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BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

)  
) DOCKET NO. CAA-10-2014-0088  
)  
)

EMERALD KALAMA CHEMICAL LLC )  
Kalama, Washington )

) CONSENT AGREEMENT AND  
) FINAL ORDER  
)  
)

Respondent. )  
)  
\_\_\_\_\_ )

**I. STATUTORY AUTHORITY**

1.1. This Consent Agreement and Final Order ("CAFO") 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" or "Act"), 42 U.S.C. § 7413(d).

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.3. 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 hereby issues, and Emerald Kalama Chemical LLC ("Respondent") agrees to issuance of, the Final Order contained in Part V of this CAFO.

**II. PRELIMINARY STATEMENT**

2.1. In accordance with 40 C.F.R. §§ 22.13(b), issuance of this CAFO commences this proceeding, which will conclude when the Final Order contained in Part V of this CAFO becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”) has been delegated the authority to sign consent agreements between EPA and the party against whom a penalty is proposed to be assessed pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

2.3. Part III of this CAFO 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 implementing regulations that Respondent is alleged to have violated.

### **III. ALLEGATIONS**

3.1. Respondent is a limited liability corporation incorporated in the state of Delaware and licensed to do business in the state of Washington.

3.2. Respondent is the owner and/or operator of the facility at 1296 Third Street NW in Kalama, Washington (“Emerald facility”).

3.3. Respondent is a “person” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

3.4. The Emerald facility directly emits or has the “potential to emit,” as defined in 40 C.F.R. § 70.2, 100 tons per year or more of an air pollutant.

3.5. The Emerald facility is therefore a “major source” as defined in Section 501(2) of the CAA, 42 U.S.C. § 7661(2), and 40 C.F.R. § 70.2.

3.6. At the time 40 C.F.R. § 63.2 was promulgated, the Emerald facility emitted or had the “potential to emit,” as defined in 40 C.F.R. § 63.2, considering controls, in the aggregate, 10 tons per year or more of several “hazardous air pollutant(s),” as defined in 40 C.F.R. § 63.2, or 25 tons per year or more of any combination of such hazardous air pollutants and therefore

was a "major source" as defined in Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1), and 40 C.F.R. § 63.2.

3.7. The Emerald facility is therefore subject to the requirements in Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1), and 40 C.F.R. § 63.2.

3.8. On July 16, 1992, EPA published an initial list of categories of major and area sources of hazardous air pollutants as required under Section 112(c)(1) of the CAA, 42 U.S.C. § 7412(c)(1). 57 FR 31576.

3.9. The list included the source category Synthetic Organic Chemical Manufacturing.

3.10. The Emerald facility includes a collection of equipment, activities or both within a single contiguous area and under common control that is included in the source category Synthetic Organic Chemical Manufacturing.

3.11. The Emerald facility is therefore an "affected source" within the meaning of 40 C.F.R. § 63.2.

3.12. On July 9, 2010, Southwest Clean Air Agency (SWCAA) issued an air operating permit ("Emerald AOP") SW99-10-R1 to Respondent for the Emerald facility.

3.13. The Emerald AOP includes as applicable requirements the relevant provisions of 40 C.F.R. Part 63, Subparts F and H.

3.14. On June 6-9, 2011, representatives from EPA's National Enforcement Investigations Center conducted an inspection of the Emerald facility to determine whether the facility was in compliance with the terms of the Emerald AOP and Clean Air Act.

3.15. On December 7, 2011, EPA issued a Finding of Violation notifying Respondent that it had violated 40 C.F.R. Part 63, Subparts F and H at the Emerald facility.

3.16. Pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), on July 16, 2013, the Air Enforcement Division of the EPA's Office of Enforcement and Compliance Assurance concurred with and joined in EPA Region 10's request that a waiver of the CAA 12-month limitation on EPA's authority to issue an administrative penalty order be granted in this matter.

3.17. On August 23, 2013, the U.S. Department of Justice notified Region 10 that this matter, involving a period of time longer than one year since the first alleged date of violation, is appropriate for administrative action. 42 U.S.C. § 7413(d)(1).

3.18. Violation 1: Kalama failed to perform first repair attempts on pumps, including the required verification monitoring within five days, as required by 40 C.F.R. § 63.163(c)(2), on 12 different occasions between August 2009 and March 2011.

3.19. Violation 2: Kalama failed to perform first repair attempts on valves, including the required verification monitoring within five days, as required by 40 C.F.R. § 63.168(f)(2), on one occasion between August 2009 and March 2011.

3.20. Violation 3: Kalama failed to equip an open-ended line with a valve, plug, cap, or other device as required by 40 C.F.R. § 63.167(a)(1).

3.21. Violation 4: Kalama failed to calibrate the monitoring instrument before use each day in accordance with Method 21, Section 10 of 40 C.F.R. Part 60, appendix A as required by 40 C.F.R. § 63.180(b)(3).

3.22. Violation 5: Kalama failed to record the maximum instrument reading on 50 occasions over 2 semi-annual periods, as required by 40 C.F.R. § 63.181(d).

3.23. Violation 6: In the period June 6-9, 2011, Kalama failed to equip 18 leaking valves and 17 leaking connectors with an identification number, as required by 40 C.F.R. § 63.181(b)(10).

#### **IV. CONSENT AGREEMENT**

4.1. Respondent admits the jurisdictional allegations of this CAFO.

4.2. Respondent neither admits nor denies the specific factual and legal allegations contained in this CAFO, but is willing to enter into this Agreement to avoid further dispute.

4.3. As required by Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), EPA has taken into consideration the size of the business, the economic impact of the penalty on the business, Respondent's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, payment by Respondent of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation, as well as other relevant factors.

4.4. EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$18,340.

4.5. Respondent agrees to pay the total civil penalty set forth in Paragraph 4.4 within 30 days of the effective date of the Final Order contained in Part V of this CAFO.

4.6. Payment under this CAFO may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: [http://www.epa.gov/ocfo/finservices/payment\\_instructions.htm](http://www.epa.gov/ocfo/finservices/payment_instructions.htm). Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

Respondent must note on the check the title and docket number of this action.

4.7. Respondent must serve photocopies of the check described in Paragraph 4.6 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 10, Mail Stop ORC-158  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101

John Keenan  
U.S. Environmental Protection Agency  
Region 10, Mail Stop OCE-127  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101

4.8. If Respondent fails to pay the penalty assessed by this CAFO in full by its due date, the entire unpaid balance of penalty and 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 such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

4.9. If Respondent fails to pay any portion of the penalty assessed by this CAFO in full by its due date, Respondent shall be responsible for payment of the following amounts:

4.9.1. Interest. Any unpaid portion of the assessed penalty 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.

4.9.2. 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.

4.10. The penalty described in Paragraph 4.4, including any additional costs incurred under Paragraph 4.9, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

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

4.12. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this CAFO, Respondent has corrected the violation(s) alleged in Part III above.

4.13. Except as described in 4.9.2, each party shall bear its own costs and attorneys fees in bringing or defending this action.

4.14. Respondent expressly waives any right to contest the allegations contained in this CAFO and to appeal the Final Order set forth in Part V of this CAFO. Respondent expressly waives the notice requirement and its opportunity to request a hearing on the order pursuant to Section 113(d)(2)(A), 42 U.S.C. § 7413(d)(2)(A).

4.15. The provisions of this CAFO shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.16. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

5/2/14

FOR RESPONDENT:

  
\_\_\_\_\_

Signature

Print Name: Jarrod Kocin

Title: Plant Manager  
Emerald Kalama Chemical LLC

DATED:

5/22/2014

FOR COMPLAINANT:

  
\_\_\_\_\_

EDWARD J. KOWALSKI, Director  
Office of Compliance and Enforcement  
EPA Region 10

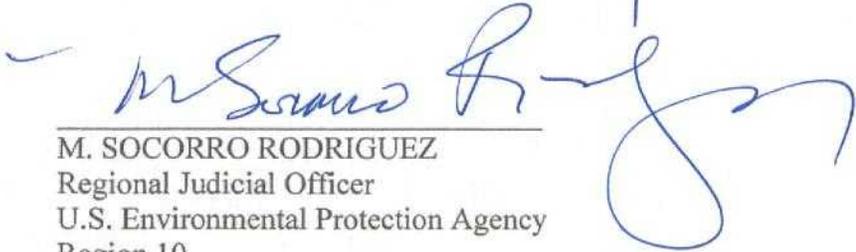
V. FINAL ORDER

5.1. The terms of the foregoing Parts I-IV are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

5.2. This CAFO constitutes a settlement by EPA of all claims for civil penalties under CAA for the violations alleged in Part III. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO 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 CAFO does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of CAA and regulations promulgated or permits issued thereunder.

5.3. This Final Order shall become effective upon filing.

SO ORDERED this 27<sup>th</sup> day of May, 2014.

  
M. SOCORRO RODRIGUEZ  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Emerald Kalama Chemicals LLC, Docket No.: CAA-10-2014-0088** was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

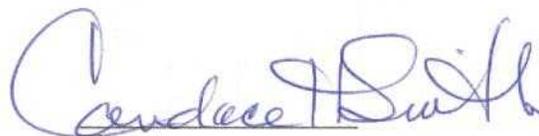
The undersigned certifies that a true and correct copy of the document was delivered to:

Juliane Matthews  
U.S. Environmental Protection Agency  
Region 10, Mail Stop ORC-158  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Mark W. Schneider  
Perkins Coie  
1201 Third Avenue, Suite 4800  
Seattle, Washington 98101-3099

DATED this 27<sup>th</sup> day of May, 2014.



Signature  
Candace H. Smith  
Regional Hearing Clerk  
EPA Region 10