

SUZANNE ANDREWS
Acting Regional Counsel

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

Attorneys for Complainant



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105**

_____)	Docket No. CAA-09-2024-0025
In the Matter of:)	
Norco Corporation)	CONSENT AGREEMENT AND
)	FINAL ORDER
Respondent.)	
_____)	

I. CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative penalty assessment proceeding brought under section 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), as codified at 40 C.F.R. Part 22.
2. Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency, Region IX ("EPA"), who has been duly delegated

the authority to initiate and settle civil administrative penalty proceedings under section 113(d) of the Act.

3. Respondent is Norco Corporation ("Norco"). Norco is a transportation company. Norco dispatches diesel-fueled vehicles to California and other states.
4. On December 21, 2023, Complainant filed a Complaint alleging violations 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," codified at title 13, section 2025 of the California Code of Regulations (the "Truck and Bus Regulation").
5. On January 18, 2024, Respondent filed its Answer.
6. On May 7, 2024, Respondent filed a Motion for Dismissal.
7. On May 22, 2024, Complainant filed its Opposition to Respondent's Motion to Dismiss and Motion for Partial Accelerated Decision on Liability. On June 21, 2024, the Chief Administrative Law Judge issued the Order on Motions denying both motions because there was a genuine issue of material fact.
8. After entry of the Order on Complainant's Motion for Partial Accelerated Decision on Liability, and having found that settlement is consistent with the provisions and objectives of the CAA and applicable regulations, the EPA and Respondent agreed to settle this proceeding through the entry of this Consent Agreement and attached Final Order ("CAFO") without further adjudication of any issues of law or fact herein, pursuant to 40 C.F.R. § 22.18. Respondent represents that it has taken actions with respect to its Fleet sufficient to address any noncompliance with the Truck and Bus Regulation.

B. TERMS OF CONSENT AGREEMENT

9. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:
 - a. admits the jurisdictional allegations of the Complaint;
 - b. neither admits nor denies specific factual allegations or legal conclusions contained in the Complaint;
 - c. consents to the assessment of the civil administrative penalty of this CAFO;
 - d. consents to the conditions specified in the CAFO;
 - e. waives any right to contest the allegations contained in the Complaint; and
 - f. waives the right to appeal the proposed Final Order contained in this CAFO.
10. By signing this consent agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying the Consent Agreement.

Civil Penalty

11. Respondent agrees to:
 - a. pay the civil penalty of FIFTY THOUSAND DOLLARS (\$50,000) ("EPA Penalty") within thirty (30) calendar days of the Effective Date of this CAFO;
 - b. pay the EPA Penalty using any method, or combination of methods, provided on the website: <https://www.epa.gov/financial/makepayment>, (additional instructions available at: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>) and identifying each and every payment with Respondent's name and "Docket No. CAA-09-2024-0025"; and

- c. within 24 hours of payment of the EPA Penalty, send proof of payment to the Regional Hearing Clerk and EPA Region IX at the following addresses:

Regional Hearing Clerk
Office of Regional Counsel
U.S. Environmental Protection Agency, Region IX
r9HearingClerk@epa.gov

Mark Sims
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX
Sims.Mark@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

("proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with Respondent's name and "Docket No. CAA-09-2024-0025").

12. If Respondent fails to pay the civil administrative penalty specified in paragraph 11(a) of this CAFO within 30 days after the Effective Date of this CAFO, then Respondent shall pay to the EPA a stipulated penalty in the amount of FIVE HUNDRED DOLLARS (\$500.00) for each day the default continues plus the penalty sum specified in paragraph 11(a), upon written demand by the EPA.
- a. All penalties owed to EPA under paragraph 12 of this CAFO shall be due within thirty (30) calendar days of Respondent's receipt of a notification of noncompliance and

request for payment from EPA. Such notification shall describe the amount of penalties due.

- b. Payment of stipulated penalties shall be made in accordance with the procedure set forth for payment of the penalty in paragraph 11 of this CAFO.
- c. Notwithstanding any other provision of this Section I.B, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CAFO.

13. Interest, Charges, and Penalties on Late Payments. Pursuant to 42 U.S.C. § 7413(d)(5), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the EPA Penalty per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid EPA Penalty, the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the EPA Penalty is paid in full within thirty (30) days, interest accrued is waived. If the EPA Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the EPA Penalty as well as any interest, penalties, and other charges are paid in full. Per 42 U.S.C. § 7413(d)(5), interest will be assessed pursuant to 26 U.S.C. § 6621(a)(2), that is the IRS standard underpayment rate, equal to the federal short-term rate plus 3 percentage points.
- b. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of handling collection.
- c. Late Payment Penalty. A ten percent (10%) quarterly non-payment penalty.

14. Late Penalty Actions. In addition to the amounts described in prior paragraph 13, if Respondent fails to timely pay any portion of the EPA Penalty, interest, or other charges and penalties per this CAFO, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service (“IRS”) for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
- c. Suspend or revoke Respondent’s licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Request that the Attorney General bring a civil action in the appropriate district court to enforce the Final Order and recover the full remaining balance of the EPA Penalty, in addition to interest and the amounts described above, pursuant to 42 U.S.C. § 7413(d)(5). In any such action, the validity, amount, and appropriateness of the EPA Penalty and Final Order shall not be subject to review.

15. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late

penalty charges, third to accrued interest, and last to the principal that is the outstanding EPA Penalty amount.

16. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

17. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send a completed Form 1098-F (“Fines, Penalties, and Other Amounts”) to the IRS annually with respect to any court order and settlement agreement (including administrative settlements), that requires a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (for example, a copy of Form 1098-F). Failure to comply with providing Form W-9 or TIN may subject Respondent to a penalty. See 26 C.F.R. § 6723, 26 C.F.R. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete a Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed Form W-9 includes Respondent’s correct Tax Identification Number (“TIN”) or that Respondent has applied and is waiting for issuance of a TIN;

- c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at sherrer.dana@epa.gov, on or before the date that Respondent's initial penalty payment is due, pursuant to paragraph 11 of this CAFO, and EPA recommends encrypting Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
 - i. Notify EPA's Cincinnati Finance Center of this fact, via email, within 60 days after the Effective Date; and
 - ii. Provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

Additional Terms of Settlement

18. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assignees. Respondent must give written notice and a copy of this CAFO to any successors in interest prior to any transfer of ownership or control of any portion of or interest in Respondent. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this CAFO unless EPA has provided written approval of the release of said obligations or liabilities.

19. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.
20. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.
21. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.
22. Each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

C. EFFECT OF CONSENT AGREEMENT AND ATTACHED FINAL ORDER

23. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged in the Complaint.
24. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

25. Any violation of this Order may result in a civil judicial action for an injunction or civil penalties up to \$121,275 per day per violation, or both, as provided in section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in section 113(c) of the Act, 42 U.S.C. § 7413(c). EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.
26. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.
27. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.
28. The EPA reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any material information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA, and the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

H. EFFECTIVE DATE

29. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, the EPA will transmit a copy of the filed CAFO to Respondent. This CAFO shall become effective

after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Regional Hearing Clerk.

The foregoing Consent Agreement *In the Matter of Norco Corporation*, Docket No. CAA-09-2024-0025 is hereby stipulated, agreed, and approved for entry.

FOR RESPONDENT:

10-8-2024
Date

A. B. Hollenstein
Signature

Printed Name: A. B. Hollenstein

Title: President

Address: 1085 Jarvis Rd, Saginaw TX 76179

Email Address: ag@norco corp.com

The foregoing Consent Agreement *In the Matter of Norco Corporation*, Docket No. CAA-09-2024-0025 is hereby stipulated, agreed, and approved for entry.

FOR COMPLAINANT:

Date

AMY MILLER- Digitally signed by AMY
BOWEN MILLER-BOWEN
Date: 2024.10.23
10:01:35 -07'00'

Amy C. Miller-Bowen
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105

CERTIFICATE OF SERVICE

I hereby certify the original copy of the foregoing Consent Agreement and Final Order in the matter of Norco Corporation (Docket No. CAA-09-2024-0025) was filed with Regional Hearing Clerk, and that a true and correct copy was served on the parties, via electronic mail, as indicated below:

RESPONDENT: A.G. Hollenstein
President
Norco Corporation
1085 Jarvis Way
Saginaw, TX 76179
ag@norcocorp.com

COMPLAINANT: Jacob Finkle
Assistant Regional Counsel
U.S. EPA – Region IX
Air & Toxics Section II
(ORC-2-2) 75 Hawthorne Street
San Francisco, CA 94105
Finkle.Jacob@epa.gov

Ponly Tu
Regional Hearing Clerk
U.S. EPA – Region IX