

# HALLMAN & WINGATE

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November 12, 2009

**BY FEDERAL EXPRESS**

Ms. Karen Hearing Maples  
United States Environmental  
Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

Re: In re: Commonwealth Oil Refining Co.  
Docket No CAA-02-2009-1228  
Risk Management Plan  
HW File No. 2115/037

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REGION 2  
2009 NOV 13 PM 12:06  
REGIONAL HEARING  
CLERK

Dear Ms. Maples:

Enclosed please find an original and two copies of an Answer to the Administrative Complaint regarding the above-referenced matter. Please file this pleading and return one copy stamped filed in the enclosed self-addressed, stamped envelope. By copy of this letter, I am forwarding service copies to counsel of record.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



Kathryn Sims  
Legal Administrator

For HALLMAN & WINGATE, LLC

KPS:tbm  
Enclosure  
c/enc: Mr. Roberto Gratacos (via email)  
Henry Guzman, Esq.  
F. Edwin Hallman, Jr., Esq.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

U.S. ENVIRONMENTAL PROTECTION AGENCY-REG. II  
2009 NOV 13 PM 12:05  
REGIONAL HEARING CLERK

In the Matter of:	)	
	)	
Commonwealth Oil Refining Company	)	Docket No. CAA-02-2009-1228
	)	
Respondent.	)	Administrative Complaint under
	)	Section 113 of the Clean Air Act,
	)	42 U.S.C. § 7413

**ANSWER TO ADMINISTRATIVE COMPLAINT**

COMES NOW, Commonwealth Oil Refining Company, Inc., Respondent, through counsel and responds to the individually numbered paragraphs in the Administrative Complaint and states as follows:

1. Respondent states that the Clean Air Act, 42 U.S.C. § 7401 *et seq.* (the “Act”) speaks for itself. Respondent states that it can neither affirm nor deny Complainant’s interpretation of such language. Therefore, such interpretation is denied.

2. Respondent states that the referenced statutory language speaks for itself. Respondent states that it can neither affirm nor deny Complainant’s interpretation of such language. Therefore, such interpretation is denied.

3. Respondent states that the referenced statutory language speaks for itself. Respondent states that it can neither affirm nor deny Complainant’s interpretation of such language. Therefore, such interpretation is denied.

4. Respondent states that the referenced statutes and regulations speak for themselves. Respondent states that it can neither affirm nor deny Complainant's interpretations of such language. Therefore, such interpretations are denied.

5. Respondent states that the referenced statutes and regulations speak for themselves. Respondent states that it can neither affirm nor deny Complainant's interpretations of such language. Therefore, such interpretations are denied.

6. Respondent states that it can neither affirm nor deny Complainant's interpretations of such language. Therefore, such interpretations are denied.

7. Respondent states that the referenced regulations speak for themselves. Respondent can neither affirm nor deny Complainant's interpretations of the regulations. Therefore, such interpretations are denied.

8. Respondent states that the referenced regulations speak for themselves. Respondent can neither affirm nor deny Complainant's interpretations of the regulations. Therefore, such interpretations are denied.

9. Respondent states that the referenced regulations speak for themselves. Respondent can neither affirm nor deny Complainant's interpretations of the regulations. Therefore, such interpretations are denied.

10. Respondent states that the referenced regulations speak for themselves. Respondent can neither affirm nor deny Complainant's interpretations of the regulations. Therefore, such interpretations are denied.

11. Respondent states that the referenced regulations speak for themselves. Respondent can neither affirm nor deny Complainant's interpretations of the regulations. Therefore, such interpretations are denied.

12. Respondent states that the referenced regulations speak for themselves. Respondent can neither affirm nor deny Complainant's interpretations of the regulations. Therefore, such interpretations are denied.

13. Respondent states that the referenced regulations speak for themselves. Respondent can neither affirm nor deny Complainant's interpretations of the regulations. Therefore, such interpretations are denied.

14. Respondent states that the referenced regulations speak for themselves. Respondent can neither affirm nor deny Complainant's interpretations of the regulations. Therefore, such interpretations are denied.

15. Respondent admits the allegations contained in Paragraph 15 of the Administrative Complaint.

16. Respondent states that the referenced regulations speak for themselves. Respondent can neither affirm nor deny Complainant's interpretations of the regulations. Therefore, such interpretations are denied.

17. Respondent states that the referenced statutes and regulations speak for themselves. Respondent can neither affirm nor deny Complainant's interpretations of such language. Therefore, such interpretations are denied.

18. Respondent states that the referenced regulations speak for themselves. Respondent can neither affirm nor deny Complainant's interpretations of the regulations. Therefore, such interpretations are denied.

19. Denied. The nature of Respondent's operations require mooring of ships containing propane or LPG at Respondent's Facility. A worst case discharge scenario was identified in the Risk Management Plan ("RMP"). It was determined that this reporting was incorrect and a resulting "correction" report dated March 3, 2009 was submitted to EPA. See Appendix L-1, Appendix I to Phases 2 and 3 report dated June, 2009.

20. Respondent states that the referenced statutes and regulations speak for themselves. Respondent can neither affirm nor deny Complainant's interpretations of the regulations. Therefore, such interpretations are denied.

21. Respondent admits that a representative of the EPA conducted an inspection of the Facility on or about March 10, 2008. Respondent states that the referenced statutes and regulations speak for themselves. Respondent can neither affirm nor deny Complainant's interpretations of the regulations. Therefore, such interpretations are denied.

22. Respondent admits the allegations contained in Paragraph 22 of the Administrative Complaint.

23. Denied. The nature of Respondent's operations require mooring of ships containing propane or LPG at Respondent's Facility. At the time of submitting the updated RMP, Respondent has received a cargo shipment of butane.

**COUNT 1**

24. Respondent realleges and restates its responses to Paragraphs 1 through 23 of the Administrative Complaint as if fully set forth herein.

25. Denied. Over the course of many years, Respondent has developed a strict chain of command among its on-site personnel, with each individual having a clear understanding and knowledge of his or her specific responsibilities, resulting in efficient and effective operations of the Facility, including the handling of LPG, propane, and butane.

26. Denied.

27. Denied.

28. Denied.

29. Denied. Respondent states that written procedures exist in the form of training materials used in the initial training of operators, as well as written instructions of any outstanding situations which are prepared for each shift.

30. Denied.

31. Denied. Respondent confirms the existence of written management of change and pre-startup review processes. Respondent has implemented such changes.

32. Denied. Respondent further states that audits were in fact conducted.

33. Denied.

34. Denied.

35. Denied.

**V. NOTICE OF PROPOSED ORDER ASSESSING A CIVIL PENALTY**

Respondent denies that a civil penalty is appropriate in this matter.

**VI. PROCEDURES GOVERNING THIS ADMINISTRATIVE PROCEEDING**

Respondent has requested an informal hearing meeting to be held at a convenient time for the parties at the EPA offices in New York, New York with the appropriate representatives of the EPA and Respondent being present. In part, the informal hearing will assist Respondent to understand the EPA's interpretation of the numerous statutes and regulations as addressed and interpreted in the Administrative Complaint. Respondent reserves the right to amend this Answer regarding all allegations in the Administrative Complaint and to assert all defenses available at law to the Respondent regarding the Administrative Complaint, subsequent to the informal hearing to be held in New York. Furthermore, Respondent requests a formal hearing of all matters addressed in the Administrative Complaint should Complainant and Respondent not be able to resolve all matters during the informal hearing.

WHEREFORE, Respondent denies that the relief proposed by Complainant in the Administrative Complaint is appropriate, and further requests a hearing on all matters contained in the Administrative Complaint.

Respectfully submitted on November 12, 2009.



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F. EDWIN HALLMAN, JR.  
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RICHARD A. WINGATE  
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ZACHARY M. WILSON III  
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

In the Matter of: )  
 )  
Commonwealth Oil Refining Company ) Docket No. CAA-02-2009-1228  
 )  
Respondent. ) Administrative Complaint under  
 ) Section 113 of the Clean Air Act,  
 ) 42 U.S.C. § 7413  
 )

**CERTIFICATE OF SERVICE**

This is to certify that on November 12, 2009, I served the following counsel in the foregoing matter with an Answer to Administrative Complaint by placing a copy of same in the United States Mail in a properly addressed envelope with adequate postage thereon to:

Henry Guzman, Esq.  
Office of Regional Counsel  
United States Environmental  
Protection Agency, Region 2  
290 Broadway, 17<sup>th</sup> Floor  
New York, NY 10007-1866

  
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RICHARD A. WINGATE  
State Bar of Georgia #770617

For HALLMAN & WINGATE, LLC  
Attorneys for Respondent

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