLC (Typed or Printed)

U.S. Environmental Protection Agency

By: Carol L. Kemberger Date: 12/2/15

Beverly H. Banister

Director

Air, Pesticides and Toxics Management Division

APPROVED AND SO ORDERED this 28<sup>th</sup> day of January, 2016.

Tanya Floyd

Tanya Floyd

Regional Judicial Officer



CERTIFICATE OF SERVICE

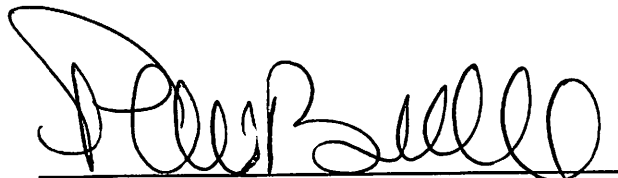
I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of, Rocore Knoxville, LLC, Docket Number: EPCRA- 04-2015-2012(b), on the parties listed below in the manner indicated:

Robert W. Bookman (Via EPA's internal mail)  
U.S. EPA, Region 4  
Chemical Management and Emergency Planning Section  
61 Forsyth Street  
Atlanta, GA 30303

Robert Caplan (Via EPA's internal mail)  
Senior Attorney  
U.S. EPA Region 4  
Office of Regional Counsel  
61 Forsyth Street  
Atlanta, GA 30303

Mary LeAnn Mynatt (Certified Mail—Return Receipt Requested)  
Shareholder  
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC  
265 Brookview Centre Way  
Suite 600  
Knoxville, Tennessee 37919

Date: 2-2-16



Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-9511