

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	DOCKET NO. CAA-10-2026-0118
	)	
ZENITH ENERGY TERMINALS HOLDINGS LLC,	)	CONSENT AGREEMENT
	)	
Portland, Oregon	)	
	)	
	)	
Respondent.	)	

1 STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 113(d) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(d).

1.2. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA issues, and Zenith Energy Terminals Holdings LLC ("Respondent") agrees to issuance of, the Final Order attached to this Consent Agreement ("Final Order").

2 PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Enforcement and Compliance Assurance Division, EPA Region 10 ("Complainant") has been delegated the authority pursuant to Section 113(d) of the

CAA, 42 U.S.C. § 7413(d), to sign consent agreements between EPA and the party against whom an administrative penalty for violations of the CAA is proposed to be assessed.

2.3. EPA and the United States Department of Justice jointly determined, pursuant to 42 U.S.C. § 7413(d) and 40 C.F.R. § 19.4, that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty action.

2.4. Part 3 of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of the CAA together with the specific provisions of the CAA and the implementing regulations that Respondent is alleged to have violated.

3 ALLEGATIONS

Standards of Performance for New Stationary Sources

3.1. Pursuant to Section 111(b) of the CAA, 42 U.S.C. § 7411(b), EPA has promulgated New Source Performance Standards (“NSPS”) for specified categories of stationary sources of air pollutants that are “new sources.” A “new source” is defined as “a stationary source, the construction or modification of which is commenced after the publication of NSPS regulations or proposed regulations that are applicable to such source.” 42 U.S.C. § 7411(a)(2). A “stationary source” is defined as including “buildings, structures, facilities or installations that emit or may emit any air pollutant.” 42 U.S.C. § 7411(a)(3). The term “modification” means “any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted.” 42 U.S.C. § 7411(a)(4).

3.2. Pursuant to Section 111 of the CAA, 42 U.S.C. § 7411, on November 17, 1975,

EPA promulgated the General Provisions, which are codified at 40 C.F.R. Part 60, Subpart A. *See* 40 Fed. Reg. 53346.

3.3. The General Provisions under 40 C.F.R. Part 60, Subpart A, “apply to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication in [40 C.F.R. Part 60] of any standard (or, if earlier, the date of publication of any proposed standard) applicable to that facility.” 40 C.F.R. § 60.1(a).

3.4. The General Provisions define an “owner or operator” as “any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source of which an affected facility is a part.” 40 C.F.R. § 60.2.

3.5. The General Provisions define an “affected facility” to mean, “with reference to a stationary source,” any apparatus to which a standard is applicable.”

3.6. The General Provisions require, among other things, that: “At all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions.” 40 C.F.R. § 60.11(d).

3.7. Pursuant to Section 111 of the CAA, 42 U.S.C. § 7411, on April 4, 1980, EPA promulgated the Standards of Performance for Storage Vessels for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984, which are codified at 40 C.F.R. Part 60, Subpart Ka (hereinafter “Subpart Ka”). *See* 45 Fed. Reg. 23379.

3.8. Subpart Ka applies to “each storage vessel with a storage capacity greater than 151,416 liters (40,000 gallons) that is used to store petroleum liquids for which construction is

commenced after May 18, 1978.” 40 C.F.R. § 60.110a(a).

3.9. Subpart Ka defines a “storage vessel” to mean each tank, reservoir, or container used for the storage of petroleum liquids, with certain exceptions not relevant here. 40 C.F.R. § 60.111a(a).

3.10. Subpart Ka defines “petroleum liquids” to mean petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery, with certain exceptions not relevant here. 40 C.F.R. § 60.111a(b).

3.11. Subpart Ka requires the owner or operator of a storage vessel that contains a petroleum liquid with a true vapor pressure equal to or greater than 10.3 kPa (1.5 psia) but not greater than 76.6kPa (11.1 psia) to equip the storage vessel so that it meets the requirements of 40 C.F.R. § 60.112a(a)(1), (2), (3), or (4). 40 C.F.R. § 60.112a(a).

3.12. The owner or operator of a storage vessel that chooses to equip the storage vessel with an external floating roof must meet the operational requirements in 40 C.F.R. §§ 60.112a(a)(1), (a)(1)(iii), and (a)(1)(iv); install a primary seal meeting the requirements of 40 C.F.R. § 60.112a(a)(1)(i); and, install a secondary seal meeting the requirements of 40 C.F.R. § 60.112a(a)(1)(ii).

General Findings

3.13. Respondent is a person as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

3.14. At all times relevant to this Consent Agreement, Respondent was the “owner or operator,” as that term is defined at 40 C.F.R. § 60.2, of the Zenith Energy Terminals Holdings LLC facility located at 5501 NW Front Avenue, Portland, Oregon 97210 (hereinafter the “Facility”).

3.15. At all times relevant to this Consent Agreement, Respondent was the “owner or operator” of Tank 106 at the Facility, which is a storage vessel equipped with an external

floating roof tank and subject to the requirements of 40 C.F.R. § 60.112a(a)(1).

3.16. On June 25, 2024 and December 4, 2024, EPA conducted inspections at the Facility to evaluate Respondent's compliance with the CAA.

Violations

Violation 1: Violation of Secondary Seal Operational Requirements

3.17. Pursuant to 40 C.F.R. § 60.112a(a)(1)(ii)(C), Respondent must ensure the secondary seal has no holes, tears, or other openings in the seal or seal fabric.

3.18. During inspections conducted by Respondent's contractor on October 24, 2019, December 14, 2020, November 11, 2021, October 24, 2022, and October 23, 2023, the inspector noted that portions of the secondary seal on Tank 106 were inverted and that the seal was torn in one location. Following the 2021, 2022, and 2023 inspections, the inspector also recommended "completely replacing the secondary seal."

3.19. Respondent did not replace the seal or otherwise address the seal tear until February 2025.

3.20. Therefore, Respondent violated the prohibition on "holes, tears, or other openings in the seal or seal fabric" of Tank 106's secondary seal, pursuant to 40 C.F.R. § 60.112a(a)(1)(ii)(C).

Violation 2: Violation of Secondary Seal Gap Requirements

3.21. Pursuant to 40 C.F.R. § 60.112a(a)(1)(ii)(B), Respondent must, among other things, ensure there are no gaps between the secondary seal and the tank wall that exceed 1.27 centimeters (0.5 inches).

3.22. During inspections conducted by Respondent's contractor on November 11, 2021, October 24, 2022, and October 23, 2023, the inspector measures the gaps between Tank 106's wall and secondary seal and noted gaps exceeding the regulatory limit. During the October 24,

2022 inspection, the inspector observed a gap of 1.5 inches, or three times the regulatory limit.

3.23. Therefore, Respondent violated the prohibition on gaps larger than 1.27 centimeters (0.5 inches) between Tank 106's secondary seal and tank wall, pursuant to 40 C.F.R. § 60.112a(a)(1)(ii)(B).

Enforcement Authority

3.24. Under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$59,114 per day of violation.

4 TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1). After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$437,729 (the "Assessed Penalty").

4.4. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.

4.5. Payments under this Consent Agreement and the Final Order shall be paid by any of the electronic methods specified at: www.epa.gov/financial/makepayment and in accordance with instructions provided at that webpage. Respondent must note on the payment its name and the docket number of this action.

4.6. Concurrently with any payment or within 24 hours of any payment, Respondent must serve proof of payment to the following persons:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 10
Via electronic mail to:
R10_RHC@epa.gov

Trey Peterson
U.S. Environmental Protection Agency, Region 10
Via electronic mail to:
Peterson.trey@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Division
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

Proof of payment means, as applicable, a copy of the check or confirmation of other payment method, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

4.7. If Respondent fails to timely pay any portion of the Assessed Penalty, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), to collect the Assessed Penalty under the CAA. In any collection action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

4.8. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, Respondent shall be responsible for payment of the following amounts:

- a. Interest. Any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges, shall bear interest at the rate established pursuant to 26 U.S.C. § 6621(a)(2) from the effective date of the Final Order, provided, however, that

no interest shall be payable on any portion of the Assessed Penalty that is paid within 30 days of the effective date of the Final Order contained herein.

b. Attorneys' Fees, Collection Costs, Nonpayment Penalty. Pursuant to 42 U.S.C. § 7413(d)(5), should Respondent fail to pay the Assessed Penalty and interest on a timely basis, Respondent shall also be required to pay 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 ten percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties accrued from the beginning of such quarter.

4.9. The Assessed Penalty and any additional costs incurred under Paragraph 4.8 represent an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.10. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing

IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, Respondent shall complete the following actions as applicable:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>.
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Division at Henderson.Jessica@epa.gov, within 30 days after the effective date of the Final Order. EPA recommends encrypting IRS Form W-9 email correspondence.
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Center with Respondent’s TIN, via email, within five days of Respondent’s receipt of a TIN issued by the IRS.

4.11. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.12. Except as described in Paragraph 4.8, each party shall bear its own costs and

attorneys' fees in bringing or defending this action.

4.13. For the purposes of this proceeding, Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in this Consent Agreement and to appeal the Final Order.

4.14. By signing this Consent Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order.

4.15. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.16. Respondent consents to the conditions specified in this consent agreement.

4.17. The above provisions in Part 4 are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

5/1/2026

FOR RESPONDENT:



DANA D. LOVE, Secretary and General Counsel, Zenith Energy Holdings Terminals, LLC.

FOR COMPLAINANT:

for EDWARD J. KOWALSKI, Director
Enforcement and Compliance Assurance Division
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	DOCKET NO. CAA-10-2026-0118
	)	
ZENITH ENERGY TERMINALS	)	FINAL ORDER
HOLDINGS LLC	)	
	)	
Portland, Oregon	)	
	)	
Respondent.	)	

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under the CAA for the violations alleged in Part 3 of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall 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 does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the CAA

and regulations promulgated or permits issued thereunder and any applicable
implementation plan requirements. This Final Order shall become effective upon
filing with the Regional Hearing

Clerk.

IT IS SO ORDERED.

Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Zenith Energy Terminals Holdings LLC, Docket No.: CAA-10-2026-0118** was filed with the Regional Hearing Clerk and that a true and correct copy was served on the date specified below to the following addressees via electronic mail:

Lauren Gates
U.S. Environmental Protection Agency
Region 10, Mail Stop 11-C07
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101

Gates.lauren@epa.gov

Dana D. Love
Secretary and General Counsel
Zenith Energy Terminals Holdings, LLC
3900 Essex Ln., Suite 700
Houston, TX 77027

Dana.Love@ZenithTerminals.com

Regional Hearing Clerk
EPA Region 10