



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

08 AUG 2018

CERTIFIED MAIL – RETURN RECEIPT REQUESTED: 70073020000015228649

Ms. Sara Holt
Environmental, Health and Safety Manager
Trecora Chemical
12500 Bay Area Blvd.
Pasadena, Texas 77507

Re: Consent Agreement and Final Order
In the Matter of Trecora Chemical
Docket No. CAA-06-2018-3330

Dear Ms. Holt:

Enclosed is a fully executed Consent Agreement and Final Order (CAFO) in the matter referenced above for Trecora Chemical.

As provided in the CAFO, Trecora Chemical will have thirty (30) days from the effective date of the CAFO to pay the civil penalty of \$31,640.00

If you have any questions regarding this CAFO, please contact Ms. Courtney Carter, Assistant Regional Counsel, at (214) 665-8175.

Sincerely,

Cheryl T. Seager
Director
Compliance Assurance and
Enforcement Division

Enclosure

Ecc: Michael De La Cruz, Manager
Air Enforcement Section
Enforcement Division, Office of Compliance & Enforcement
Texas Commission on Environmental Quality
michael.delacruz@tceq.texas.gov

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS**

FILED
2018 AUG -8 AM 9:23
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:	§	EPA DOCKET NO.
	§	CAA-06-2018-3330
	§	
TRECORA CHEMICAL, INC.	§	CONSENT AGREEMENT
	§	AND FINAL ORDER
PASADENA, TEXAS	§	
	§	
	§	
RESPONDENT	§	
	§	

CONSENT AGREEMENT

The Director of the Compliance Assurance and Enforcement Division of the United States Environmental Protection Agency ("EPA"), Region 6 ("Complainant") and Trecora Chemical, Inc. ("Respondent") in the above-referenced proceeding, hereby agree to resolve this matter through the issuance of this Consent Agreement and Final Order ("CAFO").

I. PRELIMINARY STATEMENT

1. This proceeding for the assessment of civil penalties is brought by EPA pursuant to Sections 113(a)(3)(A) and 113(d)(1)(B) of the Clean Air Act (CAA), 42 U.S.C. §§ 7413(a)(3) and 7413(d)(1)(B), and is simultaneously commenced and concluded through the issuance of this CAFO pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and (3), and 22.34.

2. This CAFO serves as notice pursuant to Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), and 40 C.F.R. § 22.34.

3. For purposes of this proceeding, Respondent admits the jurisdictional allegations contained herein; however, Respondent neither admits nor denies the specific factual allegations contained in this CAFO.

4. Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed Final Order set forth herein, and waives all defenses, which have been raised or could have been raised to the claims alleged in this CAFO.

5. Compliance with all the terms and conditions of this CAFO shall only resolve Respondent's liability for federal civil penalties for those violations which are alleged herein.

6. Respondent consents to the following: issuance of the CAFO hereinafter recited; and the assessment and payment of the stated civil penalty in the amount, and by the method set forth in this CAFO.

II. STATUTORY AND REGULATORY BACKGROUND

7. 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.

8. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), an owner/operator of a stationary source producing, processing, handling or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, has a general duty to: (1) identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques; (2) design and maintain a safe facility, taking such steps as are necessary to prevent releases; and (3) minimize the consequences of accidental releases that do occur.

9. Under Sections §§ 113(a)(3) and 113(d)(1)(B) of the CAA, 42 U.S.C. §§ 7413(a)(3) and 7413(d)(1)(B), whenever the Administrator finds that any person has violated or is violating a requirement of the CAA including, but not limited to, a requirement or prohibition of any rule

promulgated under the CAA, the Administrator may issue an order assessing a civil administrative penalty.

10. As adjusted by the 2017 Civil Monetary Penalty Inflation Adjustment Rule (2017 Rule) (82 Fed. Reg. 3633), 40 C.F.R. § 19.4, the Administrator may assess a civil penalty of up to \$45,268.00 per day of violation for a violation occurring after November 2, 2015 and assessed on or after January 15, 2017.

11. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines person as an “individual, corporation, partnership, association [. . .] and any officer, agent, or employee thereof.”

12. “Owner or operator” shall mean any person who owns, leases, operates, controls, or supervises a stationary source.

13. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines “stationary source” as:

any buildings, structures, equipment, installations or substance emitting stationary activities (i) which belong to the same industrial group, (ii) which are located on one or more contiguous properties, (iii) which are under the control of the same person (or persons under common control), and (iv) from which an accidental release may occur.

14. Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A), defines “accidental release” as “an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.”

15. “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.

III. FINDINGS OF FACTS AND CONCLUSIONS OF LAW

16. Respondent is incorporated and registered to transact business in the State of Texas.

17. Respondent is a “person” as that term is defined by Section 302(e) of the CAA,

42 U.S.C. § 7602(e).

18. Respondent owns and operates the Trecora Chemical facility located at 12500 Bay Area Boulevard, Pasadena, Texas, 77507.

19. Respondent's facility processes waxes and is involved in tolling operations, NAICS Code 325199 – chemical product manufacturing.

20. The facility is a “stationary source” as that term is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).

21. Respondent is the “owner or operator” as those terms are defined by Section 112(a)(9) of the CAA, 42 U.S.C. § 7412(a)(9), of a stationary source.

22. The facility uses xylene as a cleaning agent to clean the reactors. Xylene is an extremely hazardous flammable substance, and is stored at the facility

23. On August 14, 2017, at 11:24am, an operator was cleaning the RX-2 reactor with xylene between tolling processes. The operator overfilled the reactor with xylene, leaving the reactor without a vapor space. The pressure increased causing the rupture disk to fail and release 4500 pounds of xylene into the atmosphere.

24. The primary root cause for the reactor upset was that the reactor was charged with an excess of xylene, leaving insufficient vapor space in the reactor.

25. In addition, the reactor pressure transmitter for the reactor was set at an insufficient scan rate. As a result, the process control computer did not read any increase in pressure, failed to control the nitrogen pad pressure, and did not alarm the control room operator that an increase in pressure was occurring.

26. Respondent calculated a total release of 4,500 pounds of mixed xylenes, including 1,616 pounds of p-Xylene, 1,803 pounds of m-Xylene, and 1,081 pounds of o-Xylene.

27. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), an owner/operator of a stationary source producing, processing, handling or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, has a general duty to: (1) identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques; (2) design and maintain a safe facility, taking such steps as are necessary to prevent releases; and (3) minimize the consequences of accidental releases that do occur.

28. Complainant alleges that the release at the facility on August 14, 2017, (“the August 14, 2017, Release”) constituted an “accidental release” as that term is defined by Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A).

29. Complainant alleges that, when Respondent overfilled the reactor with xylene on August 14, 2017, leading to the accidental release of xylene into the air, Respondent failed to maintain a safe facility, constituting a violation of the general duty clause in Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

30. In addition, Complainant alleges that Respondent’s failure to set the reactor pressure transmitter for the RX-2 reactor at a sufficient scan rate, leading to a failure to control the nitrogen pad pressure and a failure to indicate to the control room operator that pressure was increasing, was a failure to maintain a safe facility, constituting a violation of the general duty clause in Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

31. Complainant alleges that Respondent is therefore subject to the assessment of penalties pursuant to Sections 113(a)(3) and 113(d)(1)(B) of the CAA, 42 U.S.C. §§ 7413(a)(3) and 7413(d)(1)(B), for at least one day of violation of the general duty clause of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

IV. TERMS OF SETTLEMENT

A. CIVIL PENALTY

32. Pursuant to the authority granted in Sections 113(a)(3) and 113(d)(1)(B) of the CAA, 42 U.S.C. §§ 7413(a)(3) and 7413(d)(1)(B), and taking into consideration the size of the Respondent's business, the economic impact of the penalty on the Respondent's business, the Respondent's full compliance history and good faith efforts to comply, the duration of the violation, payment by Respondent of penalties previously assessed for the same violation (if any), the economic benefit of noncompliance, the seriousness of the violation, and Respondent's cooperation, as well as other factors which justice may require, Complainant has proposed a civil penalty of **\$31,640**. Respondent has agreed to payment of that amount to resolve Complainant's allegations in this CAFO.

33. Respondent shall pay the assessed penalty within thirty (30) days of the effective date of this CAFO by certified check, cashier's check, or wire transfer, made payable to "Treasurer, United States of America, EPA – Region 6." Payment shall be remitted in one of three ways: regular U.S. Postal Service mail (including certified mail), overnight mail, or wire transfer.

For U.S. Postal Service mail, the check should be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

For overnight mail (non-U.S. Postal Service; e.g., FedEx), the check should be remitted to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Phone No. (314) 418-1028

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"

PLEASE NOTE: Docket number CAA-06-2018-3330 shall be clearly typed on the check to ensure proper credit. If payment is made by check, the check shall also be accompanied by a transmittal letter and shall reference the Respondent's name and address, the case name, and the docket number of this CAFO. If payment is made by wire service, the wire transfer instructions shall reference the Respondent's name and address, the case name, and the docket number of this CAFO. The Respondent shall also send a simultaneous notice of such payment, including a copy of the check and transmittal letter or wire transfer instructions to the following:

Jake Medellin
Enforcement Officer (6EN-AS)
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Lorena Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Respondent's adherence to these instructions will ensure proper credit is given when penalties are received in the Region.

34. Respondent agrees not to claim or attempt to claim a federal income tax deduction

or credit covering all or any part of the civil penalty paid to the United States Treasurer.

35. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty not paid by the due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. *See* 40 C.F.R. § 13.11(b).

36. EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent (6%) per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. *See* 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. *See* 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

B. PARTIES BOUND

37. The provisions of this CAFO shall apply to and be binding upon the parties to this action and their successors and assigns. The undersigned representative of each party to this CAFO certifies he or she is fully authorized by the party whom he or she represents to enter into the terms and conditions of this CAFO and to execute and to legally bind that party to it.

C. RETENTION OF ENFORCEMENT RIGHTS

38. EPA does not waive any rights or remedies available to EPA for any violations by the Respondent of Federal or State laws, regulations, or permitting conditions that are not identified in this CAFO.

39. Nothing in this CAFO shall relieve the Respondent of the duty to comply with all applicable provisions of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68.

40. Nothing in this CAFO shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, or contaminants at or from the Facility. Furthermore, except as specifically set forth herein, nothing in this CAFO shall be construed to prevent or limit EPA's civil, injunctive, or criminal authorities, or that of Federal, State, or local agencies or departments to obtain penalties or injunctive relief under Federal, State, or local laws or regulations.

41. In any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other appropriate relief relating to the Facility, Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention the claims raised by the Complainant or the United States in the subsequent proceeding were or should have been brought in the instant case, except with respect to the claims specifically resolved pursuant to this CAFO.

D. COSTS

42. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under

5 U.S.C. § 504 and 40 C.F.R. Part 17.

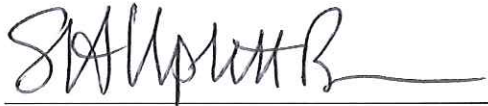
E. EFFECTIVE DATE

43. This CAFO becomes effective upon filing with the Regional Hearing Clerk.

THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:

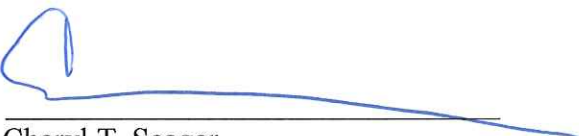
FOR THE RESPONDENT:

8/2/18
Date


Trecora Chemical, Inc.
Simon Upfill - Brown

FOR THE COMPLAINANT:

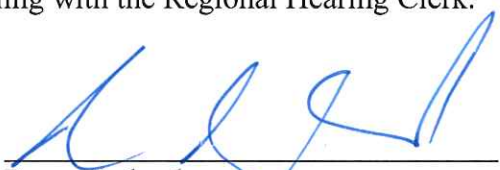
8/6/18
Date


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

FINAL ORDER

Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in the Consent Agreement. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and civil penalty payment instructions as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

7 Aug 2018
Date



Renea Ryland
Regional Judicial Officer
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of August, 2018, the original and a copy of the foregoing Consent Agreement and Final Order (CAFO) was hand-delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was placed in the United States Mail, to the following by the method indicated:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: # 70073020000015228649

Ms. Sara Holt
Environmental, Health and Safety Manager
Trecora Chemical
12500 Bay Area Blvd.
Pasadena, Texas 77507

08 AUG 2018
Date

for Sandra Hardy
Lori Jackson
Paralegal
U.S. EPA Region 6, Dallas, Texas