

SYLVIA QUAST  
Regional Counsel

JACOB FINKLE  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105  
(415) 972-3857  
Finkle.Jacob@epa.gov



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

_____ )	Docket No. CAA-09-2024-0025
In the Matter of: )	
Norco Corporation )	COMPLAINT AND NOTICE OF
Respondent. )	OPPORTUNITY FOR HEARING
_____ )	

**I. AUTHORITY AND PARTIES**

1. This is a civil administrative action instituted pursuant to Section 113(a)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7401 – 7671q, for violations of Section 2025(x)(2) of the “Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants, from In-Use Heavy-Duty Diesel-Fueled Vehicles” (“Truck and Bus Regulation” or “TBR”).

2. A person’s failure to comply with any approved regulatory provision of an applicable state implementation plan (“SIP”) renders the person in violation of an applicable implementation plan and subject to enforcement under Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), which provides that at any time after the expiration of 30 days following the date of the issuance of a notice of violation, the Administrator may, without regard to the period of

violation, issue an order requiring compliance with the requirements of the state implementation plan or permit, issue an administrative penalty order pursuant to Section 113(d), or bring a civil action pursuant to Section 113(b) for injunctive relief and/or civil penalties.

3. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), authorizes the Administrator of the United States Environmental Protection Agency (“EPA”) to issue an administrative penalty order for each violation of an applicable SIP.

4. Complainant is the Director of the Enforcement and Compliance Assurance Division, EPA, Region IX, who has been duly delegated the authority to bring this action. Respondent is Norco Corporation (“Norco”), a Texas corporation with headquarter offices located at 1085 Jarvis Road in Saginaw, Texas.

5. This Complaint and Notice of Opportunity for Hearing (“Complaint”) serves as notice that Complainant has reason to believe that Respondent violated Section 2025(x)(2) of the TBR by failing to verify compliance with the TBR for trucks it hired or dispatched that entered California between January 1, 2018, and May 20, 2021, inclusive.

6. Because this Complaint alleges violations in which the first alleged date of violation occurred more than twelve (12) months prior to the initiation of the administrative action, the Administrator of the EPA and the Attorney General have jointly determined that this matter is appropriate for administrative penalty action, as required under Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

## **II. GENERAL ALLEGATIONS**

7. Pursuant to Section 107(d) of the CAA, 42 U.S.C. § 7407(d), the Administrator promulgated lists of attainment status designations for each air quality control region (“AQCR”) in every state. These lists identify the attainment status of each AQCR for each of the criteria

pollutants. The attainment status designations for California AQCRs are listed at 40 C.F.R. § 81.305.

8. There are multiple AQCRs designated as nonattainment for fine particulate matter (PM<sub>2.5</sub>) and ozone in California. See 40 C.F.R. § 81.305.

9. Section 110(a) of the Act, 42 U.S.C. § 7410(a), requires that all states adopt SIPs that provide for the implementation, maintenance, and enforcement of primary and secondary air quality standards.

10. In accordance with Resolution 10-44 (December 2010), the California Air Resources Board (“CARB”) adopted amendments to the TBR, codified at title 13, Section 2025 of the California Code of Regulations.

11. The EPA has incorporated the TBR, as submitted by the CARB on September 21, 2011, and December 15, 2011, into the California SIP, effective May 4, 2012. See 77 Fed. Reg. 20308 (April 4, 2012).

12. As stated in Section 2025(a) of the TBR, the purpose of the regulation is “to reduce emissions of diesel particulate matter (PM), oxides of nitrogen (NO<sub>x</sub>) and other criteria pollutants from in-use diesel-fueled vehicles.”

13. Pursuant to Section 2025(b) of the TBR, the TBR “applies to any person, business, ... that owns or operates, leases, or rents, affected vehicles that operate in California. Affected vehicles are those that operate on diesel-fuel, dual-fuel, or alternative diesel-fuel that are registered to be driven on public highways, were originally designed to be driven on public highways whether or not they are registered, ... and have a gross vehicle weight rating (GVWR) greater than 14,000 pounds.”

14. Section 2025(d)(28) of the TBR defines “Fleet” as “one or more vehicles, owned by a person, business, or government agency, traveling in California and subject to this regulation....”

15. Section 2025(d)(42) of the TBR defines “Motor Carrier” as “the same as defined in California Vehicle Code Section 408 for fleets other than those that are comprised entirely of school buses ....”

16. Section 2025(d)(47) of the TBR defines “Person” as “an individual, corporation, business trust, estate, trust, partnership, Limited Liability Company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.”

17. Section 2025(s)(4) of the TBR provides that motor carriers or brokers must maintain “bills of lading and other documentation identifying the motor carrier or broker who hired or dispatched the vehicle and the vehicle dispatched.”

18. Section 2025(x)(2) of the TBR provides that “[a]ny in-state or out-of-state motor carrier, California broker, or any California resident who operates or directs the operation of any vehicle subject to this regulation shall verify that each hired or dispatched vehicle is in compliance with the regulation and comply with the record keeping requirements of section 2025(s)(4).”

19. Respondent is a corporation incorporated in Texas.

20. Respondent is a trucking company that provides refrigeration, intermodal and flatbed transportation services.

21. At all times relevant to this Complaint, Respondent was a “Person” as that term is defined under Section 2025(d)(47) of the TBR.

22. At all times relevant to this Complaint, Respondent was a “Motor Carrier” as that term is defined under Section 2025(d)(42) of the TBR.

23. On May 20, 2021, EPA Region IX issued an information request (the “Information Request”) to Respondent pursuant to Section 114 of the Act, 42 U.S.C. § 7414. A primary purpose of the Information Request was to determine the compliance of Respondent with the TBR. In the Information Request, EPA requested information regarding diesel-fueled vehicles owned, hired, or leased by Respondent and operated in California since January 1, 2017.

24. In the Information Request, at section I.D, which references TBR Section 2025(x)(2), EPA requested information regarding fleets from which Respondent hired or dispatched any diesel-fueled non-drayage vehicle over 14,000 pounds GVWR and driven in California.

### **III. ALLEGED VIOLATION**

#### **COUNT 1: Failure to comply with Section 2025(x)(2) of the TBR**

25. Paragraphs 7 through 24 above are hereby alleged and incorporated by reference as if set forth herein in full.

26. On or about June 2, 2021, Respondent submitted its initial response (“Response”) to the Information Request.

27. The Response showed that Respondent answered that, relevant to this Complaint, Norco did not hire or dispatch any vehicles of the type specified by EPA in Section I.D. of the Information Request.

28. On or about July 13, 2021, Respondent revised its Response to the Information Request.

29. On various dates between January 1, 2017, and May 20, 2021, Respondent hired or dispatched at least seventy-eight (78) vehicles and failed to verify the TBR compliance of those seventy-eight (78) vehicles.

30. On December 22, 2021, Complainant issued a Finding and Notice of Violation (“NOV”) to Respondent, based on its failure to comply with the TBR.

31. Respondent subsequently revised its Response on or about March 16, 2022, and again on May 5, 2022, and again on or about August 10, 2023.

32. Respondent operated or directed the operation of at least one (1) vehicle in California and subject to the TBR on various date(s) between January 1, 2018, and May 20, 2021, inclusive.

33. On various dates between January 1, 2018, and May 20, 2021, inclusive, Respondent hired or dispatched at least seventy-seven (77) vehicles and failed to verify the TBR compliance of those seventy-seven (77) vehicles.

34. Respondent's failure to verify compliance with the TBR of at least seventy-seven (77) vehicles it hired or dispatched between January 1, 2018, and May 20, 2021, inclusive, constitutes seventy-seven (77) violations of Section 2025(x)(2) of the TBR.

#### **IV. PROPOSED CIVIL PENALTY**

Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), authorizes civil penalties of not more than \$55,808 per day for each violation of Section 113(a)(1)(A) of the CAA, 42 U.S.C. § 7413(a)(1)(A), that occurred after November 2, 2015, where penalties were assessed on or after January 6, 2023, pursuant to the Civil Monetary Penalty Inflation Adjustment Rule at 40 C.F.R. part 19, which implements the Federal Civil Penalties Inflation Adjustment Acts of 1990 and 2015, Pub. L. 101-410.

Section 113(e)(1) of the Act states that, in determining the amount of any penalty to be assessed, the Administrator shall take into consideration (in addition to such other factors as justice may require) the size of the violator, the economic impact of the penalty on the violator, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the

economic benefit of noncompliance, and the seriousness of the violation. Section 113(e)(2) of the Act allows the Administrator to assess a penalty for each day of violation. Accordingly, Complainant requests that after consideration of these statutory assessment factors, the Administrator assess Respondent a civil administrative penalty of up to \$55,808 for each of the violations of the CAA set forth above.

#### **V. NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

As provided in Section 113(d) of the CAA, 42 U.S.C. § 7413(d), you have the right to request a formal hearing to contest any material fact set forth in this Complaint or to contest the appropriateness of the proposed penalty. Any hearing requested will be conducted in accordance with the Administrative Procedure Act, 5 U.S.C. §§ 554 and 556 *et seq.*, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits (the “Consolidated Rules of Practice”), 40 C.F.R. Part 22. A copy of the Consolidated Rules of Practice is enclosed with this Complaint.

**You must file a written Answer within thirty (30) days of receiving this Complaint to avoid being found in default, which constitutes an admission of all facts alleged in the Complaint and a waiver of the right to a hearing, and to avoid having the above penalty assessed without further proceedings.** If you choose to file an Answer, you are required to by the Consolidated Rules of Practice to clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint to which you have any knowledge. If you have no knowledge of a particular fact and so state, the allegation is considered denied. Failure to deny any of the allegations in this Complaint will constitute an admission of the undenied allegation.

The Answer shall also state the circumstances and arguments, if any, which are alleged to constitute the grounds of defense, and shall specifically request an administrative hearing, if

desired. If you deny any material fact or raise any affirmative defense, you will be considered to have requested a hearing.

The answer must be filed with:

Regional Hearing Clerk  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105  
R9HearingClerk@epa.gov

In addition, please send a copy of the Answer and all other documents that you file in this action to:

Jacob Finkle  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105  
Finkle.Jacob@epa.gov

You are further informed that the Consolidated Rules of Practice prohibit any *ex parte* (unilateral) discussion of the merits of any action with the Regional Administrator, Regional Judicial Officer, Administrative Law Judge, or any person likely to advise these officials in the decision of the case, after the Complaint is issued.

#### **VI. INFORMAL SETTLEMENT CONFERENCE**

EPA encourages all parties against whom a civil penalty is proposed to pursue the possibility of settlement through informal conferences. Therefore, whether or not you request a hearing, you may confer informally with EPA through Jacob Finkle, the EPA attorney assigned to this case, regarding the facts of this case, the amount of the proposed penalty, and the possibility of settlement. **An informal settlement conference does not, however, affect your obligation to file an Answer to this Complaint.**



**VII. ALTERNATIVE DISPUTE RESOLUTION**

The parties also may engage in any process within the scope of the Alternative Dispute Resolution Act, 5 U.S.C. § 581 *et seq.*, which may facilitate voluntary settlement efforts. Dispute resolution using alternative means of dispute resolution does not divest the Presiding Officer of jurisdiction nor does it automatically stay the proceeding.

**VIII. CONSENT AGREEMENT AND FINAL ORDER**

EPA has the authority, where appropriate, to modify the amount of the proposed penalty to reflect any settlement reached with you in an informal conference or through alternative dispute resolution. The terms of such an agreement would be embodied in a Consent Agreement and Final Order. A Consent Agreement signed by both parties would be binding as to all terms and conditions specified therein when the Regional Judicial Officer signs the Final Order.

AMY MILLER-BOWEN Digitally signed by AMY MILLER-BOWEN  
Date: 2023.12.21 14:10:16 -08'00'

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AMY C. MILLER-BOWEN  
Director  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region IX

**CERTIFICATE OF SERVICE**

*In re Norco Corporation*

EPA Docket No. CAA-09-2024-0025

I certify that the foregoing Complaint and Notice of Opportunity for Hearing was filed via email with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region IX, at R9HearingClerk@epa.gov and that a true and correct copy of (1) the Complaint and Notice of Opportunity for Hearing and (2) the Consolidated Rules of Practice at 40 C.F.R. Part 22 were sent by U.S. Certified Mail, Return Receipt Requested, to:

AG Hollenstein  
President  
Norco Corporation  
1085 Jarvis Road  
Saginaw, TX 76179  
ag@norcocorp.com

Certified Mail #: 9589 0710 5270 0744 8681 61

Date: 12/21/2023

By: Carol Sachs  
U.S. Environmental Protection Agency, Region IX