

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX



In the matter of:)	U.S. EPA Docket No.
)	
)	RCRA-09-2022-0069
Seaport Refining & Environmental, LLC)	CWA-09-2022-0070
679 Seaport Boulevard)	
Redwood City, CA 94063)	CONSENT AGREEMENT
)	FINAL ORDER PURSUANT TO
)	40 C.F.R. SECTIONS 22.13 AND
<u>Respondent.</u>)	22.18

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. § 6928(a)(1), Sections 311(b)(6)(A) and (B)(i) of the Clean Water Act (“CWA”), as amended, 33 U.S.C. §§ 1321(b)(6)(A) and (B)(i), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, as codified at 40 Code of Federal Regulations (C.F.R.) Part 22.
2. Complainant is the United States Environmental Protection Agency, Region IX (“EPA”).
3. Respondent is Seaport Refining & Environmental, LLC, a California limited liability company doing business as Seaport Refining (“Respondent” or “Seaport”).
4. This Consent Agreement and Final Order (“CA/FO”), pursuant to 40 C.F.R. §§ 22.13 and 22.18, simultaneously commences and concludes this proceeding, wherein EPA alleges Respondent to be in violation of Section 3001 *et seq.* of RCRA, 42 U.S.C. § 6921 *et seq.*, and regulations adopted pursuant thereto, and Section 311 of the CWA, 33 U.S.C § 1321, as set forth in further detail below.
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 respective interest and in the public interest.

B. STATUTORY AND REGULATORY FRAMEWORK

i. Subtitle C of RCRA

6. Subtitle C of RCRA requires the EPA Administrator to promulgate regulations establishing a hazardous waste management program. Section 3006 of RCRA, 42 U.S.C. § 6926, provides, *inter alia*, that authorized state hazardous waste management programs are carried out under Subtitle C of RCRA. Therefore, any violation of a requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.
7. The State of California received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271, on August 1, 1992. The authorized hazardous waste program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 C.C.R. §§ 66001 *et seq.* The State of California has been authorized for all the hazardous waste management regulations referenced in this CA/FO and, accordingly, the citations for the violations of those provisions alleged herein will be to the authorized state program; however, for ease of reference, the federal citations will follow in brackets.
8. A violation of California's authorized hazardous waste program, found at Health & Safety Code § 25100 *et seq.*, constitutes a violation of Subtitle C of RCRA and, therefore, a person who violates California's authorized hazardous waste program is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928. In accordance with Section 3008(a)(2), 42 U.S.C. § 6928(a)(2), EPA has given the State of California, through the Department of Toxic Substances Control, prior notice of EPA's intent to commence this administrative action against Respondent in response to the alleged violations of RCRA Subtitle C and California's Hazardous Waste Control Law that are set forth herein.

ii. Section 311 of CWA

9. Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C), provides that the President shall issue regulations "establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil . . . from onshore facilities . . . and to contain such discharges . . ."
10. Initially by Executive Order 11548 (July 20, 1970), 35 Fed. Reg. 11677 (July 22, 1970), and most recently by Section 2(b)(1) of Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to EPA his Section

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311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C), authority to issue the regulations referenced in the preceding Paragraph for non-transportation-related onshore facilities.

11. EPA subsequently promulgated regulations, codified at 40 C.F.R. Part 112 (the “Oil Pollution Prevention regulations”), pursuant to these delegated statutory authorities and pursuant to its authorities under the CWA, 33 U.S.C. §§ 1251 *et seq.*, which set forth certain procedures, methods and requirements, including requirements for Spill Prevention, Countermeasure and Control (“SPCC”) planning, applicable to an owner or operator of an onshore facility, which, due to its location, reasonably could be expected to discharge oil into or on navigable waters and their adjoining shorelines in such quantities as EPA has determined in 40 C.F.R. Part 110 may be harmful to the public health or welfare or the environment of the United States.
12. “Navigable waters” are defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7) and 40 C.F.R. § 112.2 (2008).
13. In promulgating 40 C.F.R. § 110.3, which implements Section 311(b)(4) of the CWA, 33 U.S.C. § 1321(b)(4), EPA has determined that the quantities of oil that may be harmful to the public health or welfare or the environment of the United States include discharges of oil that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

C. EPA’S GENERAL ALLEGATIONS

14. Respondent owns and operates a petroleum refinery located at 679 Seaport Boulevard in Redwood City, California (the “Facility”). Respondent accepts off-specification petroleum products from customers, including transmix, jet fuel and residual fuels, and distills them to produce gasoline and diesel. Respondent processes approximately 1,000 barrels of petroleum products per day at the Facility.
15. On March 5, 2021, EPA conducted a compliance evaluation inspection (“CEI”) at the Facility pursuant to Subtitle C of RCRA. On April 28, 2021, EPA performed an inspection pursuant to Section 311 of the CWA, 33 U.S.C. § 1321. Based upon the findings EPA made during the inspections, and additional information obtained as part of the inspections, EPA determined that Respondent violated certain provisions of RCRA and the CWA.

i. Subtitle C of RCRA

16. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders assessing a civil penalty and/or requiring compliance immediately or within a

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specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA *et seq.*, 42 U.S.C. § 6921 *et seq.*

17. The Administrator has delegated enforcement authority under Section 3008 of RCRA, 42 U.S.C. § 6928, to the EPA Regional Administrators. The Regional Administrator, EPA Region IX, in turn, redelegated that authority to the Director of the Enforcement and Compliance Assurance Division, Region IX.
18. Respondent is a “person” as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].¹
19. Respondent is the “owner” of a facility as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
20. Respondent is the “operator” of a facility as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
21. Respondent is a “generator” of hazardous waste as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
22. Respondent is or has been engaged in “treatment,” “storage,” or “disposal” of “hazardous waste” as defined in 22 C.C.R. §§ 66260.10 and 66261.3 [*see also* 40 C.F.R. §§ 260.10 and 261.3].
23. At the Facility, Respondent generates and accumulates, or has generated and accumulated, “hazardous waste” as defined in California Health & Safety Code § 25117, and 22 C.C.R. §§ 66260.10 and 66261.3 [*see also* RCRA § 1004(5), and 40 C.F.R. §§ 260.10 and 261.3]. These hazardous wastes include but are not limited to the following RCRA hazardous waste codes: D001 and D018.

ii. Section 311 of the CWA

24. Sections 311(b)(6)(A) and (B) of the CWA, 33 U.S.C. §§ 1321(b)(6)(A) and (B), authorizes the EPA to assess civil penalties for any violation of Section 311(j) of the CWA, 33 U.S.C. § 1321(j).
25. The Administrator has delegated enforcement authority under Section 311(b)(6)(B)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(i), to the EPA Regional Administrators, with delegation 2-51, dated May 11, 1994. The Regional Administrator, EPA Region IX, in

¹ All citations to the “C.C.R.” refer to Division 4.5 of Title 22 of the California Code of Regulations. EPA is enforcing California hazardous waste management program requirements as approved and authorized by the United States. As a convenience, corresponding Federal citations are provided in brackets.

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turn, re delegated that authority to the Director of the Enforcement Division, Region IX, with delegation R9-2-51, dated February 11, 2013.

26. At all times relevant to this CA/FO, Respondent has been the “owner or operator” within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), of the Facility.
27. Respondent is a “person” within the meaning of Sections 311(a)(7) and 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 C.F.R. § 112.2.
28. The Facility is “non-transportation-related” within the meaning of 40 C.F.R. § 112.2.
29. The Facility is an “onshore facility” within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.
30. At all times relevant to this CA/FO, Respondent was engaged in the refining and storage of oil and oil products.
31. At all times relevant to this CA/FO, the Facility had several above-ground oil storage tanks and process vessels with a combined oil storage capacity of greater than 650,000 gallons.
32. The Facility is in proximity to “navigable waters” of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 112.2 (2008); specifically, the Facility is located in Redwood City, near Redwood Creek and First Slough, which flow to the San Francisco Bay and into the Pacific Ocean.
33. Due to its location, the Facility could reasonably be expected to discharge oil from an above-ground container to a navigable water of the United States or its adjoining shorelines in a harmful quantity, and is therefore subject to the Oil Pollution Prevention regulations at 40 C.F.R. Part 112.

D. EPA’S ALLEGED VIOLATIONS

COUNT I

**Failure to Determine Applicability of Air Emissions Standards
for Equipment Leaks**

34. Paragraphs 1 through 33 above are incorporated herein by this reference as if they were set forth here in their entirety.
35. Per 22 C.C.R. § 66265.1050(b) [*see also* 40 C.F.R. § 265.1050(b)], owners and operators of facilities with equipment that contains or contacts a hazardous waste with an organic concentration that equals or exceeds 10 percent by weight must comply with air

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emissions standards for equipment leaks set out in 22 C.C.R. §§ 66265.1050 - 66265.1064 [*see also* 40 C.F.R. §§ 265.1050 – 265.1064, “RCRA Subpart BB”]. Pursuant to 22 C.C.R. § 66265.1063(d), an owner or operator of a facility shall determine whether each piece of that facility’s process equipment contains or contacts a hazardous waste with organic concentration that equals or exceeds 10 percent by weight per one of the three approved test methods [*see also* 40 C.F.R. § 265.1063(d)].

36. 22 C.C.R. § 66265.1050(c) requires owners and operators to mark each piece of equipment to which the air emissions standards for equipment leaks apply so that it is readily distinguishable from other equipment [*see also* 40 C.F.R. §§ 265.1050(c)].
37. 22 C.C.R. § 66265.1064(b) requires additional recordkeeping requirements for equipment to which the air emissions standards for equipment leaks apply, including documentation of the percent-by-weight total organics in the hazardous waste stream at the equipment [*see also* 40 C.F.R. § 265.1064(b)].
38. Based on observations made during the CEI and information gathered as part of the CEI, EPA Inspectors determined that the piping, pumps and valves connecting Tank 41 and the vacuum truck loading/unloading area at the Facility were either in contact with or contained hazardous waste with organic concentrations that exceed 10 percent by weight.
39. During the CEI, EPA Inspectors observed 148 pieces of equipment associated with Tank 41 were missing tags or markings.
40. At the time of the CEI, Respondent did not have the necessary records documenting the equipment associated with Tank 41 was in contact with or contained hazardous waste with organic concentrations exceeding 10 percent by weight.
41. Therefore, EPA alleges that Respondent violated 22 C.C.R. §§ 66265.1063(d), 66265.1050(c) and 66265.1064(b) [40 C.F.R. §§ 265.1063(d), 265.1050(c) and 265.1064(b)].

COUNT II

Failure to Determine Applicability of Air Emissions Standards for Tanks

42. Paragraphs 1 through 41 above are incorporated herein by this reference as if they were set forth here in their entirety.
43. Unless otherwise exempt, 22 C.C.R. § 66265.1083 [*see also* 40 C.F.R. § 265.1083] requires owners and operators of facilities with tanks, surface impoundments, or containers that have hazardous waste entering the unit with an average volatile organic concentration at the point of waste origination of 500 parts per million or more by weight must comply with the applicable air emissions standards set out in 22 C.C.R. §§

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66265.1080 - 66265.1090 [*see also* 40 C.F.R. §§ 265.1080-265.1090, “RCRA Subpart CC”]. 22 C.C.R. § 66265.1084(a) describes the waste determination procedures that owners and operators must follow in order to determine the average volatile organic concentration of a hazardous waste at the point of origination [*see also* 40 C.F.R. § 265.1084(a)].

44. 22 C.C.R. § 66265.1090 [*see also* 40 C.F.R. § 265.1090] requires owners and operators to maintain the applicable records regarding the waste determination procedures used to determine the average volatile organic concentrations at the point of origination entering the unit.
45. Based on observations made during the CEI and information gathered as part of the CEI, EPA Inspectors determined that pursuant to 22 C.C.R. §§ 66265.1080 - 66265.1090 [*see also* RCRA Subpart CC], Tank 41 must comply with applicable air emissions standards for tanks, and Respondent failed to make the required waste determinations for hazardous waste entering the tank.
46. Therefore, EPA alleges that Respondent violated 22 C.C.R. §§ 66265.1084(a) and 66265.1090 [*see also* 40 C.F.R. §§ 265.1084(a) and 265.1090].

COUNT III

Failure to Comply with Air Emissions Standards for Tanks

47. Paragraphs 1 through 46 above are incorporated herein by this reference as if they were set forth here in their entirety.
48. 22 C.C.R. § 66265.1085(g) requires owners and operators that control air emissions from tanks by venting them to control devices to utilize a closure device designed to operate with no detectable organic emissions [*see also* 40 C.F.R. § 265.1085(g)].
49. 22 C.C.R. § 66265.1085(g)(3) requires owners and operators to inspect and monitor tank closure devices for defects including broken, cracked, or otherwise damaged seals or gaskets on closure devices. Owners and operators must also maintain records of their inspections and timely repair defects [*see also* 40 C.F.R. § 265.1085(g)(3)].
50. During the CEI, the EPA Inspectors found that the pressure relief valve on the roof of Tank 41 was leaking volatile organic compounds (VOCs) at 10,000 parts per million.
51. At the time of the CEI, Respondent had incomplete records of inspections or monitoring of the air emissions controls on Tank 41.
52. Therefore, EPA alleges that Respondent violated 22 C.C.R. § 66262.1085(g) [*see also* 40 C.F.R. § 265.1085(g)].

COUNT IV
Failure to Provide Tank Corrosion Protection

53. Paragraphs 1 through 52 above are incorporated herein by this reference as if they were set forth here in their entirety.
54. Pursuant to 22 C.C.R. § 66265.192(f), owners and operators must provide the type and degree of corrosion protection necessary to ensure the integrity of a tank system during use [*see also* 40 C.F.R. § 265.192(f)].
55. During the CEI, EPA Inspectors observed coating failures on the fixed roof and on the base of Tank 41.
56. Based on information gathered as part of CEI, EPA determined that Tank 41 had coating failures and active corrosion causing pitting during the most recent tank assessments. At the time of the CEI, Respondent was in the process of addressing some of the corrosion identified in previous assessments, but did not demonstrate that it had addressed all such corrosion.
57. Therefore, EPA alleges that Respondent violated 22 C.C.R. § 66262.192(f) [*see also* 40 C.F.R. § 265.192(f)].

COUNT V
Failure to Comply with SPCC Requirements

58. Paragraphs 1 through 57 above are incorporated herein by this reference as if they were set forth here in their entirety.
59. 49 C.F.R. § 112.3 requires that the owner or operator of an SPCC-regulated facility must prepare an SPCC plan in writing and implement that plan in accordance with 40 C.F.R. § 112.7 and any other applicable sections of 40 C.F.R. Part 112.
60. Based on EPA's April 28, 2021 inspection of the Facility and information gathered as part of the inspection, EPA Inspectors found that Respondent failed to develop and implement an SPCC plan for the Facility as follows:
 - a. Respondent's SPCC Plan was not properly certified by a professional engineer, as required by 40 C.F.R. § 112.3(d).
 - b. Respondent's SPCC Plan identified items that were not fully operational at the time of the inspection, including restoration and repainting of product transfer piping, with no discussion of how or when they would be addressed, as required by 40 C.F.R. § 122.7.

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- c. The Facility diagram in Respondent's SPCC Plan failed to identify connecting pipes, as required by 40 C.F.R. § 122.7(a)(3).
 - d. Respondent failed to consider the volume of the Facility's largest container in its SPCC Plan predictions for discharges resulting from major equipment failure, as required by 40 C.F.R. 112.7(b).
 - e. Respondent failed to maintain secondary containment or divisionary equipment in the tank farm and drum storage areas of the Facility, as required by 40 C.F.R. 122.7(c).
 - f. Respondent failed to address security of the Facility in the SPCC Plan with respect to uncontrolled access from the neighboring public establishment, as required by 40 C.F.R. § 122.7(g).
 - g. Respondent failed to adhere to formal tank inspection schedules and address recommendations in tank assessment, as required by 40 C.F.R. § 112.8(c)(6).
61. Respondent's failure to fully develop and implement its SPCC plan for the Facility violated 40 C.F.R. §§ 112.3, 112.7 and 112.8.

E. **CIVIL PENALTY**

62. The Complainant proposes that Respondent be assessed, and Respondent agrees to pay ONE HUNDRED TWENTY-SEVEN THOUSAND ONE HUNDRED NINETY-TWO DOLLARS (\$127,192) as the civil penalty for the violations alleged herein. \$105,250 resolves Counts I through IV and \$21,942 resolves Count V.
63. The proposed penalty was calculated in accordance with the "June 2003 RCRA Civil Penalty Policy" and the "Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act," dated August 1998, and was adjusted for inflation by the Federal Civil Penalties Inflation Adjustment Act, as amended, and the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19.

F. **ADMISSIONS AND WAIVERS OF RIGHTS**

64. 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 CA/FO and over Respondent; (ii) neither admits nor denies the specific factual allegations or conclusions of law contained in the CA/FO; (iii) consents to any and all conditions specified in this CA/FO and to the assessment of the civil administrative penalty under Section I of this CA/FO; (iv) waives any right to contest the allegations contained in

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Section C and D of the CA/FO; and (v) waives the right to appeal the proposed final order contained in this CA/FO.

G. PARTIES BOUND

65. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns, until the civil penalty required under Sections E and I has been paid in accordance with Section I, the compliance tasks required under Section H have been completed in accordance with Section H, and any delays in performance and/or stipulated penalties have been resolved. When those matters are concluded, this CA/FO shall terminate and constitute full settlement of the violations alleged herein.
66. No change in ownership or corporate, partnership or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
67. The undersigned representative of Respondent hereby certifies that he or she is fully authorized by Respondent to enter into this CA/FO, to execute and to legally bind Respondent to it.

H. COMPLIANCE TASKS

68. With regard to RCRA compliance for Tank 41, the following submissions to EPA shall be to Sharon Lin at Lin.Sharon@epa.gov.
 - a. Respondent shall complete repair of corrosion and submit the completion documentation, including photos, to EPA within ninety (90) days of the Effective Date.
 - b. Respondent shall develop, implement, and submit to EPA an air emissions monitoring plan for equipment leaks within ninety (90) days of the Effective Date.
 - c. Starting October 1, 2022, within thirty (30) days of the end of each quarter, Respondent shall submit quarterly air emission monitoring results to EPA. For example, the Respondent shall transmit the quarterly monitoring results for the time period of October through December 2022 to EPA no later than January 30, 2023. The Respondent shall submit the air emissions monitoring results to EPA for two (2) years following the Effective Date.
69. With regard to CWA SPCC requirements, the following submissions to EPA shall be to Janice Witul at Witul.Janice@epa.gov.

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- a. Respondent shall submit an updated schedule for the tank inspections and repairs detailed in the February 25, 2022 “Seaport Responses to Recommendations in TechCorr API 653 Inspection Reports” Status Report, within thirty (30) days of the Effective Date. Respondent shall conduct those actions according to the schedule and submit substantial progress documentation, including photos, to EPA within ninety (90) days of the Effective Date, and shall submit completion documentation, including photos, to EPA within two hundred seventy (270) days of the Effective Date.

I. PAYMENT OF CIVIL PENALTY

70. Respondent consents to the assessment of and agrees to pay a civil penalty of ONE HUNDRED TWENTY-SEVEN THOUSAND ONE HUNDRED NINETY-TWO DOLLARS (\$127,192) in full settlement of the federal civil penalty claims set forth in this CA/FO.
71. Respondent shall submit payment of SIXTY-THREE THOUSAND FIVE HUNDRED NINETY-SIX DOLLARS (\$63,596) within ninety (90) calendar days of the Effective Date of this CA/FO, and SIXTY-THREE THOUSAND FIVE HUNDRED NINETY-SIX DOLLARS (\$63,596) within one hundred twenty (120) days of the Effective Date of this CA/FO. Payments shall be made in accordance with one of the options set forth below. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk. All payments shall indicate the name of the Facility, the Respondent's name and address, and the EPA docket numbers of this action. Payments shall be accompanied by a statement that \$21,942 of the \$127,192 penalty is for the CWA civil penalty and is to be deposited into the Oil Spill Liability Trust Fund pursuant to 33 U.S.C. § 1321(a), § 4304 of Pub. L. No. 101-380, and 26 U.S.C. § 9509(b)(8).

Regular Mail:

Payment shall be made by certified or cashier's check payable to “Treasurer, United States of America,” and sent as follows:
U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Overnight Mail:

Payment shall be made by certified or cashier's check payable to “Treasurer, United States of America,” and sent as follows:
U.S. Environmental Protection Agency
Government Lockbox 979077

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1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Craig Steffen (513) 487-2091

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

Beneficiary: US Environmental Protection Agency

*Note: Foreign banks **must** use a United States Bank to send a wire transfer to the US EPA.

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:

Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments.

This payment option can be accessed from the information below:

www.pay.gov

Enter “sfo1.1” 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.

72. At the time payment is made, a copy of the check shall be sent to:

Regional Hearing Clerk

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Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105

With an electronic copy to:

Sharon Lin (ENF 2-2)
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region 9
Lin.Sharon@epa.gov

Janice Witul (ENF-3-2)
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region 9
Witul.Janice@epa.gov

And

Diane Prend (ORC-3-1)
Office of Regional Counsel
U.S. Environmental Protection Agency – Region 9
Prend.Diane@epa.gov

73. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), any payment must be received by the due date set forth in this CA/FO to avoid additional charges. If payment is not received by the due date, interest will accrue from the Effective Date of this CA/FO at the current rate published by the United States Treasury as described at 40 C.F.R. § 13.11. In addition, a 6% per annum penalty assessed monthly will further apply on any principal amount not paid within ninety (90) calendar days of its due date. Respondent further will be liable for stipulated penalties as set forth below for any payment not received by its due date.
74. The penalties specified in this CA/FO shall represent civil penalties assessed by EPA and shall not be deducted by Respondent or any other person or entity for federal, state, or local taxation purposes.

J. DELAY IN PERFORMANCE/STIPULATED PENALTIES

75. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as follows: up to FIVE HUNDRED DOLLARS (\$500) per day for first to fifteenth day of delay, up to ONE THOUSAND DOLLARS (\$1,000) per day for sixteenth to thirtieth day of delay, and up to THREE THOUSAND

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DOLLARS (\$3,000) per day for each day of delay thereafter. Compliance by Respondent shall include completion of any activity under this CA/FO in a manner acceptable to EPA and within the specified time schedules in and approved under this CA/FO.

76. All accrued stipulated penalties and interest, if any, owed to EPA under this Section shall be due within thirty (30) days of receipt of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of stipulated penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R. §13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.
77. All stipulated penalties shall be remitted in the same manner described in Section I.
78. The payment of stipulated penalties shall not alter in any way Respondent's obligation to complete the performance required hereunder.
79. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CA/FO.
80. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions that may be available to EPA because of Respondent's failure to comply with any of the requirements of this CA/FO.
81. The payment of stipulated penalties specified in this Section shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.

K. CERTIFICATION OF COMPLIANCE

82. In executing this CA/FO, subject to the provisions of Section H, above, Respondent certifies under penalty of law to EPA that it has fully complied with Section 3008 of RCRA, 42 U.S.C. § 6928, and Section 311 of CWA, 33 U.S.C. § 1321, and their implementing regulations that formed the basis for the violations alleged in Section D, above.
83. This certification of compliance is based upon true, accurate, and complete information, which the signatory can verify personally or regarding which the signatory has inquired of the person or persons directly responsible for gathering the information.

L. RESERVATION OF RIGHTS

84. Except as addressed in this CA/FO, EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including

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the right to require that Respondent perform tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under Section 3008 of RCRA, 42 U.S.C. § 6928, and Section 311(b) of the CWA, 33 U.S.C § 1321(b). This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under RCRA, CWA, or any other statutory, regulatory or common law enforcement authority of the United States.

85. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with RCRA, CWA, or any other applicable local, state or federal laws and regulations.
86. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted except as they relate to Respondent's liability for federal civil penalties for the alleged violations and facts as set forth in Section D of this CA/FO.
87. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, state or federal permits. Respondent's full compliance with this CA/FO shall only resolve Respondent's liability for federal civil penalties for the violations and facts alleged in this CA/FO.

M. OTHER CLAIMS

88. Nothing in this CA/FO shall constitute or be construed as a release from any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

N. MISCELLANEOUS

89. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.
90. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

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- 91. Each party to this action shall bear its own costs and attorneys' fees.
- 92. EPA and Respondent consent to entry of this CA/FO without further notice.


O. EFFECTIVE DATE

- 93. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective on the date that the Final Order contained in this CA/FO, having been approved and issued by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

IT IS SO AGREED.

FOR RESPONDENT SEAPORT REFINING & ENVIRONMENTAL, LLC:

9/7/2022
Date


James M. Webb, President

FOR COMPLAINANT U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 9:

AMY MILLER-
BOWEN

Digitally signed by AMY
MILLER-BOWEN
Date: 2022.09.21
17:07:56 -07'00'

Amy C. Bowen-Miller, Director
Enforcement and Compliance Assurance Division

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FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 (U.S. EPA Docket Nos. RCRA-09-2022-0069 and CWA-09-2022-0070) be entered and that Respondent pay a civil penalty of ONE HUNDRED TWENTY-SEVEN THOUSAND ONE HUNDRED NINETY-TWO DOLLARS (\$127,192) due within the time frames and in the amounts set forth in Sections E and I and implement the compliance tasks described in Section H of this Consent Agreement and Final Order.

This Final Order shall be effective upon filing by the Regional Hearing Clerk.

**STEVEN
JAWGIEL**

 Digitally signed by STEVEN
JAWGIEL
Date: 2022.09.22 14:55:50 -07'00'

Steven Jawgiel Date
Regional Judicial Officer
United States Environmental Protection Agency,
Region 9

CERTIFICATE OF SERVICE

This is to certify that the original of the fully executed Consent Agreement and Final Order in the matter of Seaport Refining & Environmental, LLC (RCRA-09-2022-0069 and CWA-09-2022-0070) was filed with the Regional Hearing Clerk and that a true and correct copy of the same was sent to the following parties via electronic mail:

RESPONDENT:

James Webb
Seaport Refining & Environmental, LLC
JWebb@webboilinc.com

and

Ladd Cahoon
Edgcomb Law Group, LLP
LCahoon@edgcomb-law.com

COMPLAINANT:

Diane Prend
Assistant Regional Counsel
U.S. EPA, Region IX
Prend.Diane@EPA.gov

Tu, Ponly

Digitally signed by Tu, Ponly
Date: 2022.09.22 15:51:41
-07'00'

Ponly J. Tu
Regional Hearing Clerk
U.S. EPA - Region IX

Date