



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 WYNKOOP STREET
DENVER, CO 80202-1129
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<http://www.epa.gov/region08>

2014 OCT 20 PM 1:59

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: EPCRA-08-2015-0001

IN THE MATTER OF:

FRONTIER REFINING, LLC.
FRONTIER REFINERY
300 Morrie Avenue
Cheyenne, WY 82007


Respondent

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FINAL ORDER

Pursuant to 40 C.F.R. §22.13(b) and 22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 20th Day of October, 2014



Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2014 OCT 20 PM 2:00

T. L. L. G.
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)
)
Frontier Refining, LLC)
Frontier Refinery)
300 Morrie Avenue)
Cheyenne, Wyoming 82007)
)
Respondent)
_____)

**COMBINED COMPLAINT AND
CONSENT AGREEMENT**

DOCKET NO. : EPCRA-08-2015-0001

Complainant, United States Environmental Protection Agency, Region 8 (the EPA or Complainant), and Respondent, Frontier Refining, LLC (Respondent) (together, the Parties), hereby consent and agree as follows:

1. This Combined Complaint and Consent Agreement (CCCA) is entered into by the Parties pursuant to section 325(c) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 11045, also known as the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA), for alleged violations of the implementing regulations associated with the Toxic Release Inventory (TRI) requirements of section 313 of the EPCRA, 42 U.S.C. § 11023. This proceeding is subject to the EPA's *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits* (Rules of Practice), 40 C.F.R. part 22.
2. The undersigned EPA official has been properly delegated the authority to enter into this CCCA.
3. 40 C.F.R. § 22.13(b) provides that where the parties agree to settle one or more causes of action before the filing of a complaint, an administrative action may be commenced and concluded simultaneously by the issuance of a CCCA.
4. The Parties agree that the settling of this action and refraining from the adjudication of any issue of fact or law, with regard to the issues herein, is in their interest and in the public interest.

5. Respondent consents to the terms of this CCCA, including the assessment of the civil penalty specified below.

JURISDICTION AND WAIVER OF RIGHT TO HEARING

6. Respondent admits the jurisdictional allegations in this CCCA and neither admits nor denies all remaining allegations, terms and conditions contained herein.

7. Respondent waives any and all claims for relief, and otherwise available rights to judicial or administrative review or other remedies which Respondent may have, with respect to any issue of fact or law or any terms and conditions set forth in this CCCA, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701-708.

STATUTORY AND REGULATORY FRAMEWORK

8. Pursuant to sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048, EPA promulgated the Toxic Chemical Release Reporting: Community Right-to-Know Rule, 40 C.F.R. Part 372. Section 313(b) of EPCRA and 40 C.F.R. § 372.22, address owners and operators of facilities that have 10 or more full-time employees; are in specific Standard Industrial Classification Codes; and manufactured, processed, or otherwise used a toxic chemical listed under section 313(c) of EPCRA and 40 C.F.R. § 372.65, in quantities exceeding the appropriate threshold as set forth in 40 C.F.R. § 372.25. Under section 313(b) of EPCRA, owners and operators are required to annually submit a Toxic Chemical Release Inventory Reporting Form, EPA Form 9350-1 (Form R), for each toxic chemical listed under section 313(c) of EPCRA and 40 C.F.R. § 372.65, that was manufactured, processed, or otherwise used during the preceding calendar year in quantities exceeding the established toxic chemical thresholds. 40 C.F.R. § 372.10 requires each person subject to this part to maintain documentation supporting the determination of whether a threshold under 40 C.F.R. § 372.38 applies.

SPECIFIC ALLEGATIONS

9. Respondent is a limited liability company, and therefore a person, and thus subject to regulation under section 329 of EPCRA, 42 U.S.C. § 11049.

10. Respondent is the owner and/or operator of the petroleum refinery, a stationary source, which is located at 300 Morrie Avenue, Cheyenne, Wyoming (Facility).

11. The Facility has 10 or more "full-time employees" as that term is defined by 40 C.F.R. § 372.3.

12. The Facility is in SIC code 20-39. Specifically, the Facility is in the NAICS code 324110 (Petroleum Refining).

13. Respondent's facility manufactures, processes, and/or otherwise uses the toxic chemicals ammonia, chlorine, cobalt compounds, cyclohexane, ethylbenzene, ethylene, n-hexane, molybdenum trioxide, propylene, and xylene, which are toxic chemicals listed under 40 C.F.R. § 372.65, for which reporting is required pursuant to 40 C.F.R. § 372.22.

14. On August 23 through 26, 2011, authorized representatives of the EPA conducted an inspection (EPA inspection) of the Facility, with the consent of Respondent, to determine compliance with the EPCRA. During the EPA inspection, the EPA representatives observed alleged violations of the EPCRA section 313. The alleged violations are described in paragraphs 15-19.

15. 40 C.F.R. § 372.10 provides that the Facility must retain supporting documentation of threshold calculations for each EPCRA § 313 toxic chemical. Complainant alleges that the required documentation for ammonia, ethylene, methanol and propylene in reporting years 2008, 2009 and 2010, was either not available or incomplete. This is a violation of 40 C.F.R. § 372.10.

16. 40 C.F.R. § 372.30 provides that for each toxic chemical known by the owner or operator to be manufactured, processed, or otherwise used in excess of the applicable threshold for a calendar year, the owner or operator must submit a completed EPA Form R to the EPA and the State in which the facility is located. Complainant alleges that for reporting years 2008, 2009, and 2010, Respondent did not

submit the required Form R for the toxic chemical chlorine. This is a violation of 40 C.F.R. § 372.30.

17. 40 C.F.R. § 372.30 provides that for each toxic chemical known by the owner or operator to be manufactured, processed, or otherwise used in excess of the applicable threshold for a calendar year, the owner or operator must submit a completed EPA Form R to the EPA and the State in which the facility is located. Complainant alleges that for reporting year 2008, Respondent did not submit the required Form R for the toxic chemical cobalt compounds. This is a violation of 40 C.F.R. § 372.30.

18. 40 C.F.R. § 372.30 provides that for each toxic chemical known by the owner or operator to be manufactured, processed, or otherwise used in excess of the applicable threshold for a calendar year, the owner or operator must submit a completed EPA Form R to the EPA and the State in which the facility is located. Complainant alleges that for reporting years 2008 and 2010, Respondent did not submit the required Form R for the toxic chemical molybdenum trioxide. This is a violation of 40 C.F.R. § 372.30.

19. 40 C.F.R. § 372.30 provides that each Form R must be submitted in accordance with subpart E - Forms and Instructions of 40 C.F.R. part 372. Complainant alleges that for reporting year 2008, ammonia, propylene, ethylene, were not reported in accordance with subpart E. Complainant alleges that for reporting year 2009, ammonia, xylene, ethylene, and propylene were not reported in accordance with subpart E. Complainant alleges that for reporting year 2010, ammonia, cyclohexane, ethylbenzene, hexane, ethylene, and propylene were not reported in accordance with subpart E. This is a violation of 40 C.F.R. § 372.30.

PENALTY

20. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c), as amended, and 40 C.F.R. § 372.18, authorizes EPA to assess a civil penalty of up to \$37,000 for each violation of the EPCRA. For purposes of determining the amount of any civil penalty to be assessed, the EPA is required to consider, in addition to such other factors as justice may require, to the extent known, the nature, circumstances, extent and gravity of the violations alleged, any of Respondent's history of prior violations of EPCRA,

or lack thereof, and degree of culpability, and any voluntary disclosure, or lack thereof.

21. Respondent consents and agrees to pay a civil penalty in the amount of ninety seven thousand dollars (\$97,000).

22. Attachment A (Collection Information) to this CCCA, provides terms for payment including the assessment of fees and interest charges for late payments.

23. Respondent agrees, by signing this CCCA, that all alleged violations have been corrected.

24. Once Respondent receives a copy of the Final Order and pays in full the penalty assessment described above, the EPA agrees not to take any further civil administrative penalty action against Respondent for the violations alleged in this CCCA.

OTHER TERMS

25. This CCCA contains all terms of the settlement agreed to by the parties.

26. This CCCA, upon incorporation into a final order, applies to and is binding upon EPA, Respondent, and Respondent's successors or assigns.

27. Nothing in the CCCA shall relieve Respondent of the duty to comply with the EPCRA and its implementing regulations.

28. Failure of Respondent to comply with any terms of this CCCA shall constitute a breach and may result in referral of the matter to the U.S. Department of Justice for enforcement of this agreement and such other relief as may be appropriate.

29. Any change in ownership or corporate status of Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

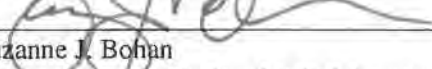
30. Nothing in the CCCA shall be construed as a waiver by the United States of its authority to seek costs or any appropriate penalty associated with any action instituted as a result of Respondent's failure to perform pursuant to the terms of this CCCA.

- 31. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into and legally bind Respondent to the terms and conditions of the CCCA.
- 32. The parties agree to submit this CCCA to the Regional Judicial Officer, with a request that it be incorporated into a final order.
- 33. Each party shall bear its own costs and attorney fees in connection with this administrative matter.
- 34. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.
- 35. This CCCA, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in this CCCA.

UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY, REGION 8,
Office of Enforcement, Compliance and
Environmental Justice

Complainant

Date: 10/20/2014

By: 
Suzanne J. Bohan
Acting Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

Frontier Refining, LLC

Respondent

Date: 10.7.14

By: 

VP & REFINERY MANAGER

COLLECTION INFORMATION

Payment shall be due on or before 30 calendar days after the date of the Final Order issued by the Regional Judicial Officer who adopts this agreement. If the due date falls on a weekend or legal Federal holiday, then the due date is the next business day. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.

In the event payment is not received by the specified due date, interest accrues from the date of the Final Order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received. (That is, on the 1st late day, 30 days of interest accrues.)

In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 61st day from the date of the Final Order, and each subsequent thirty-day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (that is, the 121st day from the date the Final Order is signed). Payments are first applied to handling charges, 6% penalty interest, and late interest; then any balance is applied to the outstanding principal amount.

The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case, for the amount, payable to "Treasurer, United States of America," (or be paid by one of the other methods listed below) and sent as follows:

CHECK PAYMENTS:

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

WIRE TRANSFERS:

Wire transfers should be directed to the Federal Reserve Bank of New York

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 (Federal Express, Airborne, or other commercial carrier):

US Bank
Cincinnati Finance Center Box 979077
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson
314-418-4087

ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact -Jesse White 301-887-6548
ABA = 051036706
Transaction Code 22 – checking
Environmental Protection Agency
Account 310006
CTX Format
(Include name and docket number)

ON LINE PAYMENT:

There is now an On Line Payment Option, available through the Dept. of Treasury.
This payment option can be accessed from the information below:

WWW.PAY.GOV
Enter sfo 1.1 in the "Search Public Forms" field

Open form and complete required fields then click "Submit Data".

AUTOMATED CLEARINGHOUSE

Automated clearinghouse payments can be made through the US Treasury using the following information:

US Treasury REX/Cash link ACII 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

US Treasury Contact Information:
Randolph Maxwell: 202-874-3420
Remittance Express (REX): 1-866-234-5681

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT, CONSENT AGREEMENT and FINAL ORDER** in the matter of **FRONTIER REFINING, LLC., FRONTIER REFINERY; DOCKET NO.: EPCRA-08-2015-0001**, was filed with the Regional Hearing Clerk on October 20, 2014.

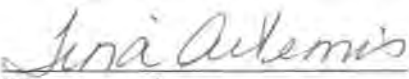
Further, the undersigned certifies that a true and correct copy of the document was delivered to Marc Weiner, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail, domestic return receipt on October 20, 2014, to:

Thor Forseth, PSM Manager
Frontier Refinery
300 Morrie Avenue
Cheyenne, WY 82007

And emailed to:

Kim White
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

October 20, 2014


Tina Artemis
Paralegal/Regional Hearing Clerk