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United States Environmental Protection Agency, Region IX

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105

_____)	Docket No. TSCA-09-2018- <u>0008</u>
In the Matter of:)	
Chevron U.S.A. Inc.)	CONSENT AGREEMENT
)	AND FINAL ORDER PURSUANT TO
)	40 C.F.R. §§ 22.13 and 22.18
Respondent)	
_____)	

I. CONSENT AGREEMENT

The United States Environmental Protection Agency, Region IX (“EPA Region IX”) and Chevron Energy Technology Company (“Respondent”) agree to settle this case initiated under the Toxic Substances Control Act (“TSCA” or the “Act”), 15 U.S.C. §§ 2601 *et seq.*, and consent to the entry of this Consent Agreement and Final Order (“CAFO”), which simultaneously commences and concludes this matter pursuant to 40 C.F.R. §§ 22.13 and 22.18.

A. AUTHORITY AND PARTIES

1. This is a civil administrative action brought against Respondent pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits at 40 C.F.R. Part 22 for violations of Section 5 of TSCA, 15 U.S.C. § 2604, and its implementing regulations promulgated at 40 C.F.R. Part 720.
2. Complainant is the Chief of the Waste and Chemical Section of the Air, Waste and Toxics Branch, Enforcement Division, EPA Region IX. The Administrator of EPA delegated to the Regional Administrator of EPA Region IX the authority to bring this action under TSCA. In turn, the Regional Administrator of EPA Region IX further delegated the authority to bring this action under TSCA to the Chief of the Waste and Chemical Section of the Air, Waste and Toxics Branch, Enforcement Division.
3. Respondent is Chevron U.S.A. Inc., a Pennsylvania corporation, D/B/A Chevron Energy Technology Company, that owns and/or operates Chevron Richmond Technology Center (the "Facility") located at 100 Chevron Way in Richmond, California.

B. APPLICABLE STATUTORY AND REGULATORY SECTIONS

4. Section 5(a)(1)(A) and (B) of TSCA, 15 U.S.C. §§ 2604(a)(1)(A) and (B), provide that, except as provided in subsection (h) of this section, no person may manufacture a new chemical substance or manufacture or process any chemical substance for a use which the Administrator had determined is a significant new use unless such person submits to the Administrator a notice of intention to manufacture or process such substance at least 90 days before manufacturing or processing.
5. Section 5(h)(3) of TSCA, 15 U.S.C. § 2604(h)(3), provides that the notice requirements of subsections (a) and (b) do not apply to the manufacturing or processing of any chemical substance which is manufactured or processed only in small quantities solely for purposes of chemical research and development of a product if all persons engaged in such research or analysis for a manufacturer or processor are notified of health risks

which the manufacturer or processor or the Administrator has reason to believe may be associated with such chemical substance.

6. EPA promulgated regulations implementing section 5 of TSCA, 15 U.S.C. § 2406, at 40 C.F.R. Part 720 and section 5(h)(3) of TSCA, 15 U.S.C. § 2406(h)(3), at 40 C.F.R. § 720.36.
7. 40 C.F.R. § 720.36(c)(2) provides that the notification requirements of 40 C.F.R. Part 720 do not apply to a manufacturer or importer that distributes a chemical substance manufactured or imported only in small quantities solely for research and development to persons not in its employ if the manufacturer or importer, in written form; (i) notifies those persons that the substance is to be used only for research and development; and (ii) provides the notice of health risks which the manufacturer or importer has reason to believe may be associated with the substance.
8. “Person” means any natural person, firm, company, corporation, joint-venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body, and any department, agency, or instrumentality of the Federal Government. 40 C.F.R. § 720.3(x).
9. “Manufacturer” means a person who imports, produces, or manufactures a chemical substance. 40 C.F.R. § 720.3(t).
10. “Manufacture” means to produce or manufacture in the United States or import into the customs territory of the United States. 40 C.F.R. § 720.3(q).
11. “Chemical substance” means any organic or inorganic substance of a particular molecular identity, including any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and any chemical element or uncombined radical. 40 C.F.R. § 720.3(e).
12. “Small quantities solely for research and development” means quantities of a chemical substance manufactured, imported, or processed solely for research and development that are not greater than reasonably necessary for such purposes. 40 C.F.R. § 720.3(cc).

13. TSCA Section 15(1)(C), 15 U.S.C. § 2614(1)(C), states that it is unlawful for any person to fail or refuse to comply with any rule promulgated or order issued under section 5 of TSCA.
14. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and the Civil Monetary Penalty Inflation Adjustment Rule at 40 C.F.R. Part 19, which implements the Federal Civil Penalties Inflation Adjustment Act of 2015, Pub. L. 114-74, authorize civil penalties not to exceed \$37,500 per day for each violation of Section 15 of TSCA that occurred after January 12, 2009.

C. ALLEGED VIOLATIONS

15. Respondent is a “person” as that term is defined at 40 C.F.R. § 720.3(x).
16. Respondent is a “manufacturer” as that term is defined at 40 C.F.R. § 720.3(t).
17. On or about October 1, 2013, Respondent manufactured and distributed CHEMICAL A, a chemical substance as that term is defined at 40 C.F.R. § 720.3(e), in small quantities solely for research and development, as that term is defined at 40 C.F.R. § 720.3(cc), to persons not in Respondent’s employ without informing those persons in writing that the substance was to be used only for research and development purposes.
18. On or about October 30, 2013, Respondent manufactured and distributed CHEMICAL A, a chemical substance as that term is defined at 40 C.F.R. § 720.3(e), in small quantities solely for research and development, as that term is defined at 40 C.F.R. § 720.3(cc), to persons not in Respondent’s employ without informing those persons in writing that the substance was to be used only for research and development purposes.
19. On or about February 18, 2014, Respondent manufactured and distributed CHEMICAL B, a chemical substance as that term is defined at 40 C.F.R. § 720.3(e), in small quantities solely for research and development, as that term is defined at 40 C.F.R. § 720.3(cc), to persons not in Respondent’s employ without informing those persons in writing that the substance was to be used only for research and development purposes.

20. Respondent's failure to provide written notification that the above-identified chemical substances were being distributed solely for research and development purposes on or about October 1, 2013; October 30, 2013; and February 18, 2014 constitutes three (3) separate violations of 40 C.F.R. § 720.36(c)(2)(i) and TSCA Section 15(1)(C), 15 U.S.C. § 2614(1)(C).

D. RESPONDENT'S ADMISSIONS

21. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in the CAFO; (iii) consents to any and all conditions specified in this CAFO and to the assessment of the civil administrative penalty under Section I.E of this CAFO; (iv) waives any right to contest the allegations contained in the CAFO; and (v) waives the right to appeal the proposed final order contained in this CAFO.

E. CIVIL ADMINISTRATIVE PENALTY

22. In settlement of the civil claims alleged in Section I.C of the CAFO, Respondent hereby consents to the assessment of a civil penalty in the amount of ELEVEN THOUSAND AND ELEVEN DOLLARS (\$11,011). The civil penalty shall be paid within thirty (30) days of the effective date of this CAFO, according to the terms of this CAO. Payment shall be made by cashier's or certified check payable to the "Treasurer, United States of America," or paid by one of the other methods listed below and sent as follows:

Regular Mail:

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

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 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”

Overnight Mail:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
ATTN Box 979077
St. Louis, MO 63101

ACH (also known as REX or remittance express):

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury Facility:
5700 Rivertech Court
Riverdale, MD 20737
Remittance Express (REX): 1-866-234-5681

On Line Payment:

This payment option can be accessed from the information below:

www.pay.gov
Enter “sfo l.1” in the search field
Open form and complete required fields

If clarification regarding a particular method of payment remittance is needed, contact the EPA Cincinnati Finance Center at 513-487-2091.

The payment shall be accompanied by a transmittal letter identifying Respondent, the case name, and the case docket number. Concurrent with delivery of the payment of the penalty, Respondent shall send a copy of the check or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, and transmittal letter to:

Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

Aisha Kennedy
Enforcement Division (ENF-2-2)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

23. Payment of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent's federal, state, or local taxes.
24. If Respondent fails to pay the civil administrative penalty specified in Paragraph 22 of this CAFO within 30 days of entry of this CAFO, then Respondent shall pay to EPA the stipulated penalty of FIVE HUNDRED DOLLARS (\$500.00) for each day the default continues, in addition to the assessed penalty upon written demand by EPA.
25. In addition, failure to pay the civil administrative penalty may lead to any or all of the following actions:
 - a. The debt being referred to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
 - b. The debt being collected by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.

- c. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or (ii) suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds. 40 C.F.R. § 13.17.
- d. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13, interest, penalties charges, and administrative costs will be assessed against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the civil administrative penalty within the deadlines specified in Paragraph 26 of this CAFO. Interest will be assessed at an annual rate that is equal to the rate of current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate) as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c). Administrative costs for handling and collecting Respondent's overdue debt will be based on either actual or average cost incurred, and will include both direct and indirect costs. 40 C.F.R. § 13.11(b). In addition, if this matter is referred to another department or agency (e.g., the Department of Justice, the Internal Revenue Service), that department or agency may assess its own administrative costs, in addition to EPA's administrative costs, for handling and collecting Respondent's overdue debt.

F. RESPONDENT'S CERTIFICATION

- 26. In executing this CAFO, Respondent certifies that it is now in compliance with the federal regulations promulgated to implement TSCA Section 5(h) at 40 C.F.R. § 720.36.

G. RETENTION OF RIGHTS

- 27. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts specifically alleged in the CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability

for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in Section I.C of the CAFO; or (ii) any criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in the CAFO.

28. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

H. ATTORNEYS' FEES AND COSTS

29. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

I. EFFECTIVE DATE

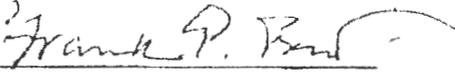
30. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the final order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed.

J. BINDING EFFECT

31. The undersigned representative of Complainant and the undersigned representative of Respondent each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.
32. This CAFO constitutes the entire agreement between the parties resolving this matter arising under TSCA.
33. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

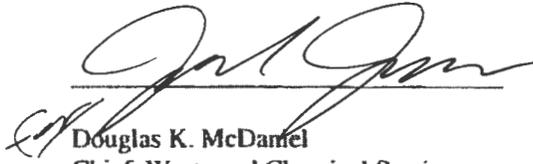
FOR RESPONDENT, CHEVRON U.S.A. Inc., a Pennsylvania Corporation:

September 24, 2018
DATE


By: Frank G. Soler
Title: Assistant Secretary
Address: 6001 Bollinger Canyon Rd. San Ramon, CA 94583

FOR COMPLAINANT, EPA REGION IX:

9/26/18
DATE

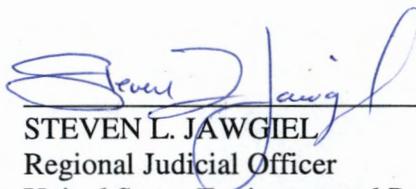

Douglas K. McDanel
Chief, Waste and Chemical Section
Enforcement Division
United States Environmental
Protection Agency, Region IX

II. FINAL ORDER

EPA Region IX and Respondent having entered into the foregoing Consent Agreement,
IT IS HEREBY ORDERED that this CAFO (Docket No. TSCA-09-2018-⁰⁰⁰⁸____) be entered,
and that Respondent shall pay a civil administrative penalty in the amount of ELEVEN
THOUSAND AND ELEVEN DOLLARS (\$11,011), and otherwise comply with the terms and
conditions set forth in the Consent Agreement. This CAFO shall become effective upon filing.

09/27/18

DATE



STEVEN L. JAWGIEL

Regional Judicial Officer

United States Environmental Protection
Agency, Region IX

CERTIFICATE OF SERVICE

I hereby certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the matter of *Chevron U.S.A. Inc.* (TSCA-09-2018-~~0008~~), signed by the Regional Judicial Officer, has been filed with the Regional Hearing Clerk and was served on Respondent, and Counsel for EPA, as indicated below:

BY FIRST CLASS MAIL:
(Certified w/Return Receipt)

Respondent -

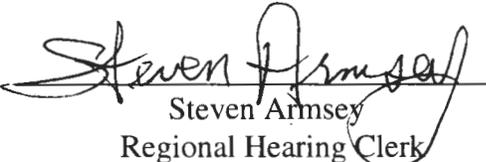
Paul K. Siegele
President & Chief Technology Officer
Chevron Energy Technology Company
1400 Smith Street, Room 14122
Houston, TX 77002-7327

HAND DELIVERED:

Complainant -

David Kim
Office of Regional Counsel
ENVIRONMENTAL PROTECTION AGENCY
75 Hawthorne Street
San Francisco, CA 94105

Date: 2018-09-27


Steven Armsey
Regional Hearing Clerk
EPA, Region 9