

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

FILED
2018 OCT 11 PM 4:27
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:	§	
	§	
VETCO GRAY, INC.	§	Consent Agreement and Final Order
	§	Docket No. RCRA-06-2016-0941
Broussard, Louisiana	§	
	§	
RESPONDENT	§	

CONSENT AGREEMENT AND FINAL ORDER

I. PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order (CAFO) is entered into by the United States Environmental Protection Agency, Region 6 and Respondent, Vetco Gray, Inc., and concerns the facility located at 1249 Evangeline Thruway, Broussard, Louisiana.

2. Notice of this action has been given to the State of Louisiana, under Resource Conservation and Recovery Act (RCRA) § 3008(a) (2), 42 U.S.C. § 6928(a) (2).

3. For the purpose of these proceedings, Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.

4. Respondent explicitly waives any right to contest the allegations or to appeal the proposed final order contained in this CAFO, and waives all defenses that have been raised or could have been raised to the claims set forth in the CAFO.

5. This CAFO resolves only those violations alleged in this document.

6. The Respondent consents to the issuance of the CAFO hereinafter recited, consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO, and consents to the specific stated compliance order.

II. JURISDICTION

7. This CAFO is issued by EPA pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a), as amended by the Hazardous and Solid Waste Amendments of 1984 and is simultaneously commenced and concluded through the issuance of this CAFO under 40 C.F.R. §§ 22.13(b), 22.18(b) (2), (3).

8. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by the EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of the EPA to issue or enforce this CAFO, and agrees not to contest the validity of this CAFO or its terms or conditions.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. Respondent is a corporation formed under the laws of the State of Delaware and owns and operates the facility located at 1249 Evangeline Thruway, Broussard, Louisiana.

10. Respondent is a “person” within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), which include corporations; and within the meaning of Title 33 of the Louisiana Administrative Code (“LAC”) LAC 33:V.109, [40 C.F.R. § 260.10].

11. The Broussard facility is a “facility” within the meaning of LAC 33:V.109.

12. The primary business at the facility is manufacturing oil and gas equipment.

13. Respondent's Registered Agent for service in this matter is CT Corporation System, 3867 Plaza Tower Drive, Baton Rouge, Louisiana 70816.
14. With Vetco Gray's cooperation, EPA conducted an investigation and record review of Respondent's performance as a generator of hazardous waste.
15. EPA's investigation found that Respondent violated the requirements of RCRA and the regulations promulgated at 40 C.F.R. § 261, 262, and 270 by failing to comply with the RCRA notification requirements, failing to operate within its stated generator status, failing to fully comply with manifest requirements, and failing to submit a biennial report.
16. Vetco Gray is a "generator" of "hazardous wastes" at the facility, as those terms are defined in RCRA §§ 1004(5), (6), 42 U.S.C. §§ 6903(5), (6), and LAC 33:V.109.
17. As a generator of hazardous waste, Vetco Gray is subject to RCRA §§ 3002 and 3010, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth in Title 33 of LAC Part V, Chapters 1 through 51 [40 C.F.R. §§ 262 and/or 270].
18. Pursuant to LAC 33:V.108 [40 C.F.R. § 261.5] a generator is a conditionally exempt small quantity generator (CESQG) if it meets the standard set forth at LAC 33:V.108 [40 C.F.R. §§ 261.5]. A CESQG's hazardous waste is not subject to regulation under LAC 33:V. Chapters 3-37, 41, 43, and 53, except for LAC 33:V.3105, Table 1; 40 C.F.R. Parts 262 through 268; 40 C.F.R. Parts 270 and 124; and the requirements of Section 3010 of RCRA, 42 U.S.C. § 6930.
19. During the investigation, EPA determined that Vetco Gray, from 2011 through 2015 exceeded its declared CESQG status and operated as a large quantity generator ("LQG").

Claim 1: Failure to File an Adequate or Accurate Subsequent Notification Pursuant to Section 3010 (a) of RCRA, 42 U.S.C. 6930 (a)

20. The allegations in Paragraphs 1-19 are realleged and incorporated herein by reference.

21. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), any person generating a characteristic or listed waste and not otherwise exempt is required to file with the Administrator or authorized state a notification stating the location and general description of such activity and the identified or listed hazardous wastes handled by such person.

22. During the investigation, EPA determined that Vetco Gray, from 2011 to 2015 generated hazardous waste in an amount exceeding CESQG criteria and therefore the exemptions in LAC 33:V.108 were not applicable.

23. While Vetco Gray did notify the Administrator that it was a generator of hazardous waste, at the time of the investigation Vetco Gray failed to accurately reflect their generator status in their notification of hazardous waste activities with the Administrator or with the authorized state in violation of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

Claim 2: Failure to Meet the Requirements of a Large Quantity Generator

24. The allegations in Paragraphs 1-19 are realleged and incorporated herein by reference.

25. A generator of hazardous waste is subject to the requirements of LAC 33:V. Chapters 3-37, 41, 43, and 53 [40 C.F.R. §§ 124, 262-68, and 270].

26. From 2011 to 2015 Vetco Gray declared its generator status as a CESQG.

27. At various times from 2011 to 2015 Vetco Gray generated hazardous wastes exceeding the CESQG threshold established in LAC 33:V.108 and operated as a large quantity generator.

28. While operating as a large quantity generator in 2011 to 2015, Vetco Gray failed to meet the requirements for large quantity generators regarding a contingency plan and emergency procedures under LAC 33:V. Chapters 3-37, 41, 43, and 53 [140 C.F.R. § 124, 262-68, 270].

Claim 3: Failure to Comply with Manifest Requirements Pursuant to LAC 33:V.1107.

29. The allegations in Paragraphs 1-19 are realleged and incorporated herein by reference.

30. A generator of hazardous waste is subject to the manifest requirements of LAC 33:V.1107 [40 C.F.R. §§ 121].

31. While operating as a large quantity generator in 2011 to 2015 Vetco Gray failed to complete two manifests using the appropriate EPA RCRA hazardous waste code in violation of the manifest requirements found in LAC 33:V.1107.B(1)(d)(40 C. F. R §262.20(a)(1)).

Claim 4: Failure to Submit Annual Report Pursuant to LAC 33:V.1111

32. The allegations in paragraphs 1-19 are realleged and incorporated herein by reference.

33. LAC 33:V.1111 requires generators in Louisiana who ship hazardous waste off site to submit an annual report March 1 of each year.

34. From 2011 to 2015, Respondent shipped hazardous waste off site but failed to file an annual report.

35. Respondent violated RCRA and its promulgated regulations by failing to file the required report.

IV. COMPLIANCE ORDER

36. If Respondent sells or closes the facility and has no current plans to reacquire or operate the facility, then Respondent shall certify such facts as required below (Paragraph 38). Such certification shall include a representation that Respondent will inform the Agency at least 30 days before it recommences manufacturing operations at the facility within two years of the date of the certification. This certification shall operate in lieu of the compliance order requirements identified below (Paragraph 37).

37. Pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a), Respondent is ordered to take the following actions, and within ninety (90) calendar days of the effective date of this CAFO, Respondent shall provide in writing the following:

- A. Respondent shall certify that it has filed a subsequent Notification of Regulated Waste activity: EPA Form 8700- 12 to reflect accurate waste generation.
- B. Respondent shall certify that it is currently in compliance with all the applicable requirements of its designated generator status.
- C. Respondent shall certify that it has proper training in place to ensure that EPA Forms 8700-22 (Hazardous waste Manifest) are completed properly.

D. Respondent shall certify that it has filed its biennial/ annual report for the facility.

38. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of Vetco Gray and shall include the following certification:

“I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Copies of all documents required by the CAFO shall be sent to the following:

U.S. Environmental Protection Agency
Compliance Assurance and Enforcement Division
Waste Enforcement Branch
Waste Compliance I Section (6EN-H1)
1445 Ross Avenue
Dallas, TX 75202-2733
Attn: Tripti Thapa

V. TERMS OF SETTLEMENT

A. Penalty Provisions

39. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes EPA to assess a civil penalty of up to Thirty-Seven Thousand Five Hundred Dollars (\$37,500) per day for each violation. Upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of **\$94,000**.

40. The penalty shall be paid within thirty (30) calendar days of the effective date of this CAFO and made payable to Treasurer, United States of America.

41. The following are Respondent's options for transmitting the penalties:

Checks sent via U.S. Postal Mail (including certified mail) or U.S. Postal Service Express Mail should be remitted to:

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

Checks sent via Overnight Mail (non-U.S. Postal Service) 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
314-418-1028

Wire Transfers 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

The case name and docket number (**In the Matter of Vetco Gray Inc., Docket No. RCRA-06-2016-0941**) shall be documented on or within your chosen method of payment to ensure proper credit.

42. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6

1445 Ross Avenue
Dallas, TX 75202-2733

Mark Potts, Chief
Waste Enforcement Branch (6EN-H)
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733
Attn: Tripti Thapa

Your adherence to this request will ensure proper credit is given when penalties are received by EPA.

43. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 1311, 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 cost of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and 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. 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the 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 per year will be assessed monthly on any portion of the debt that remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall

accrue from the first day payment is delinquent. 40 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

B. Costs

44. 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 the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

C. Termination and Satisfaction

45. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall also certify this in writing and in accordance with the certification language set forth in Section IV (Compliance Order), Paragraph 23. Unless the EPA, Region 6 objects in writing within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

D. Effective Date of Settlement

46. This CAFO shall become 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:

Date: 29 Sept '16



Chuck Chauviere
Vetco Gray, Inc.

FOR THE COMPLAINANT:

6 OCT 2016

Date: _____



John Blevins
Director
Compliance Assurance and Enforcement
Division

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing CAFO 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 herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) 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 the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 C.F.R. § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: 10/11/16



Renea Ryland
Regional Judicial Officer

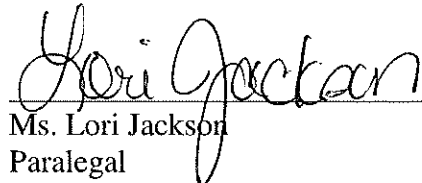
CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of October, 2016, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by the method below:

CERTIFIED MAIL – RETURN RECEIPT

REQUESTED 700103600001/2/07/1683

Bruce Adler
Executive Counsel, EHS
General Electric Company
3135 Easton Turnpike
Fairfield, CT 06828



Ms. Lori Jackson
Paralegal