

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 Elm Street, Suite 500
Dallas, Texas 75270

In the Matter of	§	
	§	
Atalco Gramercy LLC	§	Docket No. CAA-06-2025-3304
	§	
	§	
Respondent.	§	

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 6 (“EPA” or “Complainant”), and Atalco Gramercy LLC (“Respondent” or “Atalco”) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d).
2. This Consent Agreement and Final Order serves as notice that the EPA has reason to believe that Respondent has violated the CAA General Duty Clause, promulgated pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), and that Respondent is therefore in violation of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1). Furthermore, this Consent

Agreement and Final Order serves as notice pursuant to Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), and 40 C.F.R. § 22.34, of the EPA's intent to issue an order assessing penalties for these violations.

Parties

3. Complainant is the Director of the Enforcement and Compliance Assurance Division of EPA, Region 6, as duly delegated by the Administrator of the EPA and the Regional Administrator, EPA, Region 6.

4. Respondent is Atalco Grammercy LLC, a company authorized to conduct business in the state of Louisiana.

Statutory and Regulatory Background

5. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The Amendments added Section 112(r) to Title I of the CAA, 42 U.S.C. § 7412(r). The objective of Section 112(r) is to prevent the accidental release and to minimize the consequences of any such release of any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance.

6. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), commonly referred to as the General Duty Clause, owners and operators of stationary sources producing, processing, handling or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty in the same manner and the same extent as the Occupational Safety and Health Act, 29 U.S.C. § 654 et. seq., to identify hazards which may result from accidental releases using appropriate hazard assessment techniques, to design and maintain a safe facility, taking such steps as are

necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

7. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), requires the Administrator to promulgate a list of regulated substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), requires the Administrator to establish a threshold quantity for any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). The list of regulated substances and respective threshold quantities is codified at 40 C.F.R. § 68.130.

8. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), states 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 or is violating any requirement or prohibition of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and its implementing regulations. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred before November 2, 2015, and to \$57,617 for violations that occur after November 2, 2015, and are assessed after December 27, 2023.

Definitions

9. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” to include any 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.

10. Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A), and the regulation at 40 C.F.R. § 68.3 defines “accidental release” as an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

11. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3 defines “stationary source,” in 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.

12. The term “extremely hazardous substance” means an extremely hazardous substance within the meaning of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1). Such substances include any chemical which may, as a result of short-term exposures associated with releases to the air, cause death, injury, or property damage due to its toxicity, reactivity, flammability or corrosivity.¹ The term includes, but is not limited to, regulated substances listed in Section 112(r)(3), 42 U.S.C. § 7412(r)(3), and 40 C.F.R. 68.130. Also, the release of any substance that causes death or serious injury because of its acute toxic effect or as a result of an explosion or fire or that causes substantial property damage by blast, fire, corrosion, or other reaction would create a presumption that such substance is extremely dangerous.²

¹ Senate Committee on Environment and Public Works, Clean Air Act Amendments of 1989, Sen. Report No. 288, 101st Congress, 1st Session 211 (1989).

² *Id.*

EPA Findings of Fact and Conclusions of Law

13. Respondent is, and at all times referred to herein was, a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

14. Respondent is the owner and operator of a facility, Atlantic Alumina, located at: 1111 Airline Highway, Grammercy, Louisiana (the “Facility”).

15. On January 7, 2024, four (4) maintenance employees were assigned to remove a 20” x 20” angle valve on the North High Back Pressure line in the Digestion department. The employees were in the process of removing the bolts on the valve, which was being held in place by a Tadamo 160-ton crane, when material sprayed out, contacting employees on their bodies. Approximately 410 gallons of slurry mixture was released from the line when the incident occurred. Of that mixture, 27 gallons were estimated to be caustic soda (the “Incident”). The four (4) maintenance works sustained serious chemical burns to their bodies.

16. Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, the EPA requested documentation on April 18, 2024, and Respondent provided on May 17, 2024, information concerning the Incident and Respondent’s compliance with Section 112(r) of the CAA 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68 (the “Investigation”).

17. The Facility is a “stationary source” pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3.

18. The Respondent’s facility is an alumina refinery. The refinery is divided into the Cajunite Area; Red Mud Management Area; and Bauxite Processing Areas. The Cajunite Area consists of neutralization ponds, two emergency generators, a sulfuric acid tank, filter presses to dewater red mud, equipment for handling the dewatered red mud, two red mud storage

areas, the DLA pile mining, and associated fugitive emissions. The Bauxite Processing Area is where bauxite is received at the plant's dock facilities on the Mississippi River and transferred from ships to hoppers on the dock. The Facility's NAICS – 331313, Alumina Refining and Primary Aluminum Production.

19. At the time of the incident, the Facility was operating under a Title V Air Permit, #2387-V6, 2481-V5 (renewal pending); and 2543-V13 (renewal pending).

20. None of the Facility's processes store regulated chemicals over threshold quantities, pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.130.

EPA Findings of Violation

21. The facts stated in the EPA Findings of Fact and Conclusions of Law above are herein incorporated.

22. Complainant hereby states and alleges that Respondent has violated the CAA and federal regulations promulgated thereunder as follows:

Count 1 – General Duty Clause.

23. The General Duty Clause (GDC) CAA Section 112(r)(1) directs owners and operators of stationary sources to identify hazards that may result from accidental releases, to design and maintain a safe facility, and to minimize the consequences of releases when they occur.

24. Respondent violated the GDC in failing to take such steps as are necessary to prevent releases. The Facility experienced a reportable quantity release event on January 7, 2024, resulting in a release of caustic soda (Sodium Hydroxide). The amount released was estimated to be 410 gallons of slurry mixture, 27 gallons of the mixture of caustic soda. This Incident led to the hospitalization of four (4) employees with severe chemical burns. Conditions

contributing to the Incident are as follows: 1) line was attempted to be drained to demonstrate no product was flowing out, but operations were not successful at draining the line; 2) line was pressurized and the location of the restriction was not clearly identified before turning the job over to maintenance; 3) safe work permit was issued without proper completion; 4) task specific personal protective equipment (PPE) requirements were not followed; 5) maintenance supervisor was not present for the line break, as required by the Line Break Policy; 6) the work zone was not barricaded; and 7) all hazards were not identified by the operations supervisor, and mitigation measures were not put in place to protect from hazards.

25. Accordingly, Respondent's failure in taking such steps as are necessary to prevent releases violated the general duty imposed on owners and operators by the GDC CAA Section 112(r), 42 U.S.C. § 7412(r)(1).

CONSENT AGREEMENT

26. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2),
Respondent:

- a. admits the jurisdictional allegations set forth herein;
- b. neither admits nor denies the specific factual allegations stated herein;
- c. consents to the assessment of a civil penalty, as stated herein;
- d. consents to any conditions specified herein;
- e. waives any right to contest the allegations set forth herein; and
- f. waives its rights to appeal the Final Order accompanying this Consent Agreement.

27. Respondent consents to the issuance of this Consent Agreement and Final Order

and consents for the purposes of settlement to the payment of the civil penalty specified herein.

28. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

Penalty Payment

29. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of **forty-six thousand ninety-three dollars and sixty cents (\$46,093.60)**.

30. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979078
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

31. A copy of the check or other information confirming payment shall simultaneously be sent to the following:

Lorena S. Vaughn
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ORC)
Dallas, Texas 75270-2102
vaughn.loreana@epa.gov; and

Kristen Latiolais
Enforcement and Compliance Assurance Division
Waste and Chemical Enforcement Branch
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ECDSC)

Dallas, Texas 75270-2101
latiolais.kristen@epa.gov

32. Respondent understands that its failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six percent (6%) per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

33. Moreover, the costs of the Agency's administrative handling overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period 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. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

Costs

34. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent

specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

Modification

35. The terms, conditions, and compliance requirements of this Consent Agreement and Final Order may not be modified or amended except upon the written agreement of all parties and approval of the Regional Judicial Officer.

Effect of Settlement and Reservation of Rights

36. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of the CAA or any other applicable law.

37. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in paragraph directly below.

38. Respondent certifies by the signing of this Consent Agreement that, as of the date of the execution of this Consent Agreement, Respondent has addressed or is addressing the violations alleged herein, and to the best of its knowledge, it is presently in compliance with all other requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

39. 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 accompanying the consent agreement.

40. Full payment of the penalty proposed in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the CAA and regulations promulgated thereunder.

41. Complainant reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order.

General Provisions

42. By signing this Consent Agreement, the undersigned representative of Respondent certifies that it is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party it represents to this Consent Agreement.

43. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon filing of the Final Order by the Regional Hearing Clerk for EPA, Region 6. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

44. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State, and local taxes.

45. This Consent Agreement and Final Order shall apply to and be binding upon

Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

46. The EPA and Respondent agree to the use of electronic signatures for this matter pursuant to 40 C.F.R. § 22.6. The EPA and Respondent further agree to electronic service of this Consent Agreement and Final Order by email to the following:

To EPA: sharma.ravi@epa.gov

To Respondent: bryant.bremer@keanmiller.com

RESPONDENT:
ATALCO GRAMMERCY LLC

Date: 1/8/2025

Steven E Smith
Signature

Steven E. Smith
Name

Chief Administrative Officer SVP
Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: January 10, 2025

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

FINAL ORDER

Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

This Final Order shall resolve only those causes of action alleged in the Consent Agreement. 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.

IT IS SO ORDERED.

Thomas Rucki
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was delivered to the Regional Hearing Clerk, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270-2102, and that a true and correct copy was sent this day in the following manner to the addressees:

Atalco Grammercy LLC
1111 Airline Highway
Gramercy, LA 70052

Copy via Email to Complainant:

sharma.ravi@epa.gov

latiolais.kristen@epa.gov

Copy via Email to Respondent:

bryant.bremer@keanmiller.com

Copy via Email to Regional Hearing Clerk:

vaughn.loreana@epa.gov

Signed
Office of Regional Counsel
U.S. EPA, Region 6