

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

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IN THE MATTER OF:)
)
Chesapeake Appalachia, LLC) EPA Docket No. CAA-03-2016-0051
6100 North Western Avenue)
Oklahoma City, Oklahoma 73118,)
)
Respondent.)
) Proceedings Pursuant to Sections 112(r)
) and 113 of the Clean Air Act, 42 U.S.C.
) § 7412, 7413, and 40 C.F.R. § 22.13(b) and
Smokehouse Compressor Station) 22.18(b)
68 Compressor Station Road)
Chapmanville, West Virginia 25508,)
)
Kermit Compressor Station)
262 Virginia Avenue)
Kermit, West Virginia, 25526,)
)
Facilities.)

CONSENT AGREEMENT

STATUTORY AUTHORITY

This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 113(d) of the Clean Air Act (“CAA”), as amended, 42 U.S.C. § 7413(d), and under the authority provided by the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits” (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (“Part 22”). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region III, who has in turn delegated them to the Director, Hazardous Site Cleanup Division, EPA Region III (“Complainant”).

The parties agree to the commencement and conclusion of this cause of action by issuance of this Consent Agreement and Final Order (referred to collectively herein as “CA/FO”) as prescribed by the Consolidated Rules of Practice pursuant to 40 C.F.R. § 22.13(b) and 22.18(b)(2) and (3), and having consented to the entry of this CA/FO, agree to comply with the

terms of this CA/FO.

JURISDICTION

1. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).
2. The Regional Judicial Officer has the authority to approve this settlement and conclude this proceeding pursuant to 40 C.F.R. § 22.4(b) and 22.18(b)(3).
3. For the purpose of this proceeding, Respondent Chesapeake Appalachia, LLC (“Respondent”) admits to the jurisdictional allegations in this Consent Agreement and agrees not to contest EPA’s jurisdiction with respect to the execution or enforcement of this Consent Agreement.
4. With the exception of Paragraph 3, above, for the purpose of this proceeding, Respondent neither admits nor denies the Findings of Fact and Conclusions of Law set forth in this Consent Agreement, but expressly waives its right to contest said allegations.

LEGISLATIVE AND REGULATORY HISTORY AND DEFINITIONS

5. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Clean Air Act Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r).
6. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires the Administrator of EPA to promulgate regulations in order to prevent accidental releases of certain regulated substances. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of regulated substances. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), requires the Administrator to set threshold quantities for listed regulated substances. The list of regulated substances and threshold levels can be found in 40 C.F.R. § 68.130.
7. On June 20, 1996, EPA promulgated a final rule known as the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). The regulations require owners and operators of stationary sources to develop and implement a risk management program that includes a hazard assessment, a prevention program, and an emergency response program. The risk management program is described in a risk management plan that must be submitted to EPA. The risk management plan must include a hazard assessment to assess the potential effects of an accidental release of any regulated substance, a program for preventing accidental releases of hazardous substances, and a response program providing for specific actions to be taken in response to an accidental release of a regulated substance, so as to protect human health and the environment.
8. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and its regulations at 40 C.F.R. §§ 68.10(a) and 68.150(a), the owner or operator of a stationary

source at which a regulated substance is present in more than a threshold quantity must submit a risk management plan to EPA no later than the latter of June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.

9. Section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B), as amended by the Debt Collection Improvement Act of 1996, authorizes EPA to commence an administrative action to assess civil penalties of \$37,500 per day for each violation of Section 112(r) of the CAA that occurs after January 12, 2009.

10. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines “stationary source” as, *inter alia*, 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.

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

12. The regulations at 40 C.F.R. § 68.3 define “natural gas processing plant (gas plant)” as any processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both, classified as North American Industrial Classification System (NAICS) code 211112 (previously Standard Industrial Classification (SIC) code 1321).

13. The regulations at 40 C.F.R. § 68.3 define “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, listed in 40 C.F.R. § 68.130, Table 1, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

14. The regulations at 40 C.F.R. § 68.3 define “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA in 40 C.F.R. § 68.130.

15. The regulations at 40 C.F.R. § 68.3 define “process” 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 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.

16. As used herein, the term “day” shall mean calendar day.

17. All terms not defined herein shall have the meanings set forth in the CAA.

FINDINGS OF FACT

18. Respondent, Chesapeake Appalachia, LLC is a limited liability company organized in the State of Oklahoma, with its principal place of business located at 6100 North Western Avenue, in Oklahoma City, Oklahoma.

19. Respondent has owned the Smokehouse Compressor Station, located at 68 Compressor Station Road in Chapmanville, West Virginia ("Smokehouse") since 2009.

20. Respondent has owned the Kermit Compressor Station, located at 262 Virginia Avenue in Kermit, West Virginia ("Kermit") since 2006.

21. The Smokehouse and Kermit facilities (collectively, the "Facilities") receive field gas from nearby wells, mechanically remove liquids, compress the gas, remove water, extract natural gas liquids and then inject the processed natural gas into an interstate gas pipeline system. More detailed information about each Facility follows:

- a. Smokehouse Compressor Station – The Smokehouse Compressor Station is a Natural Gas Dewpoint Control Plant designed to process 15 million standard cubic feet per day ("MMSCFD") of gas through use of reciprocating gas compressors, a dehydrator, and a Natural Gas Dewpoint Plant where the gas is compressed, then dried, and liquids are removed. The liquid product is stored in two 30,000-gallon storage tanks. The residue gas (methane) is routed back into a gas pipeline.
- b. Kermit Compressor Station – The Kermit Compressor Station is a Natural Gas Dewpoint Control Plant designed to process 32 MMSCFD of gas through use of reciprocating gas compressors, a dehydrator, and a Natural Gas Dewpoint Plant where the gas is compressed, then dried, and liquids are removed. In addition, effluent from the Tri-ethylene Glycol (TEG) dehydrator is pumped to two 4,200-gallon vertical atmospheric storage tanks. The stripped gas is then metered and sold to Columbia Gas Transmission.

22. Respondent submitted risk management plans for each of the Facilities to EPA on the following dates:

- a. Smokehouse: Initial, May 19, 2009; subsequent updates, May 11, 2012; and September 15, 2015.
- b. Kermit: Initial, November 3, 2008; subsequent updates, November 16, 2011, April 3, 2012, May 9, 2012, June 11, 2013 and September 15, 2015.

23. EPA conducted an inspection of each of the Facilities to determine whether Respondent was in compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the Chemical Accident Prevention Provisions at 40 C.F.R. Part 68, on the following dates:

- a. Smokehouse: June 25, 2013
- b. Kermit: October 26, 2010

24. On October 30, 2013, EPA sent an information request to Respondent pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, to which Respondent replied on November 19, 2013.

25. Based on the information obtained during the inspections and in the responses to the information request, EPA inspectors determined that each of the Facilities store flammable liquefied petroleum gas (“LPG”) in 30,000-gallon aboveground bullet storage tanks. The LPG consists of a mixture of highly flammable liquids. At Smokehouse, the flammable mixture consists of butane, ethane, isobutene, isopentane and pentane. At Kermit, the flammable mixture consists of ethane, propane, butane, pentane and isopentane. All of these chemicals comprising the LPG constitute risk management program-regulated substances. *See* 40 C.F.R. § 68.130, Table 3. The weight of the liquids in each 30,000-gallon aboveground bullet storage tank containing LPG is greater than 10,000 pounds, at approximately 110,088 pounds, at 80% of capacity.

26. Based on the information obtained during the inspections and in the responses to the information request, EPA inspectors determined that Respondent store condensate at the Kermit Facility in two 100-barrel (4,200-gallon) vertical atmospheric aboveground storage tanks. The condensate consists of a mixture of highly flammable liquids with a flammability rating of 4. Based on information and belief, the highly flammable liquids include the chemicals ethane, propane, butane and pentane at percentages greater than 1%. All of these chemicals comprising the condensate constitute risk management program-regulated substances. *See* 40 C.F.R. § 68.130, Table 3. The condensate constitutes a flammable mixture pursuant to 40 C.F.R. § 68.115(b). The weight of the condensate at 80% capacity in each tank is 17,373 pounds.

27. The Chemical Accident Prevention Provisions require an owner or operator to comply with process safety information requirements at 40 C.F.R. § 68.65(d)(1)(vi) and (d)(2), i.e. to compile process safety information pertaining to the equipment in the process including design codes and standards employed and to document that the equipment in the process complies with recognized and generally accepted good engineering practices.

28. Relevant industry design codes and standards for the Facilities, all of which are “design codes and standards” and “recognized and generally accepted good engineering practices,” are the following:

- a. The National Fire Protection Association 30, *Flammable and Combustible Liquid Code Handbook* (2008 edition) (“NFPA 30”). Chapter 22 of NFPA 30 includes provisions addressing the storage of flammable and combustible liquids. Section 22.7.1.1 of NFPA 30 states, “Every aboveground storage tank shall have emergency relief venting in the form of construction or a device or devices that will relieve excessive internal pressure caused by an exposure fire.”

- b. The American Petroleum Institute Standard 12F, *Specification for Shop Welded Tanks for Storage of Production Liquids* (12th Edition, October 2008) (“API 12F”), provides in Section 6.2 that “unless tanks are installed in remote locations, the purchaser shall provide, or cause to be provided, pressure relieving devices which will provide capacity in addition to normal venting to meet the requirements tabulated in Table C.1.” Table C.1, in Annex C to API 12F, provides that for a tank with a nominal capacity of 100 barrels (“bbl”), 116,500 standard cubic feet per hour (“SCFH”) of emergency venting is required for a tank with drainage, and 233,000 SCFH of emergency venting is required for tank without drainage.

- c. The American Petroleum Institute Standard 2510, *Design and Construction of Liquefied Petroleum Gas (LPG) Installations* (8th Edition, May 2001) (“API 2510”), provides “minimum requirements for the design and construction of liquefied petroleum gas (LPG) installations at marine and pipeline terminals, natural gas processing plants refineries, petrochemical plants, and tank farms.” API 2510, Foreword. It contains the following standards:
 - (i) Section 5.1.2.5 of API 2510 provides the “minimum horizontal distance between the shell of an LPG tank and ... d. for rotating equipment, 50 ft; except for pumps taking suction for the LPG tanks, 10 ft.”
 - (ii) Section 10.3 of API 2510 provides for fire water use unless a fire safety analysis shows the protection to be unnecessary or impractical.
 - (iii) Section 10.8 of API 2510 provides for fireproofing for LPG vessels unless facilities are located in remote locations.

29. Based on the inspections and the information received in the response to the information request, EPA inspectors made the following observations about the equipment at each of the Facilities:

- a. Respondent had not performed a fire safety analysis at the Smokehouse or the Kermit Facilities for the bullet tanks, consistent with the protection provided by API 2510. The bullet tanks were not protected from exposure to fire.

- b. Respondent had not provided emergency venting for the two 100-barrel vertical atmospheric storage tanks holding condensate at the Kermit Facility, consistent with the protection provided by NFPA 30 and API 12F. The pressure relief valves on the condensate tanks provide only 2,340 SCFH in venting capacity. According to API 12F, the required

emergency venting capacity for a 100-barrel tank without drainage is 233,000 SCFH.

- c. Respondent had not provided sufficient clearance of the suction pump to the two 30,000-gallon bullet tanks at the Smokehouse Facility, consistent with the protection provided by API 2510. The suction pump was observed to be located less than 10 feet from the frontal planes for the two 30,000-gallon LPG tanks at the Facility.

30. On December 17, 2014, EPA and Respondent entered into an Administrative Settlement Agreement and Order on Consent, EPA Docket No. CAA-03-2015-0046DA (“ASAOC”), pursuant to the authority of Sections 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B). The ASAOC required Respondent to take certain actions at the Facilities as specified in Paragraph 46 of the ASAOC (hereafter the “Work”).

31. Respondent submitted a final report for the Work under the ASAOC on September 18, 2015. The Final Report verified that Respondent fully complied with the requirements of Paragraph 46 of the ASAOC in accordance with an EPA-approved Work Plan and Schedule. EPA approved the Final Report pursuant to Subparagraph 46.f of the ASAOC, and provided a notice of termination, pursuant to Paragraph 70 of the ASAOC, by letter dated November 9, 2015.

32. With respect to the lack of fire safety analysis for the bullet tanks at the Smokehouse Facility, Respondent was in violation of 40 C.F.R. § 68.65(d)(1)(vi) and (d)(2) from the time of the inspection, on June 25, 2013, until the time that the fire safety at the Smokehouse analysis was completed and appropriate fire safety measures were installed, on May 13, 2015.

33. With respect to the lack of fire safety analysis for the bullet tank at the Kermit Facility, Respondent was in violation of 40 C.F.R. § 68.65(d)(1)(vi) and (d)(2) from the time EPA received Respondent’s response to EPA’s information request, on November 19, 2013, until the time that the fire safety analysis was completed and appropriate fire safety measures were installed, on August 26, 2015.

34. With respect to the lack of adequate emergency venting for the condensate tanks at the Kermit Facility, Respondent was in violation of 40 C.F.R. § 68.65(d)(1)(vi) and (d)(2) at the Kermit Facility from the time EPA received Respondent’s response to EPA’s information request, on November 19, 2013, to the time that appropriate emergency venting was installed at the Kermit Facility, on August 7, 2015.

35. With respect to the distance between the suction pump and the bullet tanks at the Smokehouse Facility, Respondent was in violation of 40 C.F.R. § 68.65(d)(1)(vi) and (d)(2) from the time of the inspection, on June 25, 2013, to the time that the suction pump was moved a safe distance away from the two 30,000-gallon bullet tanks, in September 2013.

ALLEGED VIOLATIONS OF SECTION 112(r)(7) OF THE CLEAN AIR ACT

36. The findings of fact contained in Paragraphs 5 through 36 of this CA/FO are incorporated by reference herein as though fully set forth at length.

37. Based on information provided by Respondent to EPA during and after the inspections, Respondent had not documented that its equipment at the Smokehouse and Kermit Facilities as described above was designed consistently with industry standards and guidance.

CONCLUSIONS OF LAW RELATED TO THE ALLEGED VIOLATIONS OF SECTION 112(r)(7) OF THE CLEAN AIR ACT

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

39. At all times relevant to this CA/FO, Respondent has been an owner of the Smokehouse and Kermit Facilities.

40. Each of the Facilities, Smokehouse and Kermit, is a “stationary source” pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).

41. Each of the Facilities constitutes a natural gas processing plant, as defined at 40 C.F.R. § 68.3.

42. The constituents of the LPG in the aboveground bullet tanks at the Facilities are “regulated substances” for purposes of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), because they are listed pursuant to Section 112(r)(3) of the CAA, at 40 C.F.R. § 68.130, Table 3, as regulated flammable substances.

43. The constituents of the condensate in the 100-barrel vertical atmospheric storage tanks at the Kermit facility are “regulated substances” for purposes of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), because they are listed pursuant to Section 112(r)(3) of the CAA, at 40 C.F.R. § 68.130, Table 3, as regulated flammable substances.

44. The threshold quantity for a mixture of flammable substances containing the regulated substance propane at a concentration greater than one percent is 10,000 pounds, pursuant to 40 C.F.R. § 68.115(b)(2) and 68.130, Table 3.

45. The total quantity of the LPG and condensate at each of the Facilities is counted when determining whether more than a threshold quantity of a regulated substance is present in a process, pursuant to 40 C.F.R. § 68.115(b)(2). The estimated total quantity of LPG and condensate (flammable substance) at each of the Facilities, assuming allowable capacity of 80%, is as follows:

- a. Smokehouse: 2 bullet tanks @ 30,000 gallons = 220,176 lbs

- b. Kermit: 1 bullet tank @ 30,000 gallons + two (2) 100-barrel/4,200 gallons = 144,834 lbs

46. At all times relevant to this Consent Agreement, more than a threshold quantity of a regulated substance has been present in a process at each of the Facilities.

47. The storage and handling of the condensate in the aboveground bullet storage tanks at each of the Smokehouse and Kermit Facilities, constitutes a process within the meaning of the Section 68.3 of the Chemical Accident Prevention Provisions, 40 C.F.R. § 68.3.

48. Each Facility is a Program 3 Facility under the Chemical Accident Prevention Provisions, in accordance with 40 C.F.R. § 68.10(d).

49. Respondent is subject to the requirements of Section 112(r)(7) of the CAA, 40 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68, at each of the Facilities because Respondent is an owner of a stationary source that has more than a threshold quantity of a regulated substance in a process.

COUNTS 1-2 – FIRE SAFETY ANALYSIS AT SMOKEHOUSE AND KERMIT FACILITIES

50. The findings of fact contained in Paragraphs 5 through 49 of this CA/FO are incorporated by reference herein as though fully set forth at length.

51. Respondent failed to comply with the process safety information requirements at 40 C.F.R. § 68.65(d)(1)(vi) and (d)(2) at each of the Facilities, *i.e.*, to compile process safety information pertaining to design codes and standards relevant to the equipment, and to document that the equipment in the process complies with recognized and generally accepted good engineering practices, as follows: Respondent failed to conduct a fire safety analysis at the Smokehouse and Kermit Facilities to determine whether fire water use was necessary to protect bullet tanks containing LPG, to provide protection consistent with API 2510, § 10.3.

52. Complainant further alleges that Respondent is, therefore, subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

COUNT 3 – EMERGENCY VENTING AT KERMIT FACILITY

53. The findings of fact contained in Paragraphs 5 through 52 of this CA/FO are incorporated by reference herein as though fully set forth at length.

54. Respondent failed to comply with the process safety information requirements at 40 C.F.R. § 68.65(d)(1)(vi) and (d)(2) at the Kermit Facility, *i.e.*, to compile process safety information pertaining to design codes and standards relevant to the equipment, and to document that the equipment in the process complies with recognized and generally accepted good engineering practices, as follows: The 100-barrel vertical atmospheric storage tanks at the Kermit Facility contained condensate consisting of at least 1% of risk management program-

regulated flammable chemicals, but the atmospheric storage tanks lacked emergency venting to provide protection consistent with that provided by API 12F, § 6.2 and Table C.A. in Annex C, and with NFPA 30, §§ 22.7.3 and 22.7.3.2.

55. Complainant further alleges that Respondent is, therefore, subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

COUNT 4 – INSUFFICIENT CLEARANCE BETWEEN SUCTION PUMP AND LPG TANKS AT SMOKEHOUSE FACILITY

56. The findings of fact contained in Paragraphs 5 through 55 of this CA/FO are incorporated by reference herein as though fully set forth at length.

57. Respondent failed to comply with the process safety information requirements at 40 C.F.R. § 68.65(d)(1)(vi) and (d)(2) at the Smokehouse Facility, i.e., to compile process safety information pertaining to design codes and standards relevant to the equipment, and to document that the equipment in the process complies with recognized and generally accepted good engineering practices, as follows: Respondent failed to provide sufficient clearance between the suction pump and the frontal planes of two 30,000-gallon LPG tanks, to provide protection consistent with API 2510, § 5.1.2.5.

58. Complainant further alleges that Respondent is, therefore, subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

59. The EPA and the United States Department of Justice jointly determined 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 assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

SETTLEMENT

60. In accordance with 40 C.F.R. § 22.18(c), and in full and final settlement and resolution of all allegations referenced in the foregoing Findings of Fact and Conclusions of Law set forth above, and in full satisfaction of any and all civil penalty claims pursuant thereto, for the purpose of this proceeding, Respondent consents to the assessment of a civil penalty for the violations of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), set forth above, in the amount of \$98,550 (“CAA Penalty”).

PAYMENT TERMS

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

- a. Within thirty (30) days of the Effective Date of this CA/FO (the “Final Due Date”), pay the CAA Penalty of \$98,550, referencing “EPA Docket

No. CAA-03-2016-0051,” and using one of the methods identified in Subparagraphs 61.b-e, below:

b. *Check.*

- (i) All checks shall be made payable to United States Treasury;
- (ii) All payments made by check and sent by regular mail shall be addressed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
Contact: Heather Russell, 513-487-2044

- (iii) All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101
Contact: 314-418-1028

- (iv) All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 M.L. King Drive
Cincinnati, OH 45268-0001

c. *Electronic Wire Transfer.* All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 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

- d. *ACH*. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – Checking

Physical location of U.S. Treasury Lisby Facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

- e. *On-Line Payment Option*.

WWW.PAY.GOV/PAYGOV
Enter sfo 1.1 in the search field. Open and complete the form.

- f. Additional payment guidance is available at:
<http://www2.epa.gov/financial/additional-instructions-making-payments-epa>

- g. Within 24 hours of payment of the CAA Penalty, Respondent shall send proof of payment to:

Cynthia T. Weiss
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III
1650 Arch Street (3RC42)
Philadelphia, PA 19103-2029

and

Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III
1650 Arch Street (3RC00)
Philadelphia, PA 19103-2029

The term “proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any

other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with "EPA Docket No. CAA-03-2016-0051."

62. The CAA Penalty stated herein is based upon Complainant's consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and is consistent with 40 C.F.R. Part 19 and the *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7) and 40 C.F.R. Part 68* (June 2012).

63. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to 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, as more fully described below. Accordingly, Respondent's failure to make timely payment of the CAA Penalty by the Final Due Date shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.

64. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this CA/FO is mailed or hand-delivered to Respondent. However, EPA will waive interest on any amount of the civil penalty that is paid by the Final 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).

65. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the Final Due Date and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid.

66. A penalty charge of six (6) percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days in accordance with 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent, in accordance with 31 C.F.R. § 901.9(d).

GENERAL PROVISIONS

67. For the purpose of this proceeding, Respondent expressly waives its right to a hearing and to appeal the Final Order under Section 113(d)(2) of the CAA, 42 U.S.C. § 7413(d)(2).

68. The provisions of the CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally

bind Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.

69. This CA/FO resolves only those civil claims which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nothing in this CA/FO shall be construed to limit the United States' authority to pursue criminal sanctions.

70. By signing this Consent Agreement, the undersigned representative of Respondent certifies that he or she 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 he or she represents to this Consent Agreement.

71. By signing this Consent Agreement, all parties agree that each party's obligations under this Consent Agreement and accompanying Final Order constitute sufficient consideration for the other party's obligations.

72. Penalties paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.

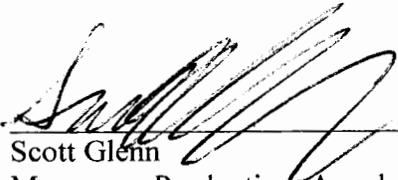
73. Each party to this action shall bear its own costs and attorney's fees.

74. This Consent Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

75. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the CAA, and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

76. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment, nor, in such case, shall this Consent Agreement be construed so as to limit any defense that Respondent may have under the CAA or otherwise.

FOR RESPONDENT CHESAPEAKE APPALACHIA, LLC:



Scott Glenn
Manager – Production, Appalachia South

4/15/15

Date

FOR COMPLAINANT:



Karen Melvin, Acting Division Director
Hazardous Site Cleanup Division
U.S. Environmental Protection Agency, Region 3

FEB 2 2016

Date

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

IN THE MATTER OF:)	
)	
Chesapeake Appalachia, LLC)	EPA Docket No. CAA-03-2016-0051
6100 North Western Avenue)	
Oklahoma City, Oklahoma 73118,)	
)	
Respondent.)	
)	Proceedings Pursuant to Sections 112(r)
)	and 113 of the Clean Air Act, 42 U.S.C.
Smokehouse Compressor Station)	§ 7412, 7413, and 40 C.F.R. § 22.13(b) and
68 Compressor Station Road)	22.18(b)
Chapmanville, West Virginia 25508,)	
)	
Kermit Compressor Station)	
262 Virginia Avenue)	
Kermit, West Virginia, 25526,)	
)	
Facilities.)	

FINAL ORDER

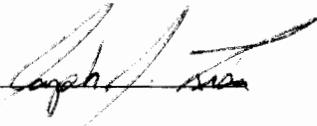
Complainant, the Director of the Hazardous Site Cleanup Division, U.S. Environmental Protection Agency, Region III, and Respondent, Chesapeake Appalachia, LLC, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific references to Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based on the representations of the parties in the attached Consent Agreement, the penalty agreed to herein is consistent with 40 C.F.R. Part 19, and is based upon consideration of, *inter alia*, EPA's *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68* (June 2012), and the statutory factors set forth in Section 113(e) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(e).

NOW, THEREFORE, PURSUANT TO Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **NINETY-EIGHT THOUSAND FIVE HUNDRED FIFTY DOLLARS (\$98,550)**, plus any applicable interest, and comply with the terms and conditions of the Consent Agreement.

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.

Date: Feb. 3, 2016



Joseph J. Lisa
Regional Judicial Officer
U.S. EPA, Region III



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION III
 1650 ARCH STREET
 PHILADELPHIA, PA 19103-2029**

RECEIVED
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 REGIONAL HEARING CLERK
 EPA REGION III, PHILA, PA

IN THE MATTER OF:)

Chesapeake Appalachia, LLC)
6100 North Western Avenue)
Oklahoma City, Oklahoma 73118,)

Respondent.)

Smokehouse Compressor Station)
68 Compressor Station Road)
Chapmanville, West Virginia 25508,)

Kermit Compressor Station)
262 Virginia Avenue)
Kermit, West Virginia, 25526,)

Facilities.)

EPA Docket No. CAA-03-2016-0051

Proceedings Pursuant to Sections 112(r)
and 113 of the Clean Air Act, 42 U.S.C.
§ 7412, 7413, and 40 C.F.R. § 22.13(b) and
22.18(b)

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of the Consent Agreement and Final Order with the Regional Hearing Clerk, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that true and correct copies of the Consent Agreement and Final Order, along with its enclosures and/or attachments, were sent via overnight mail, to:

Allen Doyel, Esq.
 Chesapeake Energy Corporation
 6100 North Western Avenue
 Oklahoma City, OK 73118

Date: 2/3/2016

 Cynthia T. Weiss
 Senior Assistant Regional Counsel
 Counsel for Complainant
 (215) 814-2659

