

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

In the Matter of:)

Talisman Energy USA Inc.)
50 Pennwood Place)
Warrendale, Pennsylvania,)

Respondent.)

**CONSENT AGREEMENT AND
FINAL ORDER**

Docket Number: EPCRA-02-2011-01

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2012 OCT -3 A 9:55
REGIONAL HEARING
CLERK

PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order (“CA/FO”) is issued pursuant to Section 325 of the Emergency Planning and Community Right to Know Act (“EPCRA”), 42 U.S.C. § 11045. The Complainant in this action is the Director of the Emergency and Remedial Response Division of the United States Environmental Protection Agency, Region 2 (“EPA”), who has been delegated the authority to institute this action.

2. Pursuant to Section 22.13 of the Consolidated Rules of Practice, of Part 40 of the Code of Federal Regulations (“CFR”) § 22.13(b), where parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may simultaneously be commenced and concluded by the issuance of a CA/FO pursuant to 40 CFR §§ 22.18(b)(2) and (3).

3. EPA and Respondent Talisman Energy USA Inc. (“Respondent”) agree that settling this matter by entering into this CA/FO pursuant to 40 CFR § 22.13(b) and 40 CFR §§ 22.18(b)(2) and (3) is an appropriate means of resolving this case without litigation.

STATUTORY BACKGROUND

1. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and the regulations found at 40 CFR Part 370, provide that the owner or operator of a facility which is required to prepare or have available a Material Safety Data Sheet (“MSDS”) for a hazardous chemical under the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651, *et seq.* (“OSHA”) shall submit a completed emergency and hazardous chemical inventory form (Tier I or Tier II form) to the Local Emergency Planning Committee (“LEPC”), the State Emergency Response Commission (“SERC”), and the local fire department with jurisdiction over the facility, by March 1, 1988 (and annually thereafter). This inventory form must contain the information required by Section 312 of EPCRA and 40 CFR Part 370 for all hazardous chemicals which have been present at the facility at any one time during the preceding year in amounts equal to or greater than the threshold levels set forth in 40 CFR § 370.10.

2. Section 325 of EPCRA, 42 U.S.C. § 11045, provides for the assessment of penalties for violations of Section 312 of EPCRA.

FINDINGS OF FACT

1. Respondent owns and/or operates at least four natural gas facilities in the State of New York. These facilities are located at: 1) Markel Hollow Road, Corning, NY, (the "Corning Facility") 2) Post Creek Road, Caitlin, NY, (the "Post Creek Road Facility") 3) Owen Hollow Road, Big Flats, NY (the "Big Flats Facility") and 4) Sawdey Road, Caitlin, NY (the "Sawdey Road Facility"), (referred to collectively as "the Four Facilities").

2. On or about August 24, 2010, EPA conducted an inspection at another of Respondent's facilities, located in Horseheads, New York, and obtained information about the Four Facilities. Respondent used methanol in its operations at the Four Facilities at the time of the inspection and at all times relevant to the matters herein.

EPA'S CONCLUSIONS OF LAW

1. Respondent is, and at all times referred to herein was, a "person," within the meaning of Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

2. Respondent owned and/or operated the Corning Facility at the time of EPA's August 24, 2010 inspection and during the relevant periods described herein.

3. Respondent owned and/or operated the Post Creek Road Facility at the time of EPA's August 24, 2010 inspection and during the relevant periods described herein.

4. Respondent owned and/or operated the Big Flats Facility at the time of EPA's August 24, 2010 inspection and during the relevant periods described herein.

5. Respondent owned and/or operated the Sawdey Road Facility at the time of EPA's August 24, 2010 inspection and during the relevant periods described herein.

6. Each of the Four Facilities is a "facility," as defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

7. Methanol is a "hazardous chemical" as defined under Section 329(5) of EPCRA, 42 U.S.C. § 11049(5), with a minimum threshold level for reporting of 10,000 pounds pursuant to 40 C.F.R. § 370.10.

8. In the year 2010 and at least three prior years, methanol was present at each of the Four Facilities in quantities above the threshold level set forth in 40 C.F.R. § 370.10, and Respondent was required under OSHA to prepare or have available an MSDS for methanol for each of the Four Facilities. Therefore, Respondent was required, pursuant to Section 312 of EPCRA, 42 U.S.C. § 11022, to submit a completed emergency and hazardous chemical inventory form (Tier I or Tier II form) for the methanol present at each of the Four Facilities in each such

calendar year to the LEPC, the SERC, and the fire department with jurisdiction over the Facility by March 1 of the following year.

9. As of the date of the EPA inspection, Respondent had not timely submitted completed emergency and hazardous chemical inventory forms (Tier I or Tier II form) for methanol for the Four Facilities for the calendar year 2009 and at least three prior years, to the LEPC, the SERC and/or the local fire department with jurisdiction over Respondent's facility. Thus, Respondent violated the reporting requirements of Section 312 of EPCRA, 42 U.S.C. § 11022, and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

CONSENT AGREEMENT

Based upon the foregoing, and pursuant to Section 325 of EPCRA 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), it is hereby agreed by and between Complainant and Respondent, as follows:

1. For the purpose of this proceeding and in the interest of an expeditious resolution of this matter pursuant to 40 C.F.R. § 22.18(b)(2), Respondent: a) admits the EPA has jurisdiction to commence a civil administrative proceeding for the violations alleged above; b) admits the Findings of Fact set forth above; c) consents to the assessment of the civil penalty as set forth below; d) consents to the issuance of the Final Order accompanying this Consent Agreement; and e) waives its right to contest the Findings of Fact or appeal the attached Final Order in any forum.

2. Respondent neither admits nor denies the EPA Conclusions of Law set forth above.

3. Respondent hereby certifies that it is now in compliance with all applicable requirements of Section 312 of EPCRA, 42 U.S.C. § 11022.

4. Respondent agrees to pay a civil penalty in the total amount of forty two thousand eight hundred dollars (\$42,800.00), as described below. Such payment shall be made by cashier's or certified check or by Electronic Fund Transfer ("EFT"). Payment of the penalty must be received by EPA on or before thirty calendar days after the date of signature of the Final Order at the end of this document (hereinafter referred to as the "due date").

If the payment is made by check, then the check shall be made payable to the "Treasurer, United States of America" and shall be mailed to:

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

The check shall be identified with a notation listing the following: "In the Matter of Talisman Energy USA Inc." and shall bear thereon "Docket Number EPCRA-02-2012-4001."

If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- a. Amount of Payment (\$42,800)
- b. SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- c. Account Code for Federal Reserve Bank of New York receiving payment:
68010727
- d. Federal Reserve Bank of New York ABA routing number: 021030004
- e. Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"
- f. Name of Respondent: Talisman Energy USA Inc.
- g. Case Number: EPCRA-02-2012-2001

If payment is made by check, Respondent shall simultaneously furnish proof that such payment has been made to:

Carol Y. Berns
Assistant Regional Counsel
U.S. Environmental Protection Agency
290 Broadway, 17th Floor
New York, New York 10007

and

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007.

If payment is made by EFT, Respondent shall simultaneously send a letter to each of the above addressees which references the date of the EFT, the payment amount, the name of the case, the case number, and Respondent's name and address.

- a) Failure to pay the penalty in full according to the above provisions may result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for appropriate enforcement, including collection of the amount set forth in this Paragraph plus allowable interest and such other penalties as provided for in this Consent Agreement.
- b) Further, if payment is not received on or before the due date, Respondent agrees to the assessment of interest, at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, on the overdue

amount from the due date through the date of payment. In addition, Respondent agrees to pay a late payment handling charge of \$15 for each thirty day period (or any portion thereof) following the due date in which the balance remains unpaid.

- c) Respondent agrees that a 6% per annum penalty will also be applied on any principal amount not paid within ninety days of the due date.

5. The penalties specified in Paragraph 4, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of State or Federal taxes.

6. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full and final settlement of the civil liability that might have attached under Section 312 of EPCRA, 42 U.S.C. § 11022, as a result of the violations set forth in the "EPA Conclusions of Law" section, above, and Respondent's payment of the civil penalty in accordance with the terms and conditions of this section shall resolve any such liability.

7. Respondent has read the Consent Agreement, understands its terms, and voluntarily consents to its issuance and its terms and conditions, including payment of the full amount of the civil penalty in accordance with the terms set forth above. Respondent also consents to the issuance of the accompanying Final Order.

8. Respondent waives its right to request and/or obtain a hearing on this Consent Agreement, or the accompanying Final Order, including any right to contest any of the Findings of Fact and EPA Conclusions of Law set forth in said Consent Agreement and any right to contest any of the terms or conditions set forth in said Consent Agreement.

9. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions between EPA staff and the Regional Administrator or Deputy Regional Administrator of EPA Region 2, or their designee, and further waives the right to be served with and to reply to any memorandum or communication addressed by EPA staff to the Regional Administrator or Deputy Regional Administrator, or their designee, where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

10. This CA/FO and any provision herein shall not be construed as an admission of liability in any adjudicatory or administrative proceeding, except in an action, suit, or proceeding to enforce this CA/FO or any of its terms and conditions.

11. This CA/FO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, State, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, State, or local permit. Nothing in this CA/FO is intended to nor shall be construed to operate in any way to resolve any criminal liability of Respondent. Compliance with this CA/FO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

12. Each party hereto shall bear its own costs and fees in this matter.

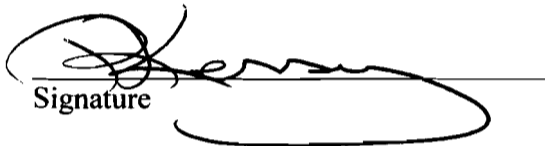
13. Full and complete satisfaction of the requirements of this CA/FO shall resolve Respondent's liability for federal civil penalties for the violations and facts alleged herein.

14. The person signing below on behalf of Respondent hereby certifies that he or she is fully authorized by Respondent to execute this Consent Agreement on behalf of Respondent and to legally bind Respondent to this Consent Agreement in accordance with all of the terms and conditions contained herein.

15. The Director of the Emergency and Remedial Response Division of EPA Region 2 has been delegated the authority to sign the Consent Agreement in this action, and the Regional Administrator of EPA Region 2 has been delegated the authority to sign the Final Order in this action.

16. Respondent consents to service upon Respondent of a copy of this CA/FO by any EPA employee, in lieu of service made by the EPA Region 2 Regional Hearing Clerk.

For Respondent
Talisman Energy USA Inc.:


Signature

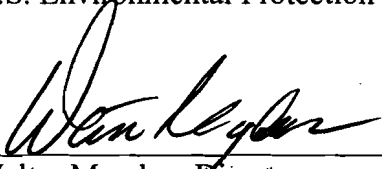
Date: 2012-07-26

Rick Kessy
Name (Printed or Typed)

Vice President Marcellus Delivery Unit
Title (Printed or Typed)

Consent Agreement In the Matter of Talisman Energy USA Inc.
Docket Number: EPCRA-02-2012-4001

For Complainant
U.S. Environmental Protection Agency:



Walter Mugdan, Director
Emergency and Remedial Response
Division, Region 2

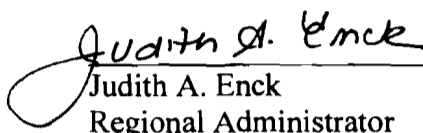
Date: Sept. 27, 2012

In the Matter of Talisman Energy USA Inc.
Docket Number: EPCRA-02-2012-4001

FINAL ORDER

The Consent Agreement In the Matter of Talisman Energy USA Inc., Docket Number: EPCRA-02-2012-2001, signed on behalf of Respondent Talisman Energy USA Inc. and the Environmental Protection Agency, is hereby approved, incorporated herein, and issued by U.S. EPA as a Final Order. The effective date of this Final Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.

9-27-12
Date



Judith A. Enck
Regional Administrator
U.S. EPA, Region 2

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

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In the Matter of:) **Docket No. EPCRA-02-2012-4001**
)
) CONSENT AGREEMENT AND
) FINAL ORDER
)
Talisman Energy USA Inc.)
50 Pennwood Place)
Warrendale, Pennsylvania)
) Under Section 325 of the
) Emergency Planning and Community Right
) to Know Act, 42 U.S.C. § 11045
)
Respondent.)
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CERTIFICATION OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, has been sent this day in the following manner to the addressees listed below:

Original and One Copy by hand delivery to:

Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

Copy by certified mail to:

Emily Lewis, Esq.
Legal Counsel
Talisman Energy USA Inc.
50 Pennwood Place
Warrendale, PA 15086

Date: October 3, 2012
Name: Brenda Hadley
Title: Branch Secretary
Address: 290 Broadway, NYC 10007