UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 Elm Street, Suite 500
Dallas, Texas 75270

In the Matter of	§	
	§	
Nippon Chemical Texas Inc.,	§	**Docket No. CAA-06-2021-3353**
	§	
	§	
Respondent.	§	

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 6 ("EPA" or "Complainant"), and Nippon Chemical Texas Inc. ("Respondent") have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(d). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that this matter, in which the first date of alleged violation occurred more than twelve months prior to the initiation of the administrative action, was appropriate for administrative penalty action.

2. This Consent Agreement and Final Order serves as notice that the EPA has reason to believe that Respondent has violated the Chemical Accident Prevention Provisions in

40 C.F.R. Part 68, promulgated pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and that Respondent is therefore in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). Furthermore, this Consent Agreement and Final Order 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, of the EPA's intent to issue an order assessing penalties for these violations.

Parties

3. Complainant is the Director of the Enforcement and Compliance Assurance Division of EPA, Region 6, as duly delegated by the Administrator of the EPA and the Regional Administrator, EPA, Region 6.

4. Respondent is Nippon Chemical Texas Inc. (formerly JX Nippon Chemical Texas Inc.), a corporation incorporated in the state of Texas and authorized to conduct business in the state of Texas.

Statutory and Regulatory Background

5. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The Amendments added Section 112(r) to Title I of the CAA, 42 U.S.C. § 7412(r). The objective of Section 112(r) is to minimize the consequences of any such release of any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance.

6. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of regulated substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), mandates that the Administrator establish a threshold quantity for any substance

listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). The list of regulated substances and respective threshold quantities is codified at 40 C.F.R. § 68.130.

7. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for stationary sources with threshold quantities of regulated substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). On June 20, 1996, EPA promulgated a final rule known as the Risk Management Program, 40 C.F.R. Part 68 – Chemical Accident Prevention Provisions, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

8. The regulations at 40 C.F.R. Part 68 require owners and operators to develop and implement a Risk Management Program at each stationary source with over a threshold quantity of regulated substances. The Risk Management Program must include, among other things, a hazard assessment, a prevention program, and an emergency response program. The Risk Management Program is described in a Risk Management Plan (RMP) that must be submitted to the EPA.

9. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150, an RMP must be submitted for all covered processes by the owner or operator of a stationary source subject to 40 C.F.R. Part 68 no later than the latter of June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.

10. The regulations at 40 C.F.R. § 68.10 set forth how the Chemical Accident Prevention Provisions of 40 C.F.R. Part 68 apply to each program level of covered processes. Pursuant to 40 C.F.R. § 68.10(i), a covered process is subject to Program 3 requirements if the process does not meet the requirements of Program 1, as described in 40 C.F.R. § 68.10(g), and if it is in a specified North American Industrial Classification System code or is subject to the

Occupational Safety and Health Administration (OSHA) process safety management standard, 29 C.F.R. 1910.119.

11. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to $25,000 per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and its implementing regulations. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to $37,500 for violations that occurred before November 2, 2015, and to $48,762 for violations that occur after November 2, 2015, and are assessed after January 13, 2020.

Definitions

12. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines "person" to include any individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency department, or instrumentality of the United States and any officer, agent, or employee thereof.

13. Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A), and the regulation at 40 C.F.R. § 68.3 defines "accidental release" as an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

14. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3 defines "stationary source," in part, as 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.

15. Section 112(r)(2)(B) of the CAA, 42 U.S.C. § 7412(r)(2)(B), and the regulation at 40 C.F.R. § 68.3 define "regulated substance" as any substance listed pursuant to Section 112(r)(3) of the CAA, as amended, in 40 C.F.R. § 68.130.

16. The regulation at 40 C.F.R. § 68.3 defines "threshold quantity" as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, as amended, listed in 40 C.F.R. § 68.130 and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

17. The regulation at 40 C.F.R. § 68.3 defines "process" as any activity involving a regulated substance including any use, storage, manufacturing, handling or on-site movement of such substances, or combination of these activities. For the purposes 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.

18. The regulation at 40 C.F.R. § 68.3 defines "covered process" as a process that has a regulated substance present in more than a threshold quantity as determined under 40 C.F.R. § 68.115.

19. The regulation at 40 C.F.R. § 68.3 defines "population" as the public.

20. The regulation at 40 C.F.R. § 68.3 defines "environmental receptors" as natural areas such as national or state parks, forests, or monuments; officially designated wildlife sanctuaries, preserves, refuges, or areas; and Federal wilderness areas, that could be exposed at any time to toxic concentrations, radiant heat, or overpressure greater than or equal to the

endpoints provided in §68.22(a), as a result of an accidental release and that can be identified on local U. S. Geological Survey maps.

EPA Findings of Fact and Conclusions of Law

21. Respondent is, and at all times referred to herein was, a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

22. Respondent is the owner and operator of a facility located at: 10500 Bay Area Blvd, Pasadena, Texas 77507 ("the Facility").

23. Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, the EPA conducted an inspection of the Facility on January 13th through January 15th 2020, to determine Respondent's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68 ("the Inspection").

24. The Facility is a "stationary source" pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3.

25. The Respondent manufactures chemicals used in the carbonless copy paper, electrical capacitors, heat transfer fluids, and EPDM rubber industries. The Respondent has three units which include Synthetic Aromatic Solvent (SAS), Ethylidene Norbornene (ENB) 2, and Ethylidene Norbornene (ENB) 3 at the Facility. The Respondent's petrochemical manufacturing processes meet the definition of "process" and "covered process", as defined by 40 C.F.R. § 68.3.

26. Propylene, 3-Butadiene, and 2-Methylpropene are "regulated substances" pursuant to Section 112(r)(2)(B) of the CAA, 42 U.S.C. § 7412(r)(2)(B), and the regulation at 40 C.F.R. § 68.3. The threshold quantity for Propylene, 3-Butadiene, and 2-Methylpropene, as listed in 40 C.F.R. § 68.130 is 10,000 pounds.

27. Respondent has greater than a threshold quantity of Propylene, 3-Butadiene, and 2-Methylpropene, in a process at the Facility, meeting the definition of "covered process" as defined by 40 C.F.R. § 68.3.

28. From the time Respondent first had on-site greater than a threshold quantity of Propylene, 3-Butadiene, and 2-Methylpropene, in a process, Respondent was subject to the requirements of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68 because it was the owner or operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

29. From the time Respondent first had on-site greater than a threshold quantity of Propylene, 3-Butadiene, and 2-Methylpropene, in a process, Respondent was required to submit an RMP pursuant to 40 C.F.R. § 68.12(a) and comply with the Program 3 prevention requirements because pursuant to 40 C.F.R. § 68.10(i), the covered process at the Facility did not meet the eligibility requirements of Program 1 and is in North American Industry Classification System code 32511 (petrochemical manufacturing) and is subject to the OSHA process safety management standard, 29 C.F.R. § 1910.119.

EPA Findings of Violation

30. The facts stated in the EPA Findings of Fact and Conclusions of Law above are herein incorporated.

31. Complainant hereby states and alleges that Respondent has violated the CAA and federal regulations promulgated thereunder as follows:

Count 1 – Defining Off-Site Impacts – Population & Environmental Receptors

32. The regulation at 40 C.F.R. § 68.12(d)(2) requires the owner or operator of a stationary source with a process subject to Program 3 to conduct a hazard assessment as provided

in 40 C.F.R. §§ 68.20 through 68.42. Pursuant to 40 C.F.R. § 68.39(d) the owner or operator shall maintain records for the methodology used to determine the distance to endpoints for the offsite consequence analyses. Pursuant to 40 C.F.R. § 68.39(e) the owner or operator shall maintain records of the data used to estimate population and environmental receptors potentially affected.

33. At the time of the Inspection, Respondent did not have records maintained demonstrating the methodology used to determine the distance to endpoints.

34. At the time of the Inspection, Respondent did not have records maintained demonstrating the data used to estimate the population and environmental receptors that would be potentially affected.

35. Respondent's failure to maintain records demonstrating the methodology used to determine distance to endpoints for the offsite consequence analyses, and failure to maintain records demonstrating the data used to estimate the population and environmental receptors affected, pursuant to 40 C.F.R. §§ 68.39(d) and (e), as required by 40 C.F.R. § 68.12(d)(2), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 2 – Process Hazard Analysis

36. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.67(a) the owner or operator shall perform an initial process hazard analysis (hazard evaluation) on processes covered by 40 C.F.R. Part 68. The regulation at 40 C.F.R. § 68.67(e) requires the owner or operator to establish a system to promptly address the team's findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is documented;

document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.

37. At the time of the Inspection, Respondent had not promptly addressed the team's findings and recommendations and had not assured that the recommendations were resolved in a timely manner for the SAS & ENB process hazard analyses. Specifically, three (3) ENB process hazard analysis findings and fifteen (15) SAS process hazard analysis findings documented by the team were not promptly addressed or timely resolved. The eighteen (18) findings were also not completed by the date designated in the written schedule developed by Respondent.

38. Respondent's failure to establish a system to promptly address the team's findings and recommendations; assure that the recommendations were resolved in a timely manner; complete actions as soon as possible pursuant to 40 C.F.R. § 68.67(e), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 3 – Operating Procedures

39. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements as provided in 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.69(a) 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 the process safety information. Pursuant to 40 C.F.R. § 68.69(c) the operating procedures shall be reviewed as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes

to stationary sources. The owner or operator shall certify annually that these operating procedures are current and accurate.

40. At the time of the Inspection the Respondent developed and implemented written operating procedures that provided instructions for conducting activities associated with each covered process, consistent with the safety information. The operating procedures were not annually certified to assure that the procedures were current and accurate. The ENB operating procedure certifications received approval on January 10, 2017, April 25, 2018, and October 14, 2019. The SAS certifications received approval on January 10, 2017, and April 30, 2018. The ENB operating procedure certifications were approximately 6 months past due and the SAS certifications were approximately 3 months past due.

41. Respondent's failure to annually certify the operating procedures for the ENB and SAS Units' operating procedures, pursuant to 40 C.F.R. § 68.69(c), as required by 40 C.F.R. § 68.12(d)(3) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 4 – Training

42. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.71(b), refresher training shall be provided at least every three years, and more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process. The owner or operator, in consultation with the employees involved in operating the process, shall determine the appropriate frequency of refresher training.

43. At the time of the Inspection, the Respondent provided the Inspector with a list of operators working on site and selected four operators at various tenures working at the facility to

review training records. The Respondent had not provided Refresher training at least every three years, or more often if necessary, to one of the four employees reviewed who is involved in operating a process. The employee received training in May 2015 and May 2019, with a four (4) year gap between receiving refresher training.

44. Respondent's failure to provide refresher training at least every three years to one of the four employees involved in operating a process pursuant to 40 C.F.R. § 68.71(b), as required by 40 C.F.R. § 68.12(d)(3) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 5 - Training

45. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.71(c) the owner or operator shall ascertain that each employee involved in operating a process has received and understood the training required by this paragraph. The owner or operator shall prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training.

46. At the time of the Inspection, the ENB Unit Training Manual training records prepared by Respondent for an employee involved in operating a procedure did not contain the date of the training.

47. Respondent's failure to prepare training records for an employee involved in operating a procedure that contained the date of training pursuant to 40 C.F.R. § 68.71(c), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 6 – Mechanical Integrity – Inspection and Testing

48. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.73(d)(3), the frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.

49. At the time of the Inspection, Respondent had not performed inspections and tests on process equipment at a frequency consistent with applicable manufacturers' recommendations and good engineering practices. According to American Petroleum Institute Standards, the Equipment 2C-100, shall be given a visual external inspection at an interval that does not exceed the lesser of five years or the required internal/ on-stream inspection. At the time of Inspection, the Equipment 2C-100 received internal and external inspections on May 5, 2014 and the external inspection was past due. The Equipment 2C-100 became past due for an external inspection as of May 5, 2019.

50. Respondent's failure to complete an external inspection of equipment 2C-100 consistent with applicable manufacturers' recommendations and good engineering practices pursuant to 40 C.F.R. § 68.73(d)(3), as required by 40 C.F.R. § 68.12(d)(3) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 7 – Compliance Audits

51. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.79(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.

52. At the time of the Inspection, Respondent did not promptly determine and document an appropriate response for three audit findings documented by Respondent in the 2017 compliance audit. Further, Respondent had not documented that the deficiencies had been corrected.

53. Respondent's failure to promptly determine and document an appropriate response to each of the findings of the compliance audit, and failure to document that the deficiencies have been corrected pursuant to 40 C.F.R. § 68.79(d), as required by 40 C.F.R. § 68.12(d)(3) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 8 – Emergency Response

54. The regulation at 40 C.F.R. § 68.12(d)(5) requires the owner or operator of a stationary source with a process subject to Program 3 to develop and implement an emergency response program, and conduct exercises, as provided in §§68.90 to 68.96. Pursuant to 40 C.F.R. § 68.95(a) the owner or operator shall develop and implement an emergency response program for the purpose of protecting public health and the environment. Pursuant to 40 C.F.R. § 68.95(a)(1)(ii) the emergency response plan, which shall be maintained at the stationary source and contain at least the following elements: Documentation of proper first-aid and emergency medical treatment necessary to treat accidental human exposures.

55. At the time of the Inspection, Respondent's emergency response plan did not contain documentation of the proper first aid and emergency medical treatment necessary to treat accidental human exposures. The documents of the proper first aid and emergency medical treatment necessary to treat accidental human exposures were included in the safety data sheets

instead of the emergency response plan.

56. Respondent's failure to maintain an emergency response plan that documented the proper first-aid and emergency medical treatment necessary to treat accidental human exposures pursuant to 40 C.F.R. § 68.95(a)(1)(ii), as required by 40 C.F.R. § 68.12(d)(5) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

CONSENT AGREEMENT

57. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

(a) admits the jurisdictional allegations set forth herein;

(b) neither admits nor denies the specific factual allegations stated herein;

(c) consents to the assessment of a civil penalty, as stated herein;

(d) consents to the issuance of the related Administrative Order on Consent;

(e) consents to any conditions specified herein;

(f) waives any right to contest the allegations set forth herein; and

(g) waives its rights to appeal the Final Order accompanying this Consent Agreement.

58. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein.

59. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

Penalty Payment

60. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of seventy thousand dollars ($70,000.00), as set forth below.

61. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

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

or by alternate payment method described at *http://www.epa.gov/financial/makepayment.*

62. A copy of the check or other information confirming payment shall simultaneously be sent to the following:

Lorena S. Vaughn
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ORC)
Dallas, Texas 75270-2102
vaughn.lorena@epa.gov; and

Justin McDowell
Enforcement and Compliance Assurance Division
Air Enforcement Branch
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ECDAC)
Dallas, Texas 75270-2101
McDowell.Justin@epa.gov

63. Respondent understands that its failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31

U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six percent (6%) per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

Effect of Settlement and Reservation of Rights

64. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of the CAA or any other applicable law.

65. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in paragraph directly below.

66. Respondent certifies by the signing of this Consent Agreement that it is presently in compliance with all requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), save and except as reflected in the Administrative Order on Consent, Docket No. CAA-06-2020-3425. Fulfillment of the terms of the Administrative Order on Consent is intended to bring Respondent into full compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

67. Full payment of the penalty proposed in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the CAA and regulations promulgated thereunder.

68. Complainant reserves the right to enforce the terms and conditions of this Consent

Agreement and Final Order.

General Provisions

69. By signing this Consent Agreement, the undersigned representative of Respondent certifies that it is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party it represents to this Consent Agreement.

70. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon filing of the Final Order by the Regional Hearing Clerk for EPA, Region 6. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

71. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State, and local taxes.

72. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

73. The EPA and Respondent agree to the use of electronic signatures for this matter pursuant to 40 C.F.R. § 22.6. The EPA and Respondent further agree to electronic service of this Consent Agreement and Final Order by email to the following:

To EPA: pittman.lawrence@epa.gov

To Respondent: kcourtney@mcginnislaw.com

RESPONDENT:
NIPPON CHEMICAL TEXAS INC.

Date: July 26, 2021

Signature

Yoshifumi Morita
Print Name

President & COO
Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

Cheryl T. Seager
Digitally signed by CHERYL SEAGER
DN: c=US, o=U.S. Government, ou=Environmental Protection Agency, cn=CHERYL SEAGER, 0.9.2342.19200300.100.1.1=68001003651793
Date: 2021.08.04 09:59:59 -05'00'

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance 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 and the Revocation/ Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

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 (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.

IT IS SO ORDERED.

THOMAS RUCKI

Digitally signed by THOMAS RUCKI
DN: c=US, o=U.S. Government, ou=Environmental Protection Agency, cn=THOMAS RUCKI, 0.9.2342.19200300.100.1.1=68001003655804
Date: 2021.08.09 09:38:16 -05'00'

Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was electronically delivered to the Regional Hearing Clerk, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270-2102, and that a true and correct copy was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

pittman.lawrence@epa.gov

Copy via Email to Respondent:

kcourtney@mcginnislaw.com

Nippon Chemical Texas Inc.
10500 Bay Area Blvd
Pasadena, Texas 77507

Copy via email to Regional Hearing Clerk:

Vaughn.lorena@EPA.gov

Dated this _____ day of _____, _____.

Pittman, Lawrence

Digitally signed by Pittman, Lawrence
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Date: 2021.08.09 16:23:47 -05'00'

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U.S. Environmental Protection Agency, Region 6