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

In the Matter of	§	
	§	
Stolthaven Houston, Inc.	§	**Docket No. CAA-06-2023-3350**
	§	
	§	
Respondent.	§	

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 6 ("EPA" or "Complainant"), and Stolthaven Houston, Inc ("Respondent" or "Stolthaven") 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).

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 Stolthaven Houston, Inc., a corporation incorporated in the state of Delaware and conducting 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 prevent the accidental release and 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), requires 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), requires the Administrator to 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 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 $55,808 for violations that occur after November 2, 2015, and are assessed after January 6, 2023.

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.

EPA Findings of Fact and Conclusions of Law

19. 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).

20. Respondent is the owner and operator of a facility located at: 15602 Jacintoport Boulevard, Houston, Texas 77015 (the "Facility").

21. Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, the EPA conducted an inspection of the Facility from August 30, 2022, to September 1, 2022, 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").

22. On November 28, 2022, the EPA sent Respondent a Notice of Potential Violation and Opportunity to Confer letter. On December 9, 2022, the EPA responded to the documentation and information received from Respondent as a result of the opportunity to confer and articulated the EPA's position concerning Respondent's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

23. 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.

24. Respondent has a P-Tank Farm Vinyl Acetate Monomer (VAM), D-Tank Farm Toluene Diisocyanate (TDI), and the Isopentane and Isopentane/n-Pentane blend Intermodal Transfer processes at the Facility, meeting the definition of "process", as defined by 40 C.F.R. § 68.3.

25. Isopentane, pentane, acrylonitrile, toluene diisocyanate (unspecified isomer), and vinyl acetate monomer are each a "regulated substance" 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 both isopentane and pentane, as listed in 40 C.F.R. § 68.130 is 10,000 pounds. The threshold for acrylonitrile, as listed in 40 C.F.R. § 68.130 is 20,000 pounds. The threshold for toluene diisocyanate (unspecified isomer), as listed in 40 C.F.R. § 68.130 is 10,000 pounds. The

threshold for vinyl acetate monomer, as listed in 40 C.F.R. § 68.130 is 15,000 pounds.

26. Respondent has at times maintained greater than a threshold quantity of isopentane, pentane, acrylonitrile, toluene diisocyanate (unspecified isomer), and vinyl acetate monomer in a process at the Facility, meeting the definition of "covered process" as defined by 40 C.F.R. § 68.3.

27. From the time Respondent first had on-site greater than a threshold quantity of isopentane, pentane, acrylonitrile, toluene diisocyanate (unspecified isomer), and vinyl acetate monomer 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.

28. From the time Respondent first had on-site greater than a threshold quantity of isopentane, pentane, toluene diisocyanate (unspecified isomer), and vinyl acetate monomer 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, is subject to Occupational Safety and Health Administration requirements for Process Safety Management pursuant to 29 C.F.R. 1910.119, and is in North American Industry Classification System code 49311. Respondent's storage of acrylonitrile on-site greater than a threshold quantity triggered Program 2 prevention requirements for the respective process.

EPA Findings of Violation

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

incorporated.

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

Count 1 – Process Hazard Analysis

31. 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(e), the owner or operator shall 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; develop a written schedule of when these actions are to be completed.

32. Respondent failed to have a written schedule of when actions are to be completed. In addition, at the time of the Inspection, there were several open recommendations from the Site-Wide Process Hazard Analysis (PHA) from September 2020 and the Acrylonitrile Handling PHA from December 2020 that were not promptly addressed.

33. Respondent's failure to have a written schedule of when actions are to be completed and promptly address the team's findings and recommendations and assure that the recommendations were resolved in a timely manner 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 2 – Compliance Audits

34. 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.

35. Respondent failed to document that deficiencies have been corrected promptly. In addition, there was one repeat finding from Respondent's 2016 compliance audit in Respondent's 2019 compliance audit.

36. Respondent's failure to document that deficiencies have been corrected promptly 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 3 – Hot Work Permit

37. 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. § 68.85(b), the permit shall document that the fire prevention and protection requirements in 29 C.F.R. 1910.252(a) have been implemented prior to beginning the hot work operations; it shall indicate the date(s) authorized for hot work; and identify the object on which hot work is to be performed. The permit shall be kept on file until completion of the hot work operations.

38. Respondent failed to document that a fire watch was assigned for hot work. Some of the permits that were reviewed did not indicate that a fire watch was present via signature. In addition, some of the hot work permits indicated that a fire watch was required; however, a fire watch was not assigned. Stolthaven believes that each of the 18 permits selected for

additional review by EPA were either 1) non-flame work that did not require a dedicated fire watch or 2) planned hot work that was canceled, rescheduled, or otherwise did not occur on the day permit was written.

39. Respondent's failure to document that a fire watch was assigned pursuant to 40 C.F.R. § 68.85(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).

CONSENT AGREEMENT

40. 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 performance of the Supplemental Environmental Project ("SEP") set forth herein;

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.

41. 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.

42. 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

43. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of Ten Thousand Six Hundred and Eight Dollars ($10,608) and shall perform a SEP as set forth herein. The projected cost of the SEP is Forty-One Thousand Three Hundred Seventy-Seven Dollars ($41,377).

44. 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*.

45. 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

Charese Simpson
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
simpson.charese@epa.gov

46. 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).

47. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require 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 (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 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 an IRS 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 IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN; Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at chalifoux.jessica@epa.gov within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and

c. 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 30 days after the effective date of this Order; 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.

Supplemental Environmental Project (SEP)

48. In response to the alleged violations of the CAA and in settlement of this matter, although not required by the CAA or any other federal, state or local law, Respondent agrees to implement a SEP, as described below in paragraph 49 and Attachment A.

49. Respondent shall complete an emergency response and preparedness SEP, consisting of donation of emergency response equipment to the Channelview Fire Department. The SEP is more specifically described in Attachment A and incorporated herein by reference.

50. Respondent shall spend no less than $41,377 on implementing the SEP. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report. If Respondent's implementation of the SEP as described in Attachment A does not expend the full amount set forth in this paragraph, and if EPA determines that the amount remaining reasonably could be applied toward the purchase of additional emergency response equipment, Respondent will purchase and provide additional emergency response equipment to the Channelview Fire Department.

51. Respondent shall complete the SEP within twelve months of the effective date of this Consent Agreement and Final Order.

52. Identification of SEP Recipient

a. SEP Recipient

    i. Respondent has selected the Channelview Fire Department to receive the emergency response equipment as part of this SEP.

b. The EPA had no role in the selection of the SEP recipient or specific equipment identified in the SEP, nor shall this CAFO be construed to constitute EPA approval or endorsement of any SEP recipient, or specific equipment identified in this CAFO.

53. The SEP is consistent with applicable EPA policy and guidelines, specifically EPA's 2015 Update to the 1998 Supplemental Environmental Projects Policy, (March 10, 2015). The

SEP advances at least one of the objectives of Section 112(r) of the CAA, 42 U.S.C. § 7412(r) by improving the Channelview Fire Department's emergency response capabilities for incidents involving chemicals and other hazardous materials. The SEP is not inconsistent with any provision of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). The SEP relates to the alleged violation(s) and is designed to reduce the adverse impact to public health and/or the environment to which the alleged violations contribute, as well as the overall risk to public health and/or the environment potentially affected by the alleged violations. Specifically, the response equipment in the SEP will improve the Channelview Fire Department's ability to effectively treat impacted individuals following an incident.

54. Respondent certifies as to the truth and accuracy of each of the following:

    a. That all cost information provided to EPA in connection with EPA's approval of the SEP is complete and accurate and that Respondent in good faith estimates that the cost to implement the SEP is Forty-One Thousand Three Hundred Seventy-Seven Dollars ($41,377).

    b. That, as of the date of executing this Consent Agreement and Final Order, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum.

    c. That the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Consent Agreement and Final Order.

d. That Respondent has not received and will not receive credit for the SEP in any other enforcement action.

e. That Respondent will not receive reimbursement for any portion of the SEP from another person or entity.

f. That for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

g. Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Paragraph 49 and Attachment A.

h. That Respondent has inquired of the SEP recipient whether it is party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP and has been informed by the recipient that neither is a party to such a transaction.

55. Any public statement, oral or written, in print, film, or other media, made by Respondent or a representative of Respondent making reference to the SEP under this CAFO from the date of its execution of this CAFO shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of the federal laws."

56. SEP Reports.

a. Respondent shall submit a SEP Completion Report to EPA within 30 days after completion of the SEP. The SEP (Completion) Report shall contain the following

information, with supporting documentation:

i. A detailed description of the SEP as implemented;

ii. A description of any operating problems encountered and the solutions thereto;

iii. Itemized costs;

iv. Certification that the SEP has been fully implemented pursuant to the provisions of this CAFO; and

v. A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).

b. Respondent agrees that failure to submit the SEP Completion Report or any Periodic Report required by subsections (a) and (b) above shall be deemed a violation of this CAFO and Respondent shall become liable for stipulated penalties pursuant to paragraph 58 below.

c. Respondent shall submit all notices and reports required by this CAFO to Charese Simpson at simpson.charese@epa.gov

d. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP completion report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or

services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

57. EPA acceptance of the SEP Report.

a. After receipt of the SEP Completion Report described in paragraph 56 above, EPA will, in writing to the Respondent, either:

i. Identify any deficiencies in the SEP Completion Report itself along with a grant of an additional thirty (30) days for Respondent to correct any deficiencies; or

ii. Indicate that EPA concludes that the project has been completed satisfactorily; or

iii. Determine that the project has not been completed satisfactorily and seek stipulated penalties in accordance with paragraph 58 herein.

b. If EPA elects to exercise option (i) above, i.e., if the SEP Report is determined to be deficient but EPA has not yet made a final determination about the adequacy of SEP completion itself, Respondent may object in writing to the notification of deficiency given pursuant to this paragraph within ten (10) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to

Respondent, which decision shall be final and binding upon Respondent.

58. Stipulated Penalties

a. Except as provided in subparagraphs (b) and (c) below, if Respondent fails to satisfactorily complete the requirements regarding the SEP specified in Paragraph 49 by the deadline in Paragraph 56 Respondent agrees to pay, in addition to the civil penalty in Paragraph 43, the following per day per violation stipulated penalty for each day the Respondent is late meeting the applicable SEP requirement:

   i. $250 per day for days 1-30.

   ii. $300 per day for days 31-60.

   iii. $500 per day for days 61 or more.

b. If Respondent fails to timely submit any SEP reports, such as those referred to in Paragraph 56, in accordance with the timelines set forth in this CAFO, Respondent agrees to the following per day stipulated penalty for each day after the report was due until Respondent submits the report in its entirety:

   i. $100 per day for days 1-30.

   ii. $150 per day for days 31-60.

   iii. $300 per day for days 61 or more.

c. If Respondent does not satisfactorily complete the SEP, including spending the minimum amount on the SEP set forth in Paragraph 50 above, Respondent shall pay a stipulated penalty to the United States in the amount of $50,000. "Satisfactory completion" of the SEP is defined as Respondent spending no less

than $41,377 to donate emergency response equipment to the Channelview Fire Department by no later than twelve months from the Effective Date of this Consent Agreement and Final Order. The determinations of whether the SEP has been satisfactorily completed shall be in the sole discretion of EPA.

d. EPA retains the right to waive or reduce a stipulated penalty at its sole discretion.

e. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions of paragraph 44 above. Interest and late charges shall be paid as stated in paragraph 46.

Effect of Settlement and Reservation of Rights

59. 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.

60. 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.

61. Respondent certifies by the signing of this Consent Agreement that, as of the date of the execution of this Consent Agreement, Respondent has addressed or is addressing the violations alleged herein, and to the best of its knowledge, it is presently in compliance with all other requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

62. 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.

63. Complainant reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order.

General Provisions

64. 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.

65. 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.

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

67. 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.

68. 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: *Henley.Hollis@epa.gov*

To Respondent: *T.friday@stolt.com*

Harrison.reback@bakerbotts.com

RESPONDENT:
STOLTHAVEN HOUSTON, INC.

Date: **February 15, 2024**

Signature

Daniel B. Strydom
Print Name

General Manager
Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

Digitally signed by Cheryl T. Seager
Date: 2024.02.16 14:45:43 -06'00'

Date: February 16, 2024

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
Date: 2024.02.22 11:17:31 -05'00'

Thomas Rucki
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was filed with me, the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that I sent a true and correct copy on this day in the following manner to the email addresses:

Copy via Email to Complainant, EPA:
henley.hollis@epa.gov

Copy via Email to Respondent:
harrison.reback@bakerbotts.com

t.friday@stolt.com
Stolthaven Houston, Inc.
15602 Jacintoport Boulevard
Houston, Texas 77015

LORENA VAUGHN

Digitally signed by LORENA VAUGHN
Date: 2024.02.26 10:05:40 -06'00'

Regional Hearing Clerk
EPA Region 6

ATTACHMENT A

STOLTHAVEN HOUSTON, INC.

SUPPLEMENTAL ENVIRONMENTAL PROJECT

DOCKET NO. CAA-06-2023-3350

Stolthaven Houston, Inc. ("Stolthaven") will donate emergency response equipment to the Channelview Fire Department ("CFD"). CFD is the first responder for fires and other incidents involving public safety in and around Channelview. The donated equipment will allow CFD to provide more effective treatment in response to incidents involving chemicals and other hazardous materials. The area covered by the CFD is the same area where Stolthaven's facility is located.

The donation will include the following:

1. One Zoll X Series Advanced Monitor/Defibrillator at an expected cost of $37,841.36.
2. One Zoll AED Pro Semi-Auto/Manual Defibrillator at an expected cost of $3,536.00.

The Zoll X Series Advanced Monitor/Defibrillator is an advanced device that provides visual and audio prompts for CPR, real-time ventilation feedback, and trending information on critical recovery parameters. The AED Pro is a highly portable AED designed to support field-administration of defibrillation and provide real-time CPR feedback.

This donation will help improve CFD's emergency response capabilities and reduce the overall risk to public health associated with industrial incidents.

The total expected cost of this project is $41,377. Stolthaven will purchase and donate this equipment to CFD within twelve months of the effective date of the Consent Agreement and Final Order.