

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR**

<b>In the Matter of:</b>	)	
	)	
<b>Norco Corporation,</b>	)	<b>Docket No. CAA-09-2024-0025</b>
	)	
<b>Respondent.</b>	)	

**BUSINESS CONFIDENTIALITY ASSERTED**

The exhibits submitted with Complainant’s Initial Prehearing Exchange contain material claimed to be confidential business information (“CBI”) pursuant to 40 C.F.R. § 2.203(b). The material claimed as CBI are Complainant’s Exhibits CX 44 and CX 47. These exhibits contain financial information submitted by Norco Corporation (“Respondent” or “Norco”) that Respondent has claimed to be CBI. These exhibits are therefore filed under seal pursuant to 40 C.F.R. § 22.5(d).

A complete set of all exhibits, and a set in which the exhibits containing CBI and PII are omitted, have been filed with the Office of Administrative Law Judges. If you have any questions, please contact Jacob Finkle at (415) 972-3857, or at [finkle.jacob@epa.gov](mailto:finkle.jacob@epa.gov).

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**COMPLAINANT’S INITIAL PREHEARING EXCHANGE**

The Director of the Enforcement and Compliance Assurance Division of the U.S. Environmental Protection Agency’s Region 9 Office (“Complainant”) files this Initial Prehearing Exchange, consistent with section 22.19 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), and with the Prehearing Order issued by this Tribunal on January 31, 2024. Complainant may amend or supplement this Prehearing Exchange as provided by sections 22.19(f) and 22.22(a)(1) of the Consolidated Rules.

The heading numbers below correspond to those set forth in Judge Biro’s Prehearing Order dated January 31, 2024.

**1(A) Potential Witnesses**

Complainant may call any or all of the following witnesses at the evidentiary hearing in this matter. Complainant may supplement this list, upon adequate notice to the Tribunal and to Respondent, should Respondent’s Prehearing Exchange or other information reveal the need for additional or alternative witnesses.

1. Mark Sims, EPA Region 9, Enforcement and Compliance Assurance Divison. Mr. Sims is an Environmental Engineer with EPA's Enforcement and Compliance Assurance Division in Region 9. Mr. Sims became the lead technical staff person in this matter in December 2023. Mr. Sims may testify as a fact witness. Mr. Sims reviewed and is the custodian of Norco's responses to information requests issued to Norco by the EPA concerning the alleged violations at issue in this case. Mr. Sims is expected to testify regarding the EPA's review of Norco's responses to information requests and identification and tabulation of violations documented in Norco's responses.
2. Daniel Haskell, EPA Region 9, Superfund and Emergency Management Division. Mr. Haskell is an Environmental Engineer with EPA's Superfund and Emergency Management Division in Region 9. Mr. Haskell was the lead technical staff person in this matter until December 2023, when he transitioned from the Enforcement and Compliance Assurance Division to the Superfund and Emergency Management Division. Mr. Haskell may testify as a fact witness if Mr. Sims is unable to do so. Like Mr. Sims, Mr. Haskell reviewed and is the custodian of Norco's responses to information requests issued to Norco by the EPA concerning the alleged violations at issue in this case. Mr. Haskell is expected to testify regarding the EPA's review of Norco's responses to information requests and identification and tabulation of violations documented in Norco's responses.
3. Ekaterina (Katya) Smirnova, Principal, Industrial Economics ("IEc"). Ms. Smirnova holds a Bachelor of Arts in Economics from St. Petersburg State University in St. Petersburg, Russia, and a Master of Arts in Economics from Northeastern University. Ms. Smirnova holds the position of a Principal with IEc, where she provides expert analytical support to federal and state environmental enforcement agencies on projects involving

assessments of economic benefit of noncompliance and financial capabilities of violating entities to finance investments in environmental controls and pay for penalties, manages contracts, and directs projects within her area of expertise. Ms. Smirnova may be called to testify about research conducted to assess Norco's financial condition and size of its business. Ms. Smirnova may also be qualified to testify as an expert on the financial condition of Norco and other related persons or entities, and about the impact of a penalty on Norco's ability to continue in business. Ms. Smirnova's resume is included in Complainant's exhibits and is marked as CX 1.

**1(B) Documents and Exhibits**

See Exhibit CX 0, titled "Complainant's Prehearing Exchange Exhibits List," for a list of the exhibits that Complainant may introduce at hearing. Copies of the exhibits are provided in tandem with this Initial Prehearing Exchange. Each exhibit is labeled as prescribed by the Prehearing Order, and the pages of each exhibit are numbered in the manner prescribed by the Prehearing Order.

**1(C) Estimate of Time to Present Direct Case and Services of an Interpreter**

Complainant estimates that the time needed to present its direct case, should all or the majority of its named witnesses be called to testify, would be approximately one (1) day. Complainant may amend this estimate if it learns of additional relevant information that could complicate or lengthen Complainant's presentation, or if Respondent agrees to stipulate to matters and thereby simplify or shorten Complainant's presentation. The services of an interpreter are not necessary.

**2(A) Service of Complaint and Amended Complaint**

The Complaint was filed on December 21, 2023, and was served on Respondent via certified mail. The United States Postal Service provided written verification of delivery on December 27, 2023. Documentation showing that service of the Complaint was completed in accordance with Section 22.5(b)(1) of the Rules of Practice, 40 C.F.R. § 22.5(b)(1), is included as Exhibit CX 39.

**2(B) Statement Concerning Allegations Denied or Otherwise Not Admitted by Respondent**

The Prehearing Order calls for Respondent to provide as part of its Initial Prehearing Exchange “a brief narrative statement, and a copy of any documents in support, explaining in detail the factual and/or legal bases for the allegations denied or otherwise not admitted in Respondent’s Answer.” Prehearing Order at 3.

To provide context to Complainant’s response, Complainant first outlines the key statutory and regulatory provisions supporting the allegations of the Complaint.

**Key Legal Provisions Supporting the Allegations of the Amended Complaint**

*EPA enforces the California Truck and Bus Regulation as a part of the State Implementation Plan*

Section 113(a)(1) of the Clean Air Act (“CAA” or “Act”), 42 U.S.C. § 7413(a)(1), authorizes EPA to enforce provisions of the State Implementation Plan (“SIP”), which consist, in part, of the California Truck and Bus Regulation, (“TBR”), which is codified in California law at 17 C.C.R. § 2025. EPA incorporated the TBR, as submitted by the California Air Resources

Board (“CARB”) on September 21, 2011, and December 5, 2011, into the California SIP, effective May 4, 2012. *See* 77 Fed. Reg. 20308 (April 4, 2012). EPA and CARB both enforce the TBR.

*The Verification Requirement in Section 2025(x)(2) of the Truck and Bus Regulation*

Section 2025(x)(2) of the TBR states: “Any 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).” Section 2025(x)(2) requires hiring or dispatching entities to verify that each vehicle they hire or dispatch is in compliance with the TBR. Section 2025(x)(3) of the TBR provides that “[c]ompliance may be accomplished by keeping at the business location, a copy of the Certificate of Reported Compliance with the In-Use On-Road Diesel Vehicle Regulation for each fleet, or in the vehicle.”

Sections 2025(s)(1) and 2025(s)(4) of the TBR state: “The owner of a fleet shall maintain the following records . . . [b]ills of lading and other documentation identifying the motor carrier or broker who hired or dispatched the vehicle and the vehicle dispatched.” CARB’s 2008 Initial Statement of Reasons (“2008 ISOR”) provides context on the required documentation under Section 2025(s)(4) of the TBR: “The . . . regulation would require these motor carriers and brokers to retain records documenting that the drivers they hire or dispatch are in compliance with the proposed regulation, but would have an affirmative defense for violations by a vehicle operator they dispatched if they can demonstrate that they verified the compliance status of the

operator at the time they were hired or dispatched.” 2008 California Air Resources Board Initial Statement of Reasons, page 33.<sup>1</sup> CX 17.

Verification of compliance must be performed for each vehicle, therefore missing documentation on whether the vehicle was in compliance with the regulation constitutes a violation of the TBR. CARB compliance certificates also demonstrate compliance with the TBR, although they are not the only means of showing it.<sup>2</sup> However, failure to provide any documentation that the hired or dispatched vehicle complied with the engine model year standards is a violation of Section 2025(x)(2).

### **Factual and Legal Bases for the Allegations Denied or Otherwise Not Admitted**

Section III of the Complaint identifies the 77 violations at issue in this case. Respondent denies or does not admit the allegations in Sections I and II of the Complaint and it explicitly denies the allegations in Section III of the Complaint. *See* Resp’t Answer. Here, Complainant provides the factual and legal bases for the allegations presented in Sections I, II, and III of the Complaint.

Respondent denies or does not admit the statements in paragraphs 1, 2, 3, 5, and 6 of the Complaint, which state the legal bases for enforcement upon a finding of violation of an

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<sup>1</sup> Other TBR rulemaking documents reiterate or expand upon the language used in the 2008 ISOR. See, e.g., 2008 Rulemaking, Technical Support Document, which, on page 134, states that the TBR requires these entities to “retain records documenting that all of the drivers they hire or dispatch are in compliance with the proposed regulation.” CX 18. Also available at: <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2008/truckbus08/tsd.pdf>. *See also*, 2014 Rulemaking, Final Statement of Reasons, p. 55, Agency Response #175, which reiterates the language of the 2008 ISOR and includes the statement that “[m]otor carriers/brokers or other entities must obtain copies of the certificate or other proof of compliance annually.” Also available at: <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2014/truckbus14/tb14fsor.pdf>. The 2014 rulemaking, which CARB set aside by court order, did not make any changes to TBR section 2025(x)(2), but CARB reiterated in its staff report its explanation of how the section works in response to public comment.

<sup>2</sup> *See* CARB guidance on how to verify if hired fleets comply. CX 12-15 are guidance documents, authored by CARB, that CARB has revised over time.

applicable SIP. Comp. ¶¶ 1-3, 5-6. The Administrator and the Attorney General jointly determined that this matter, although it involves violations that occurred more than 12 months prior to the initiation of the administrative action, is appropriate for administrative penalty assessment, pursuant to CAA § 113(d)(1), 42 U.S.C. § 7413(d)(1). CX 19.

Respondent denies or does not admit that it is a Texas corporation with headquarter offices located at 1085 Jarvis Road in Saginaw, Texas. Compl. ¶¶ 4, 19. Respondent's Answer provides the same information as paragraph 4 of the Complaint. The Texas Secretary of State's website also confirms that Respondent is a Texas corporation and it states that Respondent's address is located at 1085 Jarvis Road in Saginaw, Texas. CX 40.

Respondent denies or does not admit the statements in paragraphs 7 through 18 of the Complaint, which state statutory and regulatory provisions that are relevant in this matter. Complainant provides a copy of 40 C.F.R. § 81.305 at CX 37. Compl. ¶¶ 7-8. Complainant provides a copy of the EPA rulemaking that incorporated the TBR into the SIP at CX 10, and a copy of the TBR at CX 9. Compl. ¶¶ 10-11.

Respondent denies or does not admit that it is a trucking company that provides refrigeration, intermodal and flatbed transportation services. Compl. ¶ 20. As of May 9, 2021, Respondent's website stated that, "Norco has grown into a nationwide carrier operating a large fleet of refrigerated trailers, flatbeds, dry vans, and Intermodal equipment."<sup>3</sup> CX 38.

Respondent denies or does not admit that it was a "Person" as that term is defined under Section 2025(d)(47) of the TBR. Compl. ¶ 21. Norco is a "Person" because it is a corporation. CX 40.

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<sup>3</sup> Norco's website is no longer accessible. EPA captured statements from Norco's website as of May 9, 2021, using the Internet Archive's Wayback Machine. CX 38.

Respondent denies or does not admit that it was a “Motor Carrier” as that term is defined under Section 2025(d)(42) of the TBR. Compl. ¶ 22. Section 2025(d)(42) of the TBR defines “Motor Carrier” to mean “the same as defined in California Vehicle Code Section 408 for fleets other than those that are comprised entirely of school buses...” Compl. ¶ 15. Section 408 of the California Vehicle Code defines “Motor Carrier” to mean:

[T]he registered owner, lessee, licensee, or bailee of any vehicle set forth in Section 34500 [of the Vehicle Code], who operates or directs the operation of any such vehicle on either a for-hire or not-for-hire basis. ‘Motor carrier’ also includes a motor carrier’s agents, officers, and representatives, as well as employees responsible for the hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment or accessories.

Section 34500 of the California Vehicle Code sets forth the following vehicle types:

(a) Motortrucks of three or more axles that are more than 10,000 pounds gross vehicle weight rating.

(b) Truck tractors.

...

(d) Trailers and semitrailers designed or used for the transportation of more than 10 persons, and the towing motor vehicle.

(e) Trailers and semitrailers, pole or pipe dollies, auxiliary dollies, and logging dollies used in combination with vehicles listed in subdivision (a), (b) ... (d), or (j). This subdivision does not include camp trailers, trailer coaches, and utility trailers.

(f) A combination of a motortruck and a vehicle or vehicles set forth in subdivision (e) that exceeds 40 feet in length when coupled together.

(g) A vehicle, or a combination of vehicles, transporting hazardous materials.

...

(j) Any other motortruck not specified in subdivisions (a) to (h), inclusive, or subdivision (k), that is regulated by the Department of Motor Vehicles, the Department of Consumer Affairs, or the United States Secretary of Transportation.

(k) A commercial motor vehicle with a gross vehicle weight rating of 26,001 or more pounds or a commercial motor vehicle of any gross vehicle weight rating towing a vehicle described in subdivision (e) with a gross vehicle weight rating of more than 10,000 pounds, except combinations including camp trailers, trailer coaches, or utility trailers. For the purposes of this subdivision, the term “commercial motor vehicle” has the same meaning as defined in subdivision (b) of Section 15210.

According to each of its revised responses to EPA’s May 20, 2021 information request (“Information Request”), Norco hired or dispatched into California the trucks it leased during that time period. Norco’s response to the Information Request identifies the fleets of “diesel-fueled non-drage vehicle[s] over 14,000 pounds [gross vehicle weight rating]” that Norco hired or dispatched “to drive in California at any time from January 1, 2017, to [May 20, 2021].” CX 2, 3, 4, 5, 6, 7, 7a, 7b, 7c, 7d, 7e, 7f, 7g. Norco stated in its July 1, 2022 email to EPA staff that its response to EPA’s Information Request included “a list of fleet owners, owner operators that traveled in California during the time frame...” CX 42. Norco provided an example lease agreement that provides lease terms between Norco and the truck owner-operators it hires. CX 21. In the lease agreement, Norco refers to itself as “a motor carrier engaged in the hauling of freight, in interstate and intrastate commerce.” *Id.* The lease agreement refers to the owner-operator “as ‘Independent Contractor’, owner or lessee of certain motor vehicles and/or

trailers...” *Id.* The “Become an Owner Operator” page of Norco’s website explained that “Norco is a 100 % owner operator fleet where you don’t have to compete against company trucks.” CX 38. Based on the information Norco provided EPA, Norco’s hiring and dispatching of leased trucks into California shows that Norco is a “Motor Carrier” as the TBR defines the term.

Respondent denies or does not admit that on May 20, 2021, EPA Region 9 issued an information request to Respondent pursuant to Section 114 of the Act. Compl. ¶ 23. EPA has provided a copy of the Information Request and the email sent to Respondent. CX 2.

Respondent denies or does not admit that EPA, in its Information Request, requested information regarding fleets from which Respondent hired or dispatched any diesel-fueled non-drage vehicle over 14,000 pounds GVWR [gross vehicle weight rating] and driven in California. Compl. ¶ 24. Section I.D. of the Information Request states, “[f]or each fleet from which Norco hired or dispatched any diesel-fueled non-drage vehicle over 14,000 pounds GVWR to drive in California at any time from January 1, 2017, to the date of this letter, input the following information into the workbook document, TRUCKINFO.xlsx, provided in the attachment...” CX 2. The instructions clarify through a footnote that the phrase “hired or dispatched” refers to Section 2025(x)(2) of the TBR. *Id.* Section I.E.4 of the Information Request states, “[f]or each fleet identified in your response to request I.D., provide copies of documents establishing vehicle compliance with the Truck and Bus Regulation for each of the reported calendar years in request I.D.4, such as a Certificate of Reported Compliance or other documentation demonstrating compliance.” *Id.*

By denying the allegations contained in Count 1 of the Complaint, Respondent denies any and all of Complainant’s allegations in paragraphs 7 through 24 of the Complaint. Compl. ¶

25. Regarding these specific paragraphs of the Complaint, Complainant reiterates the explanations provided in the preceding paragraphs of this Initial Prehearing Exchange.

By denying the allegations contained in Count 1 of the Complaint, Respondent denies that on or about June 2, 2021, Respondent submitted its initial response (“Response”) to EPA’s Information Request. Compl. ¶ 26. Complainant is in possession of Respondent’s June 2, 2021 Response and certification statement. CX 3.

By denying the allegations contained in Count 1 of the Complaint, Respondent denies that the response to EPA’s Information Request, which it submitted on or about June 2, 2021, showed that Norco did not hire or dispatch any vehicles of the type specified by EPA in Section I.D. of the Information Request. Compl. ¶ 27. In its response to Section I.D. of the Information Request, which stated “[f]or each fleet from which Norco hired or dispatched any diesel-fueled non-drayage vehicle over 14,000 pounds GVWR to drive in California at any time from January 1, 2017, to the date of this letter, input . . . information into the workbook document . . . provided in the attachment,” Norco answered, “None.” CX 3.

By denying the allegations contained in Count 1 of the Complaint, Respondent denies that on or about July 13, 2021, Respondent revised its Response to the Information Request. Compl. ¶ 28. Complainant is in possession of Respondent’s July 13, 2021 Response. CX 4.

By denying the allegations contained in Count 1 of the Complaint, Respondent denies that 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. Compl. ¶ 29. Respondent’s July 13, 2021 Response included a list of fleet names and calendar years in which Respondent hired or dispatched the hired fleets into California, in response to Information Request section I.D. CX 4. The Response did not include

any copies of documents establishing vehicle compliance with the TBR for each of the reported calendar years in request I.D. (or workbook section I.D.4), in response to section I.E.4 of the Information Request. With Respondent's failure to provide documentation establishing vehicle compliance of the hired or dispatched fleets, Respondent provides no evidence that it verified compliance for the hired fleets.

Complainant wishes to clarify that paragraph 57 of the Finding and Notice of Violation ("NOV") that EPA issued to Respondent on December 22, 2021, should have stated that "Norco violated Section 2025(x)(2) of the TBR by failing to verify the TBR compliance of at least *seventy-nine (79)* vehicles referenced in paragraph 54 of this NOV." [emph. added] EPA miscounted the number of violative fleets; the NOV that EPA issued specified "at least seventy-eight (78)" vehicles. Because of the five-year statute of limitations under 28 U.S.C. § 2462, the Complaint does not allege violations for the two fleets that Respondent reported traveled into California in 2017 only, therefore Complainant alleges 77 violations of the TBR. Compl. ¶ 33.

By denying the allegations contained in Count 1 of the Complaint, Respondent denies that on December 22, 2021, Complainant issued a Finding and NOV to Respondent based on Respondent's failure to comply with the TBR. Compl. ¶ 30. EPA issued the Finding and NOV to Respondent on December 22, 2021. CX 8, 8a, 8b.

By denying the allegations contained in Count 1 of the Complaint, Respondent denies that it subsequently revised its Response on or about March 16, 2022, and again on May 5, 2022, and again on or about August 10, 2023. Compl. ¶ 31. Respondent sent EPA revised versions of its Response on or about March 16, 2022; May 5, 2022; and August 10, 2023. CX 5, 6, 7, 7a, 7b, 7c, 7d, 7e, 7f, 7g. Respondent included in each revised Response a signed Statement of

Certification which stated, in relevant part, "...I certify that the statements and information are, to the best of my knowledge and belief, true, correct, accurate, and complete." CX 5, 6, 7.

By denying the allegations contained in Count 1 of the Complaint, Respondent denies that it 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. Compl. ¶ 32. Section I.D of the Information Request that EPA issued to Respondent requests information "[f]or each fleet from which Norco hired or dispatched any diesel-fueled non-draysage vehicle over 14,000 pounds GVWR to drive in California from January 1, 2017, to the date of this letter..." CX 2. Footnote 10 of the Information Request clarifies that the term "hired or dispatched" refers to section 2025(x)(2) of the TBR, which states that the specified entities that "operate or direct the operation of any vehicles 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)." Thus, by submitting its Response, Respondent identified that it "operat[ed] or direct[ed] the operation of" vehicles subject to the TBR. CX 7.

By denying the allegations contained in Count 1 of the Complaint, Respondent denies that 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. Compl. ¶ 33. Respondent's August 10, 2023 final response to EPA's Information Request, as well as its previous responses, show that Respondent hired or dispatched at least seventy-seven (77) vehicles but did not provide any documentation to show that it followed the work practice requirement in TBR section 2025(x)(2) to verify the hired or dispatched vehicles satisfied the requirements of the TBR. CX 7, 7a, 7b, 7c, 7d, 7e, 7f, 7g, 12, 13, 14, 42. In fact, documents Respondent submitted to EPA as part of its August 10, 2023

Response show that Respondent hired or dispatched vehicles that did *not* comply with the model year emissions equivalent engine. CX 7, 7a, 7b, 7c, 7d, 7e, 7f, 7g, 20 43.

By denying the allegations contained in Count 1 of the Complaint, Respondent denies that its failure to verify the 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. Compl. ¶ 34. Respondent’s failure to provide the information requested by EPA in section I.E.4 of the May 20, 2021 Information Request— “copies of documents establishing vehicle compliance with the Truck and Bus Regulation for each of the reported calendar years in request I.D.4, such as a Certificate of Reported Compliance or other documentation demonstrating compliance”—is the basis for EPA’s finding that Respondent violated Section 2025(x)(2) of the TBR. CX 2, 3, 4, 5, 6, 7, 7a, 7b, 7c, 7d, 7e, 7f, 7g.

**2(C) Information and Policy/Guidance Relied Upon in Calculating a Proposed Penalty**

The Prehearing Order at 2(C) states that Complainant shall submit as part of its Initial Prehearing Exchange all factual information and supporting documentation relevant to the assessment of a penalty, and a copy, or a statement of the internet address (URL), or any policy or guidance intended to be relied upon by Complainant in calculating a proposed penalty.

In addition to the factual information Complainant expects to put forth to establish Respondent’s liability, Complainant expects to put forth the following additional factual information and documentation supporting its proposed penalty assessment: (1) business research documents compiled for assessing Respondent’s size of business (CX 23, 24, 25, 26, 27, 28, 29, 30, 31); (2) financial information submitted to Complainant by Respondent (CX 44); and

(3) an analysis prepared by Industrial Economics for the purpose of assessing Respondent's ability to pay a penalty (CX 47).

Complainant's proposed penalty will be calculated according to the EPA's October 25, 1991 Clean Air Act Stationary Source Civil Penalty Policy ("Penalty Policy"), available to the public at <https://www.epa.gov/sites/default/files/documents/penpol.pdf> (last accessed February 28, 2024) as amended to account for inflation and in consideration of the statutory factors identified in CAA § 113(e)(1), 42 U.S.C. § 7413(e)(1). CX 22. The current amendments to the EPA civil penalty policies to account for inflation are available to the public at <https://www.epa.gov/system/files/documents/2024-01/amendmentstotheepacivilpenaltypolicyinflation011524.pdf> (last accessed February 28, 2024) (CX 34), and the most recent prior amendments to the EPA civil penalty policies to account for inflation are available as CX 32 and 33. In addition, Complainant will explain its consideration of CARB policy on penalty calculation for TBR violations. CARB's April 2020 "Enforcement Policy" provides relevant information for the penalty calculation in this matter. CX 35. CARB's April 2020 Enforcement Policy is available to the public at [https://ww2.arb.ca.gov/sites/default/files/2020-04/Enforcement\\_Policy\\_Apr\\_2020%20\\_Amendments\\_R.pdf](https://ww2.arb.ca.gov/sites/default/files/2020-04/Enforcement_Policy_Apr_2020%20_Amendments_R.pdf) (last accessed February 28, 2024).

**2(D) Guidance and Policies Regarding Regulatory Violations Alleged in the Amended Complaint**

The Prehearing Order at 2(D) states that Complainant shall submit as part of its Initial Prehearing Exchange a copy, or a statement of the internet address (URL), or any EPA guidance documents and/or policies, including any updates or revisions to such guidance and/or policies,

and any preambles to regulations that Complainant has relied upon with regard to the allegations set forth in the Complaint.

Aside from EPA's rulemaking referenced above that incorporated the TBR into the SIP, Complainant relied on CARB guidance and rulemaking documents to interpret and enforce the TBR. Those documents are:

- Guidance on how to verify if hired or dispatched fleets comply with the TBR. CX 12, 13, 14, 15.
- Documents for the 2008 and 2010 rulemakings: the 2008 Initial and Final Statements of Reasons and Technical Support Document. CX 16, 17, 18.

Respectfully Submitted,

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Date

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**CERTIFICATE OF SERVICE**

I certify that an electronic copy of the foregoing Complainant's Initial Prehearing Exchange *In the Matter of Norco Corporation*, Docket No. CAA-09-2024-0025, was filed and served on the Presiding Officer this day through the Office of Administrative Law Judge's E-Filing System, with the exception of certain exhibits that have been filed under seal. I certify that a copy of this Initial Prehearing Exchange with exhibits was filed under seal via a file-share system established by the Office of Administrative Law Judges. I certify that an electronic copy of this Prehearing Exchange was sent this day by e-mail and links to a file transfer system to the following e-mail address for service on Respondent: A.G. Hollenstein at [ag@norcocorp.com](mailto:ag@norcocorp.com).

\_\_\_\_\_  
Date

\_\_\_\_\_  
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