



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUN 15 2015

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

REPLY TO THE ATTENTION OF:

Ms. Amber Russell  
Manager  
Joliet Refinery  
ExxonMobil Oil Corporation  
1-55 and Arsenal Road  
25915 East Frontage Road  
Channahon, Illinois 60434

Re: ExxonMobil Oil Corporation, Channahon, Illinois, Consent Agreement and Final Order  
Docket Nos. **MM-05-2015-0003** **CERCLA-05-2015-0005** **EPCRA-05-2015-0018**

Dear Ms. Russell:

Enclosed please find a copy of the fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the original CAFO with the Regional Hearing Clerk on June 15, 2015.

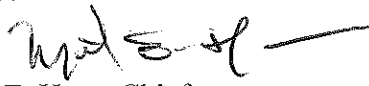
Please pay the Comprehensive Environmental Response, Compensation and Liability Act civil penalty in the amount of \$235,000 in the manner prescribed in paragraph 140, and reference your check with the billing document number 2751530B005 and the docket number **CERCLA-05-2015-0005**.

Please pay the Emergency Planning and Community Right-to-Know Act civil penalty in the amount of \$190,000 in the manner prescribed in paragraph 141, and reference your check with the docket number **EPCRA-05-2015-0018**.

Your payments are due on July 15, 2015.

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. Please direct any legal questions to Stuart Hersh, Associate Regional Counsel, at (312) 886-6235. Thank you for your assistance in resolving this matter.

Sincerely,

  
Michael E. Hans, Chief  
Chemical Emergency Preparedness  
and Prevention Section

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

MM-05-2015-0003

In the Matter of:

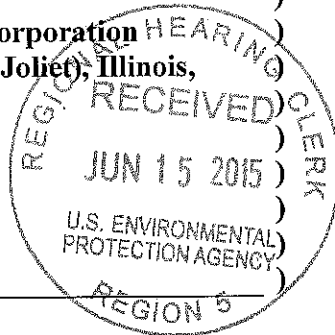
) Docket Nos.  
)

) CERCLA-05-2015-0005 EPCRA-05-2015-0018

ExxonMobil Oil Corporation  
Channahon (a/k/a Joliet), Illinois,

Respondent.

) Proceeding to Assess a Civil Penalty Under  
) Section 109(b) of the Comprehensive  
) Environmental Response, Compensation and  
) Liability Act, and Section 325(b)(2) of the  
) Emergency Planning and Community Right-  
) to-Know Act of 1986



Consent Agreement and Final Order  
Preliminary Statement

1. This is an administrative action commenced and concluded under Section 109(b) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609(b), Section 325(b)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(b)(2), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is, by lawful delegation, the Chief of the Enforcement and Compliance Assurance Branch, Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is ExxonMobil Oil Corporation (ExxonMobil), a New York corporation doing business in the State of Illinois.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and the terms of the CAFO.

**Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO.

8. Respondent neither admits nor denies the factual allegations in this CAFO and makes no other admissions as a result of entering into this CAFO, except as provided in paragraph 7.

9. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

**Statutory and Regulatory Background**

10. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires any person in charge of a facility to immediately notify the National Response Center (NRC) as soon as that person has knowledge of any release of a hazardous substance from the facility in an amount equal to or greater than the reportable quantity of the hazardous substance.

11. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and Section 304 of EPCRA, 42 U.S.C. § 11004, provide a mechanism to alert federal, state and local agencies that a response action may be necessary to prevent deaths or injuries to emergency responders, facility personnel and the local community. A delay or failure to notify could seriously hamper the governments' response to an emergency and pose serious threats to human health and the environment.

12. Section 304(a)(2) of EPCRA, 42 U.S.C. § 11004(a)(2), requires that the owner or operator of a facility must immediately provide notice, as described in Section 304(b) of

EPCRA, 42 U.S.C. § 11004(b), if a release of an extremely hazardous substance in quantities equal to or greater than a reportable quantity occurs from a facility at which hazardous chemicals are produced, used or stored and such release occurred in a manner which would require notice under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

13. Under Section 304(b) of EPCRA, 42 U.S.C. § 11004(b), notice required under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), must be given immediately after the release by the owner or operator of a facility to the community emergency coordinator for the local emergency planning committee (LEPC) for any area likely to be affected by the release and to the state emergency response commission (SERC) of any state likely to be affected by a release.

14. Prior to March 26, 2012, chemicals listed in 29 C.F.R. Part 1910, Subpart Z are hazardous under 29 C.F.R. § 1910.1200(d)(3). On or after March 26, 2012, a hazardous chemical means any chemical which is classified as a physical hazard or a health hazard, a simple asphyxiant, combustible dust, pyrophoric gas, or hazard not otherwise classified. See, 29 C.F.R. Part 1910.1200(c); 77 Fed. Reg. 17786 (March 26, 2013).

15. Section 109(b) of CERCLA, 42 U.S.C. § 9609(b), and Section 325(b)(2) of EPCRA, 42 U.S.C. § 11045(b)(2), authorize U.S. EPA to assess a civil penalty of up to \$25,000 per day of violation of CERCLA Section 103 and EPCRA Section 304 and, in the case of a second or subsequent violation, authorize U.S. EPA to assess a civil penalty of up to \$75,000 per day of violation of CERCLA Section 103 and EPCRA Section 304. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and its implementing regulations at 40 C.F.R. Part 19 increased these statutory maximum penalties to \$32,500 per day of violation that occurred after March 15, 2004 through January 12, 2009 and to \$37,500 per day of violation for violations that occurred after January 12, 2009; and in the case of a second or subsequent violation, increased

these statutory maximum penalties to \$97,500 per day of violation that occurred after March 15, 2004 through January 12, 2009, and to \$107,500 per day of violation that occurred for violations that occurred after January 12, 2009 through December 6, 2013 and \$117,500 per day of violation for violations that occurred after January 12, 2009.

#### **Factual Allegations and Alleged Violations**

16. Respondent is a “person” as that term is defined under Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

17. Respondent is a “person” as that term is defined under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

18. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 25915 SE Frontage Road, Channahon, Illinois (Channahon facility) (a/k/a Joliet facility).

19. At all times relevant to this CAFO, Respondent was in charge of the Channahon facility.

20. Respondent’s Channahon facility consists of buildings, structures, installations, equipment, pipe or pipelines, impoundments, storage containers, motor vehicles, rolling stock or any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located.

21. Respondent’s Channahon facility is a “facility” as that term is defined under Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

22. Respondent’s Channahon facility consists of buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites, and which are owned or operated by the same person.

23. Respondent's Channahon facility is a "facility" as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

24. Sulfur dioxide (CAS #7446-09-5) is listed as a toxic and hazardous substance under OSHA regulations at 29 C.F.R. Part 1910, Subpart Z, and 29 C.F.R. § 1910.1000, Table Z-1.

25. Sulfur dioxide (CAS #7446-09-5) is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

26. At all times relevant to this CAFO, Respondent produced, used, or stored sulfur dioxide at the Channahon facility.

27. Sulfur dioxide (CAS #7446-09-5) is an "extremely hazardous substance" according to Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2).

28. Sulfur dioxide (CAS #7446-09-5) has a reportable quantity of 500 pounds in any continuous 24 hour period, as indicated at 40 C.F.R. Part 355, Appendix A.

29. Respondent operates a continuous flow monitoring system that may indicate an unanticipated flow that may contain hazardous substances and extremely hazardous substances, which may have been spilled, emitted, or discharged into the air from the Respondent's flares.

30. Among other things, Respondent's flow monitoring system is designed and operated to initiate an immediate investigation that may determine whether there had been a hazardous substance or an extremely hazardous substance release exceeding a reportable quantity pursuant to Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2), and/or Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

31. On December 17, 2008 starting at or about 2:00 p.m. and concluding within a 24 hour period, a release occurred from Respondent's Channahon facility of approximately 4,713 pounds of sulfur dioxide (the December 17, 2008 release).

32. In a 24 hour time period, the December 17, 2008 release of sulfur dioxide exceeded 500 pounds.

33. The December 17, 2008 release exceeded the sulfur dioxide reportable quantity beginning at or about 2:15 p.m. on December 17, 2008.

34. During the December 17, 2008 release, approximately 4,713 pounds of sulfur dioxide spilled, emitted, or discharged into air, water, or land.

35. The December 17, 2008 release is a "release" as that term is defined under Section 329(8) of EPCRA, 42 U.S.C. § 11049(8).

36. Respondent had knowledge of the December 17, 2008 release, on December 17, 2008, at approximately 2:00 p.m.

37. Respondent had knowledge that the December 17, 2008, release exceeded the sulfur dioxide reportable quantity of 500 pounds, on December 17, 2008, at or about 2:15 p.m.

38. The December 17, 2008 release occurred in a manner which would require notification under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

39. The December 17, 2008 release required notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

40. On July 20, 2009 beginning at or about 7:30 p.m., a release of sulfur dioxide occurred from Respondent's Channahon facility (the July 20-24, 2009 release).

41. The July 20, 2009 release continued on each successive day from Respondent's Channahon facility, ending on July 24, 2009, at or about 12:50 a.m., a period of at least 3 days and 5 hours.

42. The July 20-24, 2009 release exceeded the sulfur dioxide reportable quantity beginning at or about 9:30 p.m. on July 20, 2009, and exceeded the sulfur dioxide reportable

quantity at or about 9:30 p.m. on each successive 24 hour period through July 23, 2009.

43. Respondent's release of sulfur dioxide exceeded 500 pounds in each 24 hour time period from the beginning of the release of a reportable quantity on July 20, 2009 at or about 9:30 p.m. to the termination of the release on July 24, 2009, at or about 12:50 a.m.

44. During the July 20-24, 2009 release, Respondent spilled, emitted, or discharged into air, water, or land approximately 35,664 pounds of sulfur dioxide.

45. The July 20-24, 2009 releases ending on July 24, 2009 of sulfur dioxide are each a "release" as that term is defined under Section 329(8) of EPCRA, 42 U.S.C. § 11049(8).

46. Respondent had knowledge of the July 20-24, 2009 sulfur dioxide releases, on July 20, 2009, at approximately 9:30 p.m., and at approximately 9:30 p.m., on each successive 24 hour period through July 23, 2009. The July 20-24, 2009 releases occurred in a manner which would require notification each 24 hour period under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

47. The July 20-24, 2009 sulfur dioxide release required notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

48. Resource Conservation and Recovery Act (RCRA) waste code F037 is a "hazardous substance" as that term is defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

49. RCRA waste code F037 has a reportable quantity of 1 pound, as indicated at 40 C.F.R. Part 302, Table 302.4.

50. RCRA waste code F038 is a "hazardous substance" as that term is defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

51. RCRA waste code F038 has a reportable quantity of 1 pound, as indicated at 40 C.F.R. Part 302, Table 302.4.



52. On October 31, 2009, a release occurred from Respondent's facility of approximately 25,000 pounds of RCRA waste code F037 (the October 31, 2009 F037 release).

53. In a 24 hour time period, the release of RCRA waste code F037 exceeded 1 pound.

54. During the October 31, 2009 F037 release, approximately 25,000 pounds of RCRA waste code F037 spilled, leaked, pumped, poured, emptied, discharged, dumped or disposed into the surface water, land surface, subsurface strata or a soil-lined engineered basin or impoundment designated as the Equalization and Biological Treatment Unit (EBTU).

55. The October 31, 2009 F037 release is a "release" as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

56. Respondent had knowledge of the October 31, 2009 F037 release on October 31, 2009.

57. The October 31, 2009 F037 release was one for which notice was required under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

58. On November 1, 2009, a release occurred from Respondent's facility of approximately 25,000 pounds of RCRA waste code F037 (the November 1, 2009 F037 release).

59. In a 24 hour time period, the release of RCRA waste code F037 exceeded 1 pound.

60. During the November 1, 2009 F037 release, approximately 25,000 pounds of RCRA waste code F037 spilled, leaked, pumped, poured, emptied, discharged, dumped or disposed into the surface water, land surface, subsurface strata or a soil-lined engineered basin or impoundment designated as the EBTU.

61. The November 1, 2009 F037 release is a "release" as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

62. Respondent had knowledge of the November 1, 2009 F037 release on November 1,

2009.

63. The November 1, 2009 F037 release was one for which notice was required under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

64. On October 31, 2009, a release occurred from Respondent's facility of approximately 25,000 pounds of RCRA waste code F038 (the October 31, 2009 F038 release).

65. In a 24 hour time period, the release of RCRA waste code F038 exceeded 1 pound.

66. During the October 31, 2009 F038 release, approximately 25,000 pounds of RCRA waste code F038 spilled, leaked, pumped, poured, emptied, discharged, dumped or disposed into the surface water, land surface, subsurface strata or a soil-lined engineered basin or impoundment designated as the EBTU.

67. The October 31, 2009 F038 release is a "release" as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

68. Respondent had knowledge of the October 31, 2009 F038 release on October 31, 2009.

69. The October 31, 2009 F038 release was one for which notice was required under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

70. On November 1, 2009, a release occurred from Respondent's facility of approximately 25,000 pounds of RCRA waste code F038 (the November 1, 2009 F038 release).

71. In a 24 hour time period, the release of RCRA waste code F038 exceeded 1 pound.

72. During the November 1, 2009 F038 release, approximately 25,000 pounds of RCRA waste code F038 spilled, leaked, pumped, poured, emptied, discharged, dumped or disposed into the surface water, land surface, subsurface strata or a soil-lined engineered basin or impoundment designated as the EBTU.

73. The November 1, 2009 F038 release is a “release” as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

74. Respondent had knowledge of the November 1, 2009 F038 release on November 1, 2009.

75. The November 1, 2009 F038 release was one for which notice was required under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

76. On or around December 20, 2012, U.S. EPA approved the ExxonMobil Joliet Refinery EBTU Response Completion and Clean Closure Report, dated November 30, 2012.

77. Each sulfur dioxide release was likely to affect Illinois.

78. At all times relevant to this CAFO, the Illinois Emergency Management Agency was the SERC for Illinois under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

79. Each sulfur dioxide release was likely to affect Will County, Illinois.

80. At all times relevant to this CAFO, the Will County LEPC was the LEPC for Will County, Illinois under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

81. On December 13, 2005, a Federal District Court Judge entered a Consent Decree (2005 Consent Decree) resolving violations at several Exxon facilities including the Channahon facility of, among other allegations, the failure to provide immediate notification of a release of a hazardous substance above the reportable quantity pursuant to Section 304 of EPCRA and Section 103 of CERCLA.

82. The 2005 Consent Decree resolved, *inter alia*, Respondent’s failure to immediately report releases of reportable quantities of a hazardous substances pursuant to EPCRA Section 304 and CERCLA Section 103.

### Count 1

83. Complainant incorporates paragraphs 1 through 83 of this CAFO as if set forth in this paragraph.

84. Respondent notified the Illinois SERC of the December 17, 2008 sulfur dioxide release on December 17, 2008, at 4:10 p.m.

85. Respondent did not immediately notify the SERC after Respondent had knowledge of the December 17, 2008 sulfur dioxide release.

86. Respondent's failure to immediately notify the SERC of the December 17, 2008 sulfur dioxide release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

### Count 2

87. Complainant incorporates paragraphs 1 through 83 of this CAFO as if set forth in this paragraph.

88. Respondent notified the LEPC of the December 17, 2008 sulfur dioxide release on December 17, 2008, at 4:15 p.m.

89. Respondent did not immediately notify the LEPC after Respondent had knowledge of the December 17, 2008 sulfur dioxide release.

90. Respondent's failure to immediately notify the LEPC of the December 17, 2008 sulfur dioxide release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

### Count 3

91. Complainant incorporates paragraphs 1 through 83 of this CAFO as if set forth in this paragraph.

92. Respondent notified the Illinois SERC of the July 20, 2009 sulfur dioxide release on July 24, 2009, at 1:42 a.m.

93. Respondent did not immediately notify the SERC after Respondent had knowledge of the July 20, 2009 sulfur dioxide release.

94. Each of the four days that Respondent failed to immediately notify the SERC of the July 20, 2009 sulfur dioxide release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

**Count 4**

95. Complainant incorporates paragraphs 1 through 83 of this CAFO as if set forth in this paragraph.

96. Respondent notified the LEPC of the July 20, 2009 sulfur dioxide release on July 24, 2009, at 1:50 a.m.

97. Respondent did not immediately notify the LEPC after Respondent had knowledge of the July 20, 2009 sulfur dioxide release.

98. Each of the four days that Respondent failed to immediately notify the LEPC of the July 20, 2009 sulfur dioxide release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

**Count 5**

99. Complainant incorporates paragraphs 1 through 83 of this CAFO as if set forth in this paragraph.

100. Respondent notified the Illinois SERC of the July 21, 2009 sulfur dioxide release on July 24, 2009, at 1:42 a.m.

101. Respondent did not immediately notify the SERC after Respondent had knowledge of the July 21, 2009 sulfur dioxide release.

102. Each of the three days that Respondent failed to immediately notify the SERC of the

July 21, 2009 sulfur dioxide release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

**Count 6**

103. Complainant incorporates paragraphs 1 through 83 of this CAFO as if set forth in this paragraph.

104. Respondent notified the LEPC of the July 21, 2009 sulfur dioxide release on July 24, 2009, at 1:50 a.m.

105. Respondent did not immediately notify the LEPC after Respondent had knowledge of the July 21, 2009 sulfur dioxide release.

106. Each of the three days that Respondent failed to immediately notify the LEPC of the July 21, 2009 sulfur dioxide release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

**Count 7**

107. Complainant incorporates paragraphs 1 through 83 of this CAFO as if set forth in this paragraph.

108. Respondent notified the Illinois SERC of the July 22, 2009 sulfur dioxide release on July 24, 2009, at 1:42 a.m.

109. Respondent did not immediately notify the SERC after Respondent had knowledge of the July 22, 2009 sulfur dioxide release.

110. Each of the two days that Respondent failed to immediately notify the SERC of the July 22, 2009 sulfur dioxide release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

**Count 8**

111. Complainant incorporates paragraphs 1 through 83 of this CAFO as if set forth in this paragraph.

112. Respondent notified the LEPC of the July 22, 2009 sulfur dioxide release on July 24, 2009, at 1:50 a.m.

113. Respondent did not immediately notify the LEPC after Respondent had knowledge of the July 22, 2009 sulfur dioxide release.

114. Each of the two days that Respondent failed to immediately notify the LEPC of the July 22, 2009 sulfur dioxide release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

**Count 9**

115. Complainant incorporates paragraphs 1 through 83 of this CAFO as if set forth in this paragraph.

116. Respondent notified the Illinois SERC of the July 23, 2009 sulfur dioxide release on July 24, 2009, at 1:42 a.m.

117. Respondent did not immediately notify the SERC after Respondent had knowledge of the July 23, 2009 sulfur dioxide release.

118. Each day that Respondent failed to immediately notify the SERC of the July 23, 2009 sulfur dioxide release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

**Count 10**

119. Complainant incorporates paragraphs 1 through 83 of this CAFO as if set forth in this paragraph.

120. Respondent notified the LEPC of the July 23, 2009 sulfur dioxide release on July

24, 2009, at 1:50 a.m.

121. Respondent did not immediately notify the LEPC after Respondent had knowledge of the July 23, 2009 sulfur dioxide release.

122. Each day that Respondent failed to immediately notify the LEPC of the July 23, 2009 sulfur dioxide release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

#### **Count 11**

123. Complainant incorporates paragraphs 1 through 83 of this CAFO as if set forth in this paragraph.

124. As of January 23, 2015, Respondent had not notified the NRC of the October 31, 2009 F037 release.

125. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the October 31, 2009 F037 release.

126. Respondent's failure to immediately notify the NRC of the October 31, 2009 F037 release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

#### **Count 12**

127. Complainant incorporates paragraphs 1 through 83 of this CAFO as if set forth in this paragraph.

128. As of January 23, 2015, Respondent had not notified the NRC of the November 1, 2009 F037 release.

129. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the November 1, 2009 F037 release.

130. Respondent's failure to immediately notify the NRC of the November 1, 2009 F037 release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).



**Count 13**

131. Complainant incorporates paragraphs 1 through 83 of this CAFO as if set forth in this paragraph.

132. As of January 23, 2015, Respondent had not notified the NRC of the October 31, 2009 F038 release.

133. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the October 31, 2009 F038 release.

134. Respondent's failure to immediately notify the NRC of the October 31, 2009 F038 release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

**Count 14**

135. Complainant incorporates paragraphs 1 through 83 of this CAFO as if set forth in this paragraph.

136. As of January 23, 2015, Respondent had not notified the NRC of the November 1, 2009 F038 release.

137. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the November 1, 2009 F038 release.

138. Respondent's failure to immediately notify the NRC of the November 1, 2009 F038 release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

**Civil Penalty**

139. Complainant has determined that an appropriate civil penalty to settle this action is \$425,000, as follows: \$235,000 for the CERCLA violations and \$190,000 for the EPCRA violations. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, and with respect to Respondent, its ability to

pay, prior history of violations, degree of culpability, economic benefit or savings (if any) resulting from the violations and any other matters as justice may require. Complainant also considered U.S. EPA's Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response Compensation and Liability Act, dated September 30, 1999 (EPCRA/CERCLA Enforcement Response Policy).

140. Within 30 days after the effective date of this CAFO, Respondent must pay a \$235,000 civil penalty for the CERCLA violations. Respondent must pay the CERCLA penalty by sending electronic funds transfer, payable to "EPA Hazardous Substance Superfund," and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire should read:  
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state the following:  
ExxonMobil Oil Corporation, the docket number of this CAFO and the billing document number.

141. Within 30 days after the effective date of this CAFO, Respondent must pay a \$190,000 civil penalty for the EPCRA violations. Respondent must pay the EPCRA penalty by sending electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire should read:  
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state the following:

ExxonMobil Oil Corporation, the docket number of this CAFO and the billing document number.

142. A transmittal letter, stating Respondent's name, the case name, Respondent's complete address, the case docket numbers and the billing document number, if any, must accompany each payment. Respondent must send a copy of the payments and transmittal letter to:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604-3590

James Entzminger (SC-5J)  
Chemical Emergency Preparedness  
and Prevention Section  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604-3590

Stuart Hersh (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604-3590

143. This civil penalty is not deductible for federal tax purposes.

144. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action

to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

145. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

#### **General Provisions**

146. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

147. This CAFO does not affect the rights of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

148. Respondent certifies that to the best of its knowledge and as of the date of this CAFO, it is in compliance with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and Section 304 of EPCRA, 42 U.S.C. § 11004.

149. This CAFO does not affect Respondent's responsibility to comply with CERCLA, EPCRA and other applicable federal, state and local laws and regulations.

150. This CAFO is a "final order" for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

151. The terms of this CAFO bind Respondent and its successors and assigns.

152. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

153. Each party agrees to bear its own costs and attorney's fees in this action.

154. This CAFO constitutes the entire agreement between the parties.

**In the Matter of: ExxonMobil oil Corporation, Joliet, Illinois**  
**Docket No. MM-05-2015-0003 CERCLA-05-2015-0005 EPCRA-05-2015-0018**

**ExxonMobil Oil Corporation, Respondent**

May 5, 2015  
Date

Amber Russell  
Amber Russell  
Joliet Refinery Manager  
ExxonMobil Oil Corporation

In the Matter of: ExxonMobil oil Corporation, Joliet, Illinois  
Docket No. MM-05-2015-0003 CERCLA-05-2015-0005 EPCRA-05-2015-0018

U.S. Environmental Protection Agency, Complainant

June 5, 2015  
Date

M. Cecilia Moore  
M. Cecilia Moore, Chief  
Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency  
Region 5


6-5-15  
Date

Richard C. Karl  
Richard C. Karl, Director  
Superfund Division  
U.S. Environmental Protection Agency  
Region 5

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

11 June 2015  
Date

  
\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

In the Matter of: ExxonMobil Oil Corporation, Joliet, Illinois  
Docket No. MM-05-2015-0003      CERCLA-05-2015-0005    EPCRA-05-2015-0018

Certificate of Service

I certify that I sent a true and correct copy of the foregoing Consent Agreement and Final Order, which was filed on June 15, 2015 in the following manner to the addressees:

Copy by Certified Mail

Return Receipt Requested: Amber Russell, Manager  
Joliet Refinery  
Exxon Mobil Oil Corporation  
1-55 and Arsenal Road  
25915 E. Frontage Road  
Channahon, Illinois 60434

Copy by E-mail to

Attorney for Complainant: Stuart Hersh  
Hersh.stuart@epa.gov

Copy by E-mail to

Regional Judicial Officer: Ann Coyle  
Coyle.ann@epa.gov

Dated: June 15, 2015



LaDawn Whitehead, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604  
(312) 886-3713