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REGION 6
DALLAS, TEXAS

REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:

Blanchard Refining Company LLC

Respondent

Texas City, Texas

**ADMINISTRATIVE ORDER ON
CONSENT
EPA DOCKET NO. CAA-06-2018-3357**

ADMINISTRATIVE ORDER ON CONSENT

The Director of the Compliance Assurance and Enforcement Division of the United States Environmental Protection Agency, Region 6 ("EPA" or "EPA Region 6") and Blanchard Refining Company LLC ("Respondent"), in the above-referenced proceeding, hereby enter into this Administrative Compliance Order ("Administrative Order on Consent" or "AOC" or "Order").

I. INTRODUCTION

1. The following Findings are made and an Order issued pursuant to Section 113(a)(3) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(a)(3), for Respondent's failure to comply with Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68 with regard to assuring suitable materials at Respondent's facility located in Texas City, Texas. The parties to this Order are the EPA Region 6 and the Respondent.

2. This Order is entered into upon mutual agreement by the parties. Accordingly, Respondent consents to and agrees not to contest EPA's jurisdiction to issue this Order or enforce its terms. Further, Respondent will not contest EPA's jurisdiction to either compel

compliance with this Order in any subsequent enforcement proceedings, whether administrative or judicial, or to require Respondent's full compliance with the terms of this Order or impose sanctions for violations of this Order. Respondent consents to the terms of this Order.

3. This Order shall apply to and be binding upon Respondent, its agents, successors and assigns and upon all persons, contractors, and consultants acting under or for Respondent. No change in ownership or corporate or partnership status of Respondent will in any way alter the status of Respondent or its responsibilities under this Order.

4. For purposes of this proceeding, Respondent admits the jurisdictional allegations of this Order; however, Respondent neither admits nor denies the specific factual allegations or the conclusions of law contained in this Order.

II. STATUTORY AND REGULATORY AUTHORITY

5. Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), provides that the objective of the regulations and programs authorized under Section 112(r) shall be to prevent the accidental release of regulated substances or other extremely hazardous substances and to minimize the consequences of any such release that does occur.

6. Pursuant to CAA § 112(r)(7), 42 U.S.C. § 7412(r)(7), the Administrator is authorized to promulgate regulations dictating release prevention, detection, and correction requirements.

7. On June 20, 1996, the EPA promulgated a final rule known as the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68, which implements Section 112(r)(7), 42 U.S.C. § 7412(r)(7), of the CAA.

8. Pursuant to 40 C.F.R. § 68.10(a), an owner or operator of a stationary source that

has more than a threshold quantity of a regulated substance in a process ("Covered Process"), as determined under 40 C.F.R. § 68.115, shall comply with the requirements of 40 C.F.R. Part 68 no later than the latest of the following dates: (1) June 21, 1999; (2) three years after the date on which a regulated substance is first listed under Section 68.130; or (3) the date on which a regulated substance is first present above a threshold quantity in a process.

9. Pursuant to 40 C.F.R. § 68.12(a), an owner or operator of a stationary source subject to Part 68 requirements must submit a Risk Management Plan ("RMP") as provided in 40 C.F.R. Part 68 Subpart G (§§ 68.150-68.185) that reflects all covered processes at the stationary source.

10. 40 C.F.R. Part 68 provides general requirements applicable to owners or operators of a stationary source subject to Part 68.

11. 40 C.F.R. Part 68 also establishes requirements that apply to an owner or operator depending on whether the stationary source operates processes subject to one of three "Programs" -- Program 1, Program 2, and Program 3, as these program levels are defined in 40 C.F.R. § 68.10.

12. Pursuant to 40 C.F.R. § 68.12(d), the owner or operator of a stationary source with a process subject to the "Program 3" requirements of the Part 68 regulations, as determined pursuant to 40 C.F.R. § 68.10(d), must comply with the chemical accident prevention requirements of 40 C.F.R. Part 68, Subpart D (Program 3 Prevention Program, at 40 C.F.R. §§ 68.65-68.87).

13. Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), authorizes EPA to issue compliance orders for violations of specific sections of the CAA, including violations of Section 112(r), 42 U.S.C. § 7412(r). A copy of the order must be sent to the relevant State air pollution

control agency. An order relating to a violation of Section 112 of the CAA can take effect immediately upon issuance.

14. The authority to issue orders pursuant to Section 113(a)(3) of the CAA has been delegated to EPA Region 6's Regional Administrator, and in turn to the Director of EPA Region 6's Compliance Assurance and Enforcement Division.

15. "Covered process" is defined in 40 C.F.R. § 68.3 as a process that has a regulated substance present in more than a threshold quantity as determined under § 68.115.

16. "Owner or operator" shall mean any person who owns, leases, operates, controls, or supervises a stationary source.

17. "Person" is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), as including an individual, corporation, partnership, association, state, municipality, political subdivision of a state, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

18. "Process" is defined in 40 C.F.R. § 68.3 as any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

19. "Regulated substance" is defined in 40 C.F.R. § 68.3 as any substance listed pursuant to Section 112(r)(3) of the CAA as amended, in § 68.130.

20. "RMP" is defined in 40 C.F.R. § 68.3 as the risk management plan required under subpart G of 40 C.F.R. Part 68.

21. "Stationary source" is defined in Section 112(r)(2)(C) of the CAA and 40 C.F.R. § 68.3 as any buildings, structures, equipment, installations or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

22. "Threshold quantity" is defined in 40 C.F.R. § 68.3 as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA as amended, listed in § 68.130 and determined to be present at a stationary source as specified in § 68.115 of this part.

III. ALLEGATIONS

23. Respondent is a limited liability company and authorized to do business in the State of Texas.

24. Respondent is a "person" as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

25. At all times relevant to this AOC, Respondent owned and operated a petroleum refinery, which is located at 2401 5th Avenue South, Texas City, Texas 77590 ("Facility").

26. Respondent's RMP lists covered processes subject to Program 3 requirements, including the Ultracracker ("ULC") unit.

27. The ULC process consists of three sixty-three-foot-tall pressure cylindrical reactors, each containing five individual catalyst beds. The hydrocracking reaction converts the larger hydrocarbon chains into smaller, more valuable hydrocarbons.

28. On March 10, 2018, operators were returning the ULC to service after a turnaround that included maintenance on the E-103 effluent exchanger.

29. At 8:50 AM on March 10, 2018, a component of the E-103 effluent exchanger, the 127 J pump, tripped off. Operations personnel were able to restart the pump and return flow to normal rates, but the pump tripped off again at 9:10 AM, and operations personnel were unable to return flow rate to normal. Operators decided to shut down the ULC process and depressured the unit to the flare at 9:59 AM.

30. Operators identified a leak at the channel-to-cover plate flange on a component of the E-103 effluent exchanger, the 103-CC2 exchanger.

31. The leaking gasket was a double rail gasket, the design of which requires the inner gasket to be the primary seal while the outer gasket serves as a spacer to optimize bolt loading and gasket stress. To work properly, the inner gasket must contact the closure plate first.

32. Upon inspection of the flange, operators discovered that the outer gasket was approximately twenty millimeters (approximately 0.79 inches) too thick, which prevented the inner gasket from sealing.

33. Approximately 3,325 pounds of process materials were released during the leak, including 1,521 pounds of methane, 768 pounds of hydrogen, 306 pounds of propane, 288 pounds of ethane, 120 pounds of isobutane, 100 pounds of pentane plus, 91 pounds of hydrogen sulfide, 68 pounds of n-Butane, and 63 pounds of i-Pentane.

34. Respondent determined that during the turnaround, operations personnel inadvertently measured the outer gasket's width from the wrong location, resulting in the ordering, installation, and use of an inappropriately-sized outer gasket.

35. Respondent asserts that when performing measurements, Respondent relied on deficient measurement instructions provided by the manufacturer of the double rail gasket.

Count 1. Failure to Assure Suitable Materials

36. Complainant hereby restates and incorporates by reference Paragraphs 1 through 35 above.

37. Pursuant to 40 C.F.R. § 68.73(f)(3), the owner or operator shall assure that maintenance materials, spare parts and equipment are suitable for the process application for which they will be used.

38. Respondent failed to assure that maintenance materials, spare parts and equipment are suitable for the process application for which they will be used by installing an incorrectly-sized outer gasket in the 103-CC2 exchanger.

39. Respondent's failure to assure that its maintenance materials were suitable for the process application for which they were used constitutes a violation of 40 C.F.R. § 68.73(f)(3).

IV. ORDER ON CONSENT

40. Accordingly, pursuant to Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), it is agreed that Respondent, which has consented to the terms of this Order, shall comply with the general duties to identify hazards, design and maintain a safe facility so as to prevent releases, and mitigate releases that do occur as follows:

- a. Within 90 days of the effective date of this Order, Respondent shall:
 - i. Certify that Respondent has created a management of change procedure for heat exchanger gasket design.
 - ii. Submit a plan and implementation schedule for re-measurement of outer gasket locations on all ULC high pressure exchangers using the dual rail gasket design. The implementation schedule submitted pursuant to this Order may be adjusted following submission to account for modifications to the

corresponding turnaround schedule.

- iii. Respondent will notify the double rail gasket manufacturer (Advanced Sealing) concerning the lessons learned from incident investigation report number 165228.

41. Notifications:

- a. Submissions required by this Order shall be in writing and shall be mailed to the following addresses with a copy also sent by electronic mail:

U.S. Environmental Protection Agency - Region 6
Attn: Justin McDowell (6EN-AS)
1445 Ross Avenue – Suite 1200
Dallas, Texas 75202-2733
McDowell.Justin@epa.gov

- b. EPA will send all written communications to the following representative(s) for

Respondent:

Kaleb J. Brankamp
Attorney
Environmental, Safety and Security
Marathon Petroleum Company LP
539 South Main Street, Room 968-M
Findlay, Ohio 45840

42. All documents submitted to EPA in the course of implementing this Order shall be available to the public unless identified as confidential by Respondent pursuant to 40 C.F.R. Part 2, Subpart B, and determined by EPA to merit treatment as confidential business information in accordance with applicable law.

V. GENERAL PROVISIONS

43. The provisions of this Order shall apply to and be binding upon Respondent, its officers, directors, agents, and employees.

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44. The provisions of this Order shall be transferrable to any other party, upon sale or other disposition of the corporation. Upon such action, the provisions of this Order shall then apply to and be binding upon any new owner/operator, its officers, directors, agents, employees, and any successor(s) in interest.

45. Nothing in this Order shall be construed to affect EPA's authority under Section 114 of the CAA, 42 U.S.C. § 7414.

46. Nothing contained in this Order shall affect the responsibility of Respondent to comply with all applicable Federal, State, or local laws or regulations, including Section 303 of the CAA, 42 U.S.C. § 7603.

47. Any and all information required to be maintained or submitted pursuant to this Order is not subject to the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501 et seq., because it seeks to collect information from specific individuals or entities to assure compliance with this administrative action.

48. This Order is not intended to be nor shall it be construed to be a permit. Further, the parties acknowledge and agree that EPA's approval of this Order does not constitute a warranty or representation that requirements provided hereunder will meet the requirements of the General Duty Clause. Compliance by Respondent with the terms of this Order shall not relieve Respondent of their obligations to comply with the CAA or any other applicable local, State, or federal laws and regulations.

49. EPA 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 Order. This Order shall not be construed as a covenant not to sue,

release, waiver, or limitation of any rights, remedies, powers, and/or authorities, civil or criminal, which EPA has under any statutory, regulatory, or common law authority of the United States.

50. This Order does not resolve any civil or criminal claims of the United States for the violations alleged in this Order; nor does it limit the rights of the United States to obtain penalties or injunctive relief under the CAA or other applicable federal law or regulations.

51. This Order shall not affect Respondent's right to assert any defense in any action by the EPA or the United States to pursue applicable injunctive or other equitable relief or criminal sanctions for any violation of law.

52. Respondent waives any right to judicial review of this Order.

53. The parties shall bear their own costs and fees in this action, including attorney's fees.

VI. FAILURE TO COMPLY

54. Failure to comply with this Order may result in an enforcement action for appropriate injunctive relief and penalties pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b) or, in appropriate cases, criminal penalties.

VII. ENFORCEMENT

55. This Order does not in any way impair EPA's rights to enforce the CAA.

56. Be advised that issuance of this Order does not preclude EPA from electing to pursue any other remedies or sanctions authorized by law in this or any other matter.

VIII. EFFECTIVE DATE

57. This Order shall become effective upon the date of signature by EPA.

58. EPA agrees to notify Respondent promptly of the signing of this Order by EPA.

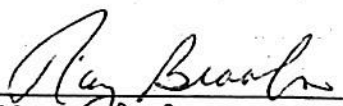
IX. TERMINATION

59. This Order shall terminate when the actions required to be taken by Respondent in Paragraph 40.a. of this Order have been completed.

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS
ADMINISTRATIVE COMPLIANCE ORDER:**


For the Respondent:

Date: 9-24-18


Name: Amy Brooks
Title: Sr. Vice President Refining
on behalf of Blanchard Refining Company LLC

For United States Environmental Protection Agency, Region 6:

Date: 9-25-18


Cheryl T. Seager
Director
Compliance Assurance and
Enforcement Division
U.S. EPA Region 6

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Administrative Compliance Order was placed in the United States mail to the following by the method indicated:

Kaleb J. Brankamp
Attorney
Environmental, Safety and Security
Marathon Petroleum Company LP
539 South Main Street, Room 968-M
Findlay, Ohio 45840

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: # 1007149000040562 8838

9-26-2018
Date

Shirley Jackson
U.S. EPA, Region 6
Dallas, Texas