



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

BEFORE THE ADMINISTRATOR

IN THE MATTER OF )

Pratt Energy, LLC, )

Respondent. )

Proceeding under Section 325(c) of the )  
Emergency Planning and Community )

Right-to-Know Act, 42 U.S.C. § 11045(c) )

Docket No. EPCRA-07-2023-0124

**CONSENT AGREEMENT AND FINAL ORDER**

**Preliminary Statement**

1. The United States Environmental Protection Agency, Region 7 (EPA or Complainant) and Pratt Energy, LLC (Respondent) have agreed to a settlement of this action before filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

**Jurisdiction**

2. This proceeding is an administrative action for the assessment of civil penalties pursuant to Section 325(c) of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045(c).

3. This Consent Agreement and Final Order serves as notice that EPA alleges that Respondent has violated the reporting requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated thereunder.

**Parties**

4. Complainant, by delegation from the Administrator of EPA and the Regional Administrator of Region 7, is the Director of the Enforcement and Compliance Assurance Division, Region 7.

5. Respondent is Pratt Energy, LLC, a company registered in the state of Delaware, and also registered and authorized to do business in the State of Kansas. Respondent owns and operates an ethanol production facility at 10333 NE 30<sup>th</sup> Street, in Pratt, Kansas (“Respondent’s facility”).

### **Statutory and Regulatory Requirements**

6. The Emergency Planning and Community Right-to-Know Act of 1986 was created to help communities plan for chemical emergencies. It requires industry to report on the storage, use and release of hazardous substances to federal, state, and local governments. EPCRA requires state and local governments and Indian tribes to use this information to prepare for and protect their communities from potential risks.

7. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 372.30 require the owner or operator of a facility that:

- a. has ten or more full-time employees;
- b. is an establishment with a primary Standard Industrial Code (SIC) major group or industry code listed in 40 C.F.R. § 372.23(a) or a primary North American Industry Classification System (NAICS) subsector or industry code listed in 40 C.F.R. §§ 372.23(b) or (c); and
- c. “manufactured, processed, or otherwise used” a toxic chemical listed under Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and 40 C.F.R. § 372.65, in excess of the threshold quantity established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. §§ 372.25, 372.27 or 372.28, during the calendar year,

to complete and submit a toxic chemical release inventory Form R to the Administrator of EPA and to the State in which the subject facility is located by July 1, for the preceding calendar year, for each toxic chemical known by the owner or operator to be manufactured (including imported), processed, or otherwise used at the facility.

8. According to Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, the threshold amount for reporting under Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.30 is 25,000 pounds for any toxic chemical “manufactured or processed” and 10,000 pounds for any toxic chemical “otherwise used” for the applicable calendar year. Alternative reporting thresholds for certain other chemicals are set forth in 40 C.F.R. §§ 372.27 and 372.28.

9. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to \$25,000 per day of violation, if, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of Section 313, 42 U.S.C. § 11023. The Debt Collection Improvement Act of 1996, 31 U.S.C.

§ 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$67,544 for violations that occur after November 2, 2015, and for which penalties are assessed on or after January 6, 2023.

### **Definitions**

10. The term “facility” means “all 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 (or by any person which controls, is controlled by, or under common control with such person). A facility may contain more than one establishment.” Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3.

11. The term “person” means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or interstate body. Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

12. The term “full-time employees” means “2,000 hours per year of full-time equivalent employment. A facility would calculate the number of full-time employees by totaling the hours worked during the calendar year by all employees, including contract employees, and dividing that total by 2,000 hours.” 40 C.F.R. § 372.3.

13. The term “toxic chemical” means a “chemical or chemical category listed in 40 C.F.R. § 372.65.” 40 C.F.R. § 372.3.

14. The term “manufacture” means “to produce, prepare, import or compound a toxic chemical. Manufacture also applies to a toxic chemical that is produced coincidentally during the manufacture, processing, use or disposal of another chemical or mixture of chemicals, including a toxic chemical that is separated from that other chemical or mixture of chemicals as a byproduct, and a toxic chemical that remains in that other chemical mixture of chemicals as an impurity.” 40 C.F.R. § 372.3.

15. The term “process” means “the preparation of a toxic chemical, after its manufacture, for distribution in commerce: (1) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance; or (2) as part of an article containing the toxic chemical. Process also applies to the processing of a toxic chemical contained in a mixture or trade name product.” 40 C.F.R. § 372.3.

16. The term “otherwise use” means “any use of a toxic chemical, including a toxic chemical contained in a mixture or other trade name product or waste, that is not covered by the terms ‘manufacture’ or ‘process.’ Otherwise use of a toxic chemical does not include disposal, stabilization (without subsequent distribution in commerce), or treatment for destruction unless: (1) the toxic chemical that was disposed, stabilized, or treated for destruction was received from off-site for the purposes of further waste management; or (2) the toxic chemical that was

disposed, stabilized, or treated for destruction was manufactured as a result of waste management activities on materials received from off-site for the purposes of further waste management activities. Relabeling or redistributing of the toxic chemical where no repackaging of the toxic chemical occurs does not constitute otherwise use or processing of the toxic chemical.” 40 C.F.R. § 372.3.

**Factual Allegations**

17. Respondent is, and at all times referred to herein was, a “person” as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

18. Respondent’s facility, located at 10333 NE 30<sup>th</sup> Street in Pratt, Kansas (“Respondent’s facility”), is a “facility” as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and by 40 C.F.R. § 372.3.

19. At all times relevant herein, Respondent’s facility had ten or more “full-time employees” pursuant to Section 313(b)(1)(A) of EPCRA, 42 U.S.C. § 11023(b)(1)(A), and as defined by 40 C.F.R. § 372.3.

20. Respondent’s facility is classified as NAICS Code 325193.

21. Acrolein, formaldehyde, acetaldehyde, hexane, and benzene are listed chemicals pursuant to 40 C.F.R. § 372.65 and therefore are “toxic chemicals” within the meaning of 40 C.F.R. § 372.3.

22. During reporting year 2020, the toxic chemicals acrolein, formaldehyde, acetaldehyde, hexane, and benzene were “manufactured, processed, or otherwise used,” as those terms are defined by 40 C.F.R. § 372.3, at Respondent’s facility.

23. On or about April 12, 2022, EPA transmitted an information request letter to Respondent seeking information about Respondent’s compliance with Toxics Release Inventory reporting requirements. Respondent provided a response on or about May 11, 2022.

**Alleged Violations of Law**

24. Complainant hereby states and alleges that Respondent has violated EPCRA and federal regulations promulgated thereunder, as follows:

Count 1

25. Paragraphs 17 through 23 are incorporated by reference as if fully set forth herein.

26. Pursuant to Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, the threshold reporting quantity for manufacturing or processing acrolein is 25,000 pounds.

27. The toxic chemical acrolein was manufactured or processed at Respondent's facility in excess of the applicable threshold quantities during calendar year 2020.

28. Respondent failed to file a Form R report for acrolein with the Administrator of EPA and the State of Kansas for reporting year 2020 by the July 1, 2021, deadline. Respondent filed the Form R report on or about June 1, 2022.

29. The failure to timely submit a Form R report for acrolein is a violation of Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30.

30. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), it is proposed that a civil penalty be assessed against Respondent for the violation of EPCRA identified above, the amount of which is set forth below.

#### Count 2

31. Paragraphs 17 through 23 are incorporated by reference as if fully set forth herein.

32. Pursuant to Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, the threshold reporting quantity for manufacturing or processing acetaldehyde is 25,000 pounds.

33. The toxic chemical acetaldehyde was manufactured or processed at Respondent's facility in excess of the applicable threshold quantities during calendar year 2020.

34. Respondent failed to file a Form R report for acetaldehyde with the Administrator of EPA and the State of Kansas for reporting year 2020 by the July 1, 2021, deadline. Respondent filed the Form R report on or about June 1, 2022.

35. The failure to timely submit a Form R report for acetaldehyde is a violation of Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30.

36. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), it is proposed that a civil penalty be assessed against Respondent for the violation of EPCRA identified above, the amount of which is set forth below.

#### Count 3

37. Paragraphs 17 through 23 are incorporated by reference as if fully set forth herein.

38. Pursuant to Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, the threshold reporting quantity for manufacturing or processing benzene is 25,000 pounds.

39. The toxic chemical benzene was manufactured or processed at Respondent's facility in excess of the applicable threshold quantities during calendar year 2020.

40. Respondent failed to file a Form R report for benzene with the Administrator of EPA and the State of Kansas for reporting year 2020 by the July 1, 2021, deadline. Respondent filed the Form R report on or about June 1, 2022.

41. The failure to timely submit a Form R report for benzene is a violation of Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30.

42. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), it is proposed that a civil penalty be assessed against Respondent for the violation of EPCRA identified above, the amount of which is set forth below.

Count 4

43. Paragraphs 17 through 23 are incorporated by reference as if fully set forth herein.

44. Pursuant to Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, the threshold reporting quantity for manufacturing or processing formaldehyde is 25,000 pounds.

45. The toxic chemical formaldehyde was manufactured or processed at Respondent's facility in excess of the applicable threshold quantities during calendar year 2020.

46. Respondent failed to file a Form R report for formaldehyde with the Administrator of EPA and the State of Kansas for reporting year 2020 by the July 1, 2021, deadline. Respondent filed the Form R report on or about June 1, 2022.

47. The failure to timely submit a Form R report for formaldehyde is a violation of Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30.

48. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), it is proposed that a civil penalty be assessed against Respondent for the violation of EPCRA identified above, the amount of which is set forth below.

Count 5

49. Paragraphs 17 through 23 are incorporated by reference as if fully set forth herein.

50. Pursuant to Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, the threshold reporting quantity for manufacturing or processing hexane is 25,000 pounds.

51. The toxic chemical hexane was manufactured or processed at Respondent's facility in excess of the applicable threshold quantities during calendar year 2020.

52. Respondent failed to file a Form R report for hexane with the Administrator of EPA and the State of Kansas for reporting year 2020 by the July 1, 2021, deadline. Respondent filed the Form R report on or about June 1, 2022.

53. The failure to timely submit a Form R report for hexane is a violation of Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30.

54. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), it is proposed that a civil penalty be assessed against Respondent for the violation of EPCRA identified above, the amount of which is set forth below.

### **CONSENT AGREEMENT**

55. For the purposes of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- a. admits the jurisdictional allegations set forth herein;
- b. neither admits nor denies the specific factual allegations stated herein;
- c. consents to the assessment of a civil penalty, as stated herein;
- d. consents to the issuance of any specified compliance or corrective action order;
- e. consents to any conditions specified herein;
- f. consents to any stated Permit Action;
- g. waives any right to contest the allegations set forth herein; and
- h. waives its rights to appeal the Final Order accompanying this Consent Agreement.

56. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein and to completion of the Supplemental Environmental Project (SEP) described below.

57. Respondent and EPA agree to the terms of this Consent Agreement and Final Order and Respondent agrees to comply with the terms specified herein.

58. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

59. The parties consent to service of this Consent Agreement and Final Order electronically at the following e-mail addresses: *kacsur.katherine@epa.gov* (for Complainant)

and *rlunt@prattenergy.com* (for Respondent). Respondent understands that the Consent Agreement and Final Order will become publicly available upon filing.

### **Penalty Payment**

60. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of twelve thousand, two hundred and thirty-four dollars (\$12,234), as set forth below, and shall perform a Supplemental Environmental Project (SEP) as set forth in this Consent Agreement and Final Order. The projected cost of the SEP is forty-one thousand, two hundred and seventy dollars (\$41,270). The SEP is further described below.

61. Respondent shall pay the penalty within thirty (30) days of the effective date of this Consent Agreement and Final Order. Such payment shall identify Respondent by name and docket number and shall be by cashiers or certified check made payable to the “United States Treasury” and remitted to:

U.S. Environmental Protection Agency, Region 7  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979078  
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

62. A copy of the check or other information confirming payment shall simultaneously be e-mailed to:

Regional Hearing Clerk  
*R7\_Hearing\_Clerk\_Filings@epa.gov*;

and to:

Katherine Kacsur  
*kacsur.katherine@epa.gov*.

63. Late Payment Provisions. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if it is not paid by the date required. Interest will be assessed at a rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b). A charge will be assessed to cover the costs of the debt collection, including processing and handling costs and attorneys’ fees. In addition, a non-payment penalty charge of three (3) percent per year, compounded annually, will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 31 C.F.R. §§ 901.9(c) and (d).

64. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection. If payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of the Treasury, pursuant to 31 U.S.C. § 3717. The interest will be assessed on the overdue amount from the due date through the date of payment.

### **Supplemental Environmental Project**

65. In response to the violations of EPCRA alleged in this Consent Agreement and Final Order and in settlement of this matter, although not required by EPCRA or any other federal, state or local law, Respondent agrees to implement the supplemental environmental project (SEP) described in this Consent Agreement and Final Order, which the parties agree is intended to secure significant environmental and/or public health protection and improvement.

66. Respondent shall complete the following SEP: Respondent has selected Pratt County Emergency Management and Pratt County Emergency Medical Services to be the recipient of emergency response equipment. Respondent will purchase two (2) utility terrain vehicles, specifically CFMOTO UFORCE UTV, two (2) glass windshields for the utility terrain vehicles, specifically CFMOTO UFORCE 1000 Glass Windshields, and one (1) fire and rescue cot for one of the utility terrain vehicles, specifically QTAC EMS-RG, and shall donate this equipment to Pratt County Emergency Management and Pratt County Emergency Medical Services. See Attachment 1.

67. The approximate cost of the SEP is \$41,270. Respondent shall spend no less than \$41,270 on implementing the SEP.

68. Respondent shall complete the SEP within three (3) months of the Effective Date of this Consent Agreement and Final Order.

69. This SEP shall be performed in accordance with the requirements of this Consent Agreement and Final Order.

70. Respondent alone selected the SEP recipient and specific equipment identified in this CAFO. This Consent Agreement and Final Order shall not be construed to constitute EPA approval or endorsement of the equipment or technology purchased or donated by Respondent in connection with the SEP undertaken pursuant to this Consent Agreement and Final Order.

71. The SEP is consistent with applicable EPA policy and guidelines, specifically EPA's 2015 Update to the 1998 Supplemental Environmental Projects Policy, (March 10, 2015). The SEP advances at least one of the objectives of EPCRA by giving first responders tools to address emergencies and hazards swiftly and adequately. The SEP is not inconsistent with any provision of EPCRA. The SEP relates to the alleged violations, and is designed to reduce:

- a. The adverse impact to public health and/or the environment to which the alleged violations contribute, specifically by providing quicker and easier access to places where hazards or emergencies may arise. Reduced response times allows for

quicker aid to people in need, as well as quicker remedying of the issue giving rise to the hazard or emergency. By allowing first responders to reach these locations more efficiently, they can address the underlying hazard more quickly and thereby reduce harm to the environment and to surrounding populations; and

- b. The overall risk to public health and/or the environment potentially affected by the alleged violations by allowing for quicker response to hazards and emergencies.
72. Respondent certifies the truth and accuracy of each of the following:
- a. that all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that the Respondent in good faith estimates that the cost to implement the SEP, exclusive of administrative costs and employee oversight of the implementation of the SEP, is \$41,270;
  - b. that, as of the date of executing this Consent Agreement and Final Order, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;
  - c. that the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Consent Agreement and Final Order;
  - d. that Respondent has not received and will not have received credit for the SEP in any other enforcement action;
  - e. that Respondent will not receive reimbursement for any portion of the SEP from another person or entity;
  - f. that for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP;
  - g. that Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Paragraph 66; and
  - h. that Respondent has inquired of Pratt County whether it is party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP and has been informed by the recipient that neither is a party to such a transaction.
73. Any public statement, oral or written, in print, film, or other media, made by Respondent or a representative of Respondent making reference to the SEP under this Consent

Agreement and Final Order from the date of its execution of this Consent Agreement and Final Order shall include the following language: “This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency to enforce federal laws.”

*SEP Reports*

74. Respondent shall submit a SEP Completion Report to EPA within three (3) months of the Effective Date of this Consent Agreement and Final Order. The SEP Completion Report shall contain the following information, with supporting documentation:

- a. a detailed description of the SEP as implemented, including documentation of costs and copies of all purchase and delivery orders;
- b. a description of any problems encountered in implementation of the project and the solutions thereto;
- c. certification that the SEP has been fully implemented pursuant to the provisions of this Consent Agreement and Final Order; and
- d. a description of the environmental and/or public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).

75. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP completion report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, “acceptable documentation” includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

76. The SEP Completion Report shall be submitted on or before the due date specified above to Sean Bergin, Compliance Officer, via email at *bergin.sean@epa.gov*.

77. The SEP Completion Report shall include the statement of Respondent, through an officer, signed and certifying under penalty of law the following:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

78. SEP Completion Report approval. The SEP Completion Report shall be reviewed in accordance with the procedures outlined in this paragraph. EPA will review the SEP Completion Report and may approve, approve with modifications, or disapprove and provide comments to Respondent. If the SEP Completion Report is disapproved with comments, Respondent shall incorporate EPA's comments and resubmit the SEP Completion Report within thirty (3) days of receipt of EPA's comments. If Respondent fails to revise the SEP Completion Report in accordance with EPA's comments, Respondent shall be subject to the stipulated penalties as set forth below.

79. Stipulated Penalties

- a. In the event Respondent fails to comply with any of the terms or provisions of this Agreement relating to the performance of the SEP, including to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP, Respondent shall be liable for stipulated penalties according to the provisions set forth below:
  - i. If the SEP is not completed satisfactorily and timely pursuant to this Consent Agreement and Final Order, including spending the minimum amount on the SEP set forth in Paragraph 67, above, Respondent shall pay a stipulated penalty to the United States in the amount of \$47,461.
  - ii. If Respondent fails to timely submit the SEP Completion Report, Respondent shall pay a stipulated penalty in the amount of \$250 for each day after the report was due until Respondent submits the report.
- b. The determinations of whether the SEP has been satisfactorily completed and whether Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.
- c. Stipulated penalties shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity or other resolution under this Consent Agreement and Final Order.
- d. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of the Penalty Payment Section above. Interest and late charges shall be paid as stated in Paragraph 63 herein.
- e. Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or of the statutes and

regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.

- f. EPA may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this Consent Agreement and Final Order.

### **Effect of Settlement and Reservation of Rights**

80. Full payment of the civil penalty and completion of the SEP proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of EPCRA or any other applicable law.

81. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in the paragraph directly below.

82. Respondent certifies by signing this Consent Agreement that it is presently in compliance with all requirements of EPCRA and its implementing regulations.

83. Nothing in this Agreement shall be construed as a release from any other action under law and/or regulation administered by EPA. Nothing in this Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

84. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

85. Complainant reserves the right enforce the terms and conditions of this Consent Agreement and Final Order.

### **General Provisions**

86. This Consent Agreement and Final Order constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

87. The undersigned representative of Respondent certifies that they are fully authorized to enter the terms and conditions of this Consent Agreement and to legally bind Respondent to it.

88. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent

Agreement. This Consent Agreement and Final Order shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

89. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors, and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Agreement.

90. Penalties paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

**COMPLAINANT:**

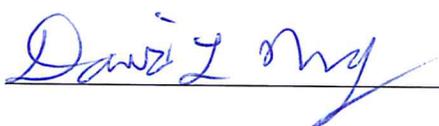
U.S. Environmental Protection Agency

Date: \_\_\_\_\_ By: \_\_\_\_\_  
David Cozad  
Director  
Enforcement and Compliance Assurance Division

Date: \_\_\_\_\_ By: \_\_\_\_\_  
Katherine Kacsur  
Assistant Regional Counsel  
Office of Regional Counsel

**RESPONDENT:**

Pratt Energy, LLC

Date: 9/27/23 By: 

David L Mog  
Printed Name

Plant Manager  
Title

**FINAL ORDER**

Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), 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, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

**IT IS SO ORDERED.**

Date: \_\_\_\_\_ By: \_\_\_\_\_  
Karina Borromeo  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region 7

**CERTIFICATE OF SERVICE**  
*(to be completed by EPA)*

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order in the matter of Pratt Energy, LLC, EPA Docket No. EPCRA-07-2023-0124, was sent this day in the following manner to the addressees:

Copy via E-mail to Complainant:

Katherine Kacsur  
Office of Regional Counsel  
*kacsur.katherine@epa.gov*

Sean Bergin  
Enforcement and Compliance Assurance Division  
*bergin.sean@epa.gov*

Milady Peters  
Office of Regional Counsel  
*peters.milady@epa.gov*

Copy via E-mail to Respondent:

Ryan Lunt  
*rlunt@prattenergy.com*

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signed