UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF:	)	
FORMOSA PLASTICS CORPORATION, LOUISIANA BATON ROUGE, LOUISIANA	)	DOCKET NO. CAA-06-2016-3361
RESPONDENT	)	

CONSENT AGREEMENT AND FINAL ORDER

The Director of the Compliance Assurance and Enforcement Division of the United States Environmental Protection Agency (EPA), Region 6 (Complainant) and Formosa Plastics Corporation, Louisiana (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 Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), 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. For the purposes of this proceeding, the Respondent admits the jurisdictional allegations contained herein; however, the Respondent neither admits nor denies the specific factual allegations or conclusions of law contained in this CAFO.

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

4. Compliance with all the terms and conditions of this CAFO shall only resolve the Respondent's liability for Federal civil penalties for those violations which are set forth herein.

5. The Respondent consents to the issuance of the CAFO, to the assessment and payment of the civil penalty in the amount and by the method set forth in this CAFO, and the conditions specified in the CAFO.

6. Each undersigned representative of the parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement, to execute it, and to legally bind that party to it.

7. This CAFO shall apply to and be binding upon the Respondent, its officers, directors, servants, employees, agents, authorized representatives, successors and assigns.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. PRELIMINARY ALLEGATIONS

8. Formosa Plastics Corporation, Louisiana (Respondent) is a Delaware corporation authorized to do business in the State of Louisiana.

9. "Person" is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), as "an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency of the United States and any officer, agent, or employee thereof."

10. The Respondent is a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

11. The Respondent operates a manufacturing facility located at the end of Gulf States Road, Baton Rouge, Louisiana 70805. The primary commodity produced at the facility is polyvinyl chloride resin.

12. "Stationary source" is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3 as meaning:

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

13. The Respondent's facility identified in Paragraph 11 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), and 40 C.F.R. § 68.3.

14. The Respondent is the owner and/or operator of the stationary source identified in Paragraph 11.

15. Each of the following substances is a "regulated substance", as defined in 40 C.F.R. § 68.3 and set forth in 40 C.F.R. § 68.130:

A. Chloroform [Methane, trichloro-]
B. Vinyl Chloride [Ethene, chloro-]
C. Hydrogen chloride (anhydrous) [Hydrochloric acid];
D. Propylene [1-Propene]; and
E. Chlorine.

16. "Process" is defined in 40 C.F.R. § 68.3 as meaning

> any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of activities. For the purpose of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

17. The Respondent has the following processes at the stationary source identified in Paragraph 11:

A. VCM (vinyl chloride monomer) process; and
B. PVC (polyvinyl chloride) process.

18. 40 C.F.R. § 68.130 specifies the following threshold quantities for the regulated substances listed below:

A. Chloroform [Methane, trichloro-] – 20,000 pounds;
B. Vinyl Chloride [Ethene, chloro-] – 10,000 pounds
C. Hydrogen chloride (anhydrous) [Hydrochloric acid] – 5,000 pounds;
D. Propylene [1-Propene] – 10,000 pounds; and
E. Chlorine – 2,500 pounds.

19. The Respondent has exceeded the threshold quantity for chloroform [methane, trichloro-], vinyl chloride [ethene, chloro-], hydrogen chloride (anhydrous) [hydrochloric acid], propylene [1-propene], and chlorine at the VCM process identified in Paragraph 17.A.

20. The Respondent has exceeded the threshold quantity for vinyl chloride [ethene, chloro-] at the PVC process identified in Paragraph 17.B.

21. "Covered process" is defined in 40 C.F.R. § 68.3 as meaning "a process that has a regulated substance present in more than a threshold quantity as determined under § 68.115."

22. The processes identified in Paragraph 17 are each a "covered process" as that term is defined by 40 C.F.R. § 68.3.

23. The covered processes identified in Paragraphs 17 and 22 are each subject to the "Program 3" requirements of the RMP regulations and must, among other things, comply with the Program 3 Prevention Program of 40 C.F.R. Part 68, Subpart D.

24. On or about July 22 – 24, 2014, EPA inspectors conducted an inspection of the Respondent's facility.

25. Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), authorizes EPA to bring an administrative action for penalties that exceed $320,000[1] and/or the first alleged date of violation occurred more than twelve (12) months prior to the initiation of the action, if the Administrator and the United States Attorney General jointly determine that the matter is appropriate for administrative action.

26. EPA and the U.S. Department of Justice have jointly determined that the Complainant can administratively assess a civil penalty even though the penalty might exceed the statutory amount and the alleged violations have occurred more than twelve (12) months prior to the initiation of the administrative action.

B. VIOLATIONS

Count One – Failure to Maintain Data Used to Estimate Population and Environmental Receptors for the Offsite Consequence Analyses

27. 40 C.F.R. § 68.39(e) provides that the owner or operator shall maintain the data used to estimate population and environmental receptors potentially affected for the offsite consequence analysis.

28. On or about July 28, 2014, EPA requested the RMP comp modeling documentation, population documentation, maps for each scenario, and rationale for selection for the offsite consequence analysis from the Respondent.

29. On or about August 22, 2014, EPA received the Respondent's response to the requested information.

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[1] The maximum penalty that can be assessed (without a waiver) under Section 113 of the Clean Air Act was increased by the Civil Monetary Penalty Inflation Adjustment Rule codified at 40 C.F.R. Part 19 to $220,000 for violations occurring between January 30, 1997 and March 15, 2004, to $270,000 for violations occurring between March 15, 2004 and January 12, 2009, to $295,000 for violations occurring between January 12, 2009 and December 6, 2013, and to $320,000 for violations occurring after December 6, 2013.

30. As of August 22, 2014, the Respondent failed to maintain the data used to estimate population for the offsite consequence analysis.

31. As of August 22, 2014, the Respondent failed to maintain data used to identify public receptors for its offsite consequence analysis.

32. As of August 22, 2014, the Respondent failed to maintain data used to identify the environmental receptors for its offsite consequence analysis.

33. Therefore, the Respondent violated 40 C.F.R. § 68.39(e) by failing to maintain the data used to estimate population and environmental receptors potentially affected for the offsite consequence analysis.

Count Two – Failure to Ensure that PHA Findings and Recommendations are Resolved in a Timely Manner

34. 40 C.F.R. §§ 68.67 provides in part, that the owner or operator shall perform an initial process hazard analysis (hazard evaluation) on processes covered by 40 C.F.R. Part 68. The process hazard analysis shall be appropriate to the complexity of the process and shall identify, evaluate, and control the hazards in the process. The process hazard analysis shall address, among other things, stationary source siting. The owner or operator shall establish a system to promptly address the team's findings and recommendation, assure that the recommendations were resolved in a timely manner and that the resolution is documented. The owner or operator shall also develop a written schedule of when the actions are required to be completed. At least every five (5) years after the completion of the initial process hazard analysis, the process hazard analysis shall be updated and revalidated by a team meeting the requirements of 40 C.F.R. § 68.67(d) to assure that the process hazard analysis is consistent with the current process.

35. The Respondent completed a facility siting study in June 2008.

36. The facility siting study was conducted to meet the requirements of 40 C.F.R. § 68.67(c)(5).

37. The Respondent failed to develop a written schedule for the findings and recommendations from the facility siting study.

38. The Respondent failed to resolve certain facility siting study recommendations in a timely manner.

39. The process hazard analysis (PHA) revalidation for the VCM process was completed on or about February 3, 2012.

40. The PHA revalidation for the PVC process was completed or about February 16, 2012.

41. The Respondent failed to resolve all of the recommendations from the PHA revalidation for the VCM process in a timely manner.

42. The Respondent failed to resolve all of the recommendations from the PHA revalidation for the PVC process in a timely manner.

43. Therefore, the Respondent violated 40 C.F.R. § 68.67(e) by failing to develop a written schedule to resolve certain facility siting study recommendations and by failing resolve certain facility siting recommendations and PHA recommendations in a timely manner.

Count Three – Failure to Update Process Hazard Analysis Every Five Years

44. 40 C.F.R. § 68.67(f) provide that at least every five (5) years after the completion of the initial process hazard analysis, the process hazard analysis shall be updated and revalidated by a team meeting the requirements in 40 C.F.R. § 68.67(d), to assure that the process hazard analysis is consistent with the current process.

45. The Respondent updated and revalidated the process hazard analysis for the VCM process on or about June 2006.

46. The Respondent was required to update and revalidate the process hazard analysis for the VCM process by June 2011.

47. The Respondent failed to update and revalidate the process hazard analysis for the VCM process until February 3, 2012.

48. The Respondent updated and revalidated the process hazard analysis for the PVC process on or about May 17, 2006.

49. The Respondent was required to update and revalidate the process hazard analysis for the PVC process by May 17, 2011.

50. The Respondent failed to update and revalidate the process hazard analysis for the PVC process until February 16, 2012.

51. Therefore, the Respondent violated 40 C.F.R. § 68.67(f) by failing to timely update and revalidate the process hazard analyses for the VCM process and the PVC process.

Count Four – Failure to Conduct an Adequate PHA for the VCM Process

52. 40 C.F.R. §§ 68.67 provides in part, that the owner or operator shall perform an initial process hazard analysis (hazard evaluation) on processes covered by 40 C.F.R. Part 68. The process hazard analysis shall be appropriate to the complexity of the process and shall identify, evaluate, and control the hazards in the process. The process hazard analysis shall address, among other things, the hazards of the process and engineering and administrative controls applicable to the hazards, and the consequences of failure of engineering and administrative hazards. At least every five (5) years after the completion of the initial process hazard analysis, the process hazard analysis shall be updated and revalidated by a team meeting

the requirements of 40 C.F.R. § 68.67(d) to assure that the process hazard analysis is consistent with the current process.

53. The VCM process is a "covered process" as that term is defined by 40 C.F.R. § 68.3.

54. The Respondent updated and revalidated the process hazard analysis for the VCM process on or about June 2006.

55. The Respondent was required to update and revalidate the process hazard analysis for the VCM process by June 2011.

56. The Respondent failed to update and revalidate the process hazard analysis for the VCM process until February 3, 2012.

57. On or about October 14, 2011, the NE-111 nitrogen heater for the molecular sieves ruptured. The heater is used to heat nitrogen gas to regenerate the sieve beds.

58. The NE-111 nitrogen heater is part of the VCM process.

59. A hazard associated with the VCM process is overpressuring the NE-111 nitrogen heater.

60. The PHA for the VCM process failed to recognize the potential for overpressuring the heater without a connected control device.

61. Therefore, the Respondent violated 40 C.F.R. § 68.67 by failing to conduct an adequate PHA for the VCM process.

Count Five – Failure to Properly Implement Certain Operating Procedures

62. 40 C.F.R. § 68.69(a) provides that the owner or operator shall develop and implement written operating procedures that provide clear instructions for safely conducting

activities involved in each covered process consistent with process safety information and shall address at least the following elements:

A. Steps for each operating phase:

1. Initial startup;
2. Normal operations;
3. Temporary operations;
4. Emergency shutdown including the conditions under which emergency shutdown is required, and the assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in a timely manner;
5. Emergency operations;
6. Normal shutdown; and
7. Startup following a turnaround, or after an emergency shutdown.

B. Operating limits:

1. Consequences of Deviation; and
2. Steps required to correct or avoid deviation.

* * * *

C. Safety systems and their function.

63. The following equipment is part of the VCM process:

A. C Oxy reactor;
B. D Oxy reactor;
C. NR301C Oxychlorination reactors
D. NR301D Oxychlorination reactor;
E. NR201A furnace;
F. NR201B furnace; and
G. NR201C furnace.

64. The VCM process is a "covered process" as that term is defined in 40 C.F.R. § 68.3.

65. On or about August 18, 2013, the Respondent bypassed the low flow interlocks for the HCl, O_2, and ethylene feed to the D Oxy reactor to prevent the reactor from tripping due to spikes in flow.

66. On or about August 18, 2013, the Respondent bypassed the interlocks without following the override procedure.

67. On or about August 23, 2013, the low flow interlocks for HCl and ethylene feed to C Oxy reactor, and the high flow interlock for O_2 feed to C Oxy reactor were preemptively bypassed when an HCl leak was discovered that had the potential to shut down the plant.

68. On or about August 23, 2013, the Respondent bypassed the interlocks without following the override procedure.

69. Therefore, the Respondent violated 40 C.F.R. § 68.69 by failing to properly implement certain operating procedures.

Count Six – Failure to Conduct a Management of Change

70. 40 C.F.R. § 68.75(a) & (b) provides that owner or operator shall establish and implement written procedures to manage changes (except for "replacement in kind") to process chemicals, technology, equipment, and procedures; and, changes to stationary sources that affect a covered process. The procedures shall ensure that the following considerations are addressed prior to any change: (1) the technical basis for the change; (2) impact of change on safety and health; (3) modification to operating procedures; (4) necessary time period for the change; and (5) authorization requirements for the proposed change.

71. The NE-111 nitrogen heater for the molecular sieves is part of the VCM process.

72. The VCM process is a "covered process" as that term is defined by 40 C.F.R. § 68.3.

73. On or about October 2011, the Respondent replaced the dual action solenoid with a single action solenoid.

74. The single action solenoid does not have a manual reset.

75. The replacement of a dual action solenoid for a single action solenoid is not a "replacement in kind".

76. The replacement of a dual action solenoid for a single action solenoid was a change in process equipment.

77. The Respondent failed to conduct a management of change (MOC) prior to replacing a dual action solenoid with a single action solenoid.

78. Therefore, the Respondent violated 40 C.F.R. § 68.75 by failing to conduct a management of change prior to replacing a dual action solenoid with a single action solenoid.

Count Seven – Failure to Timely Correct Deficiencies in 2008 and 2011 Compliance Audits

79. 40 C.F.R. § 68.79 provides the following:

> (a) The owner or operator shall certify that they have evaluated compliance with the provisions of this subpart at least every three years to verify that procedures and practices developed under this subpart are adequate and are being followed.
>
> * * * *
>
> (c) A report of the findings of the audit shall be developed.
>
> (d) The owner or operator shall promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected.

80. On or about November 3 – 7, 2008, the Respondent conducted a compliance audit at the facility identified in Paragraph 11.

81. As of July 2014, the Respondent failed to timely determine and document an appropriate response to certain findings for the compliance audit identified in Paragraph 80.

82. On or about October 11 - 14, 2011, the Respondent conducted a compliance audit at the facility identified in Paragraph 11.

83. As of July 2014, the Respondent failed to timely determine and document an appropriate response to certain findings for the compliance audit identified in Paragraph 82.

84. Therefore, the Respondent violated 40 C.F.R. § 68.79(d) by failing to timely determine and document appropriate responses to certain findings of two compliance audits.

III. TERMS OF SETTLEMENT

A. CIVIL PENALTY

85. For the reasons set forth above, the Respondent, without admitting nor denying the Findings of Fact or Conclusions of Law herein, has agreed to pay a civil penalty of **Two Hundred Seventy-Seven Thousand, Two Hundred Dollars ($277,200).**

86. Within thirty (30) days of the effective date of this CAFO, the Respondent shall pay the assessed civil penalty 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 (3) ways: regular U.S. Postal mail (including certified mail), overnight mail, or wire transfer. For regular U.S. Postal mail, U.S. Postal Service certified mail, or U.S. Postal Service express 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. Fed Ex), the check should be remitted to:

U.S. Bank
Government Lockbox 979077
US EPA Fines & 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" with a phone number of (412) 234-4381".

PLEASE NOTE: Docket Number CAA-06-2016-3361 shall be clearly typed on the check or other method of payment 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 docket number of the CAFO. If payment is made by wire transfer, the wire transfer instructions shall reference the Respondent's name and address, the case name, and docket number of the 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:

Sherronda Phelps
Environmental Engineer
Surveillance Section – Houston Lab (6EN-ASH)
U.S. EPA, Region 6 Laboratory
10625 Fallstone Rd
Houston, TX 77099

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

The Respondent's adherence to this request will ensure proper credit is given when penalties are received in the Region.

87. The 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.

88. If the Respondent fails to submit payment within thirty (30) days of the effective date of this CAFO, the Respondent may be subject to a civil action to collect any unpaid portion of the assessed penalty, together with interest, handling charges, and nonpayment penalties as set forth below.

89. 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 that is not paid by the respective 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).

90. 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 that 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 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.

91. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including but not limited to, attorneys' fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

92. This CAFO is considered a "prior violation" for the purpose of demonstrating a "history of noncompliance" under the Clean Air Act Stationary Source Penalty Policy, and the Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68 (June 2012).

B. RETENTION OF ENFORCEMENT RIGHTS

93. EPA does not waive any rights or remedies available to EPA for any other violations by the Respondents of Federal or State laws, regulations, or permitting conditions.

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

95. 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, contaminants, hazardous substances on, at or from the Respondent's facility whether related to the violations addressed in this CAFO or otherwise Furthermore, nothing in this CAFO shall be construed or to prevent or limit EPA's civil and criminal authorities, or that of other Federal,

State, or local agencies or departments to obtain penalties or injunctive relief under other Federal, State, or local laws or regulations.

96. The Complainant reserves all legal and equitable remedies available to enforce the provisions of this CAFO. In any such action to enforce the provisions of this CAFO, the Respondent shall not assert, and may not maintain, any defense of laches, statute of limitations, or any other equitable defense based on the passage of time. This CAFO shall not be construed to limit the rights of the EPA or United States to obtain penalties or injunctive relief under the Clean Air Act or its implementing regulations, or under other federal or state laws, regulations, or permit conditions.

97. In any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, to enforce the provisions of this CAFO, or other appropriate relief relating to this Facility, the 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 preclusion, claim-splitting, or other defenses based upon any contention that 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 claims for civil penalties that have been specifically resolved pursuant to this CAFO.

98. The Respondent waives any right it may possess at law or in equity to challenge the authority of the EPA or the United States to bring a civil action in a United States District Court to compel compliance with this CAFO and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action. The Respondent also consents to personal jurisdiction in any action to enforce this CAFO in the appropriate Federal District Court.

99. The Respondent also waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that the Respondent may have with respect to any issue of law or fact set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1).

100. This CAFO is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. The Respondent is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits. The Respondent's compliance with this CAFO shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The Complainant does not warrant or aver in any manner that the Respondent's compliance with any aspect of this CAFO will result in compliance with provisions of the Clean Air Act or with any other provisions of federal, State, or local laws, regulations, or permits.

C. COSTS

101. Except as provided in Paragraph 91, each party shall bear its own costs and attorney's fees. Furthermore, the 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.

D. EFFECTIVE DATE

102. 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:

Date: 1/16/2017

Paul Heurtevant
Plant Manager, Assistant Vice-President
Formosa Plastics Corporation, Louisiana

FOR THE COMPLAINANT:

Date: 2-1-17

Stacey B. Dwyer, P.E.
Acting Director
Compliance Assurance and Enforcement Division
EPA – Region 6

FINAL ORDER

Pursuant to the Section 113 of the CAA, 42 U.S.C. § 7413, 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 or EPA or the United States to pursue appropriate injunctive relief or other equitable relief for 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 the 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. The Respondent is ordered to comply with the terms of settlement 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.

Date: 2/7/17

Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of February, 2017, the original and one 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, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by certified mail, return receipt requested 7006 0810 0005 9535 9240:

Mr. John King
Breazeale, Sachse & Wilson, L.L.P.
P.O. Box 3197
One American Place, 23rd Floor
Baton Rouge, LA 70821-3197