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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6

1201 Elm Street, Suite 500
Dallas, Texas 75270

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REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of

Celanese Ltd.,

Respondent.

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Docket No. CAA-06-2022-3302

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 6 (“EPA” or “Complainant”), and Celanese Ltd. (“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).
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 Celanese Ltd., a subsidiary of Celanese Corporation, a Delaware foreign corporation registered 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 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 \$51,796 for violations that occur after November 2, 2015, and are assessed after January 12, 2022.

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)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3 define “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.

14. 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.

15. 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.

16. 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.

17. 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.

18. The regulation at 40 C.F.R. § 68.3 defines “major change” as the introduction of a new process, process equipment, or regulated substance, an alteration of process chemistry that results in any change to safe operating limits, or other alteration that introduces a new hazard.

19. The regulation at 40 C.F.R. § 68.3 defines “mechanical integrity” as the process of ensuring that process equipment is fabricated from the proper materials of construction and is properly installed, maintained, and replaced to prevent failures and accidental releases.

EPA Findings of Fact and Conclusions of Law

20. 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).

21. Respondent is the owner and operator of a facility located at: 9502 Bayport Boulevard, Pasadena, TX 77507-1498 (the “Facility”).

22. 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.

23. Respondent has a “All Other Basic Organic Chemical Manufacturing” process at the Facility, meeting the definition of “process”, as defined by 40 C.F.R. § 68.3.

24. Vinyl Acetate, Ethylene oxide, Ammonia, Methane, Propylene, Acetaldehyde, and Flammable Mixtures 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 Vinyl Acetate, as listed in 40 C.F.R. § 68.130, is 15,000 pounds. The threshold quantity for Ethylene oxide, Ammonia, Methane, Propylene, Acetaldehyde, and a Flammable Mixture, as listed in 40 C.F.R. § 68.130, is 10,000 pounds.

25. Respondent has greater than a threshold quantity of Vinyl Acetate, Ethylene oxide, Ammonia, Methane, Propylene, Acetaldehyde, and a Flammable Mixture (“the Regulated Substances”) in a process at the Facility, meeting the definition of “covered process” as defined by 40 C.F.R. § 68.3.

26. From the time Respondent first had on-site greater than a threshold quantity of the Regulated Substances 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.

27. From the time Respondent first had on-site greater than a threshold quantity of the Regulated Substances 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 or Program 2, is subject to OSHA requirements for Process Safety Management

pursuant to 29 C.F.R. 1910.119, and is in North American Industry Classification System codes 325199 and 325120.

28. Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, the EPA conducted an on-site partial compliance evaluation inspection of the Facility from July 21-23, 2021, 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").

29. EPA Region 6 held a follow-up meeting with representatives for Respondent on September 1, 2021, regarding Areas of Concern Findings from the Facility inspection. Subsequently, Respondent sent mitigating documents, which were received on September 10, 2021.

30. On April 4, 2022, the EPA sent Respondent a Notice of Potential Violation and Opportunity to Confer ("NOPVOC") letter.

31. On April 19 and May 20, 2022, the EPA met with representatives of Celanese Ltd. to discuss the NOPVOC letter, missing documentation, and additional information concerning Respondent's response, as related to compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

EPA Findings of Violation

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

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

Count 1 – Alternative Release Scenario Analysis

34. The regulations at 40 C.F.R. § 68.28(b)(1)(i) and 68.36(b) require the owner or

operator of a stationary source with a process subject to Program 3 to consider, review, and update alternative release scenarios. For each scenario required under paragraph (a) of § 68.28, the owner or operator shall select a scenario: That is more likely to occur than the worst-case release scenario under § 68.25. If changes in processes, quantities stored or handled, or any other aspect of the stationary source might reasonably be expected to increase or decrease the distance to the endpoint by a factor of two or more, the owner or operator shall complete a revised analysis within six (6) months of the change and submit a revised risk management plan as provided in § 68.190.

35. Respondent failed to develop a revised flammable alternative scenario at the time the CO—Propylene unit shut down in relation to a release in the unit. This unit was acquired around February 2019 and taken out of service around February 2020. While it is out of service and not storing a regulated chemical above threshold quantity, the CO—Propylene unit did not meet the criteria for being an RMP-regulated process. The flammable alternative scenarios were revised shortly after the issue was identified by EPA in September 2021, in order to come into compliance.

36. Respondent's failure to promptly consider, review, and update alternative release scenarios pursuant to 40 C.F.R. § 68.28(b)(1)(i) and 68.36(b), within six (6) months of the CO—Propylene unit shut down is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 2 – Process Hazard Analysis (PHA)

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. § 68.67(e), the owner or operator shall establish a system to promptly address the process hazard analyses 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.

38. Respondent failed to establish a system to promptly address the team's findings and recommendations contained in the 2019 Vinyl Acetate PHA. The PHA was published on 09/05/2019, but not uploaded to the *iCAP* database until 03/13/2020. Respondent also failed to provide required communications to affected employees and contractors for the findings of the 2017 Shipping PHA and the 2017 Utilities PHA until December 2019.

39. Respondent's failure to implement the prevention requirements in 40 C.F.R. § 68.67(e), as required by 40 C.F.R. § 68.12(d)(3), by establishing a system to promptly track and address the team's findings and recommendations contained in the 2019 Vinyl Acetate PHA, and to timely communicate to affected employees and contractors the findings of the 2017 Shipping PHA and the 2017 Utilities PHA is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 3 – Operating Procedures Certification

40. 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. The regulation 40 C.F.R. § 68.69(c) requires the owner or operator shall certify annually that the operating procedures are current and accurate.

41. Respondent failed to ensure that the page for certification signature by a responsible official was duly signed and executed for EO unit operating procedures in 2019. The

company provided an email that approved the recommendations from the audit, which does not meet the certification requirement stated in the rule language.

42. Respondent's failure to adequately ensure the certification of its 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 – Refresher Training

43. 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. Under 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.

44. Respondent failed to locate and provide the required records to verify that refresher training was complete in 2016 and 2019 for one EO employee involved in operating the covered process. Although the employee completed the refresher training in 2021, bringing Respondent into compliance, there was an interval in which Celanese could not verify completion of the employee's refresher training in 2016 and 2019.

45. Respondent's failure to furnish the required records to verify providing and completing refresher training for one EO employee in 2016 and 2019 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 – Mechanical Integrity (Written Procedures and Equipment Deficiencies)

46. 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. The regulation at 40 C.F.R. § 68.73(b) requires the owner or operator to establish and implement written procedures to maintain the ongoing integrity of process equipment.

47. Respondent failed to implement the established written procedures requiring completion of inspections of thirteen (13) Lower Explosive Limit (LEL) and two (2) oxygen monitors quarterly from January 2020 to April 2021.

48. Respondent's failure under 40 C.F.R. § 68.73(b), as required by 40 C.F.R. § 68.12(d)(3), to implement its written procedures to maintain the ongoing integrity of process equipment when it did not complete inspection of thirteen (13) Lower Explosive Limit (LEL) and two (2) oxygen monitors from January 2020 to April 2021 is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

49. 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. The regulation at 40 C.F.R. § 68.73(e) requires the owner or operator to correct deficiencies in equipment that are outside accepted limits (defined by the process safety information in § 68.65) before further use or in a safe and timely manner, when necessary, means are taken to assure safe operation.

50. Respondent failed to assure that thirteen (13) LEL and two (2) oxygen detection monitors located in the Vinyl Acetate Unit were operational from May to October 2021.

51. Respondent's failure to correct deficiencies in multiple pieces of equipment in a safe and timely manner and in accordance with 40 C.F.R. § 68.73(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 6 – Mechanical Integrity (Inspection and Testing Schedule)

52. 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. The regulation 40 C.F.R. § 68.73(d)(2) requires that inspections and testing procedures shall follow recognized and generally accepted good engineering practices. 40 C.F.R. § 68.73(d)(3) requires 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.

53. Celanese failed to enter a correct due date in the SAP maintenance database for performing the next ultrasonic (UT) testing of the V-0226 shell east CML 5 pressure vessel, in accordance with API 510 Pressure Vessel Inspection Code: In-service Inspection, Rating, Repair, and Alteration. The UT testing was actually due by 9/30/21, and was actually completed 9/20/21, but the SAP database showed the inspection was due 8 months earlier by 1/28/21. The error was corrected when the inspection was completed.

54. Respondent's failure to ensure that the frequency, schedule and deadlines for performing inspections and tests of process equipment are 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 – Management of Change (MOC)

55. 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. Under 40 C.F.R. § 68.75(a) and (b)(4), it is required that the owner or operator shall establish and implement written procedures to manage changes (except for “replacements in kind”) to process chemicals, technology, equipment, and procedures; and changes to stationary sources that affect a covered process. The procedures shall assure that the following considerations are addressed prior to any change and within the necessary time period for the change.

56. Respondent failed to implement the written procedures for the work order of a leak repair associated with an MOC for the installation of a pipe clamp on an 8-inch line. The On-Stream Leak Repair Checklist SMP 12.02 did not include the basic chemistry and percentage composition of the service that was leaking and did not include the necessary time period for the installation of the pipe clamp.

57. Respondent’s failure to establish and implement written procedures to manage change in accordance with 40 C.F.R. § 68.75(a) and (b)(4) by not including the basic chemistry, percentage composition of the service associated with a leak repair, and the necessary time period for the installation of the pipe clamp is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

CONSENT AGREEMENT

58. 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 the issuance of any specified compliance or corrective action order;
- (f) consents to any conditions specified herein;
- (g) consents to any stated Permit Action;
- (h) waives any right to contest the allegations set forth herein; and
- (i) waives its rights to appeal the Final Order accompanying this Consent Agreement.

59. 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.

60. 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

61. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a final civil penalty of Thirty-Six Thousand Nine Hundred Fifty-Five Dollars (\$36,955), as set forth below.

62. 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>.

63. A copy of the check or other information confirming payment shall simultaneously be sent electronically via email 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,

Diana Lundelius
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
lundelius.diana@epa.gov

64. 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).

Supplemental Environmental Project

65. Respondent shall implement an emergency planning and preparedness supplemental environmental project ("SEP"), which the parties agree is intended to secure significant environmental or public health protection and improvement. Respondent worked with two entities that respond to local emergencies to develop the SEP. The SEP requires Respondent to purchase emergency response equipment it has selected for donation to

organizations as defined herein as well as for Respondent's own use: (a) purchase and donate two (2) Matrice 30T (NA) SP Plus drones equipped with a LP12 Searchlight and speaker along with twelve (12) MATRICE 30 SERIES-PART08-TB30 Intelligent Flight batteries for the Channel Industries Mutual Aid (CIMA); and (b) purchase and donate two (2) Matrice 30T (NA) SP Plus drones equipped with a LP12 Searchlight and speaker along with twelve (12) MATRICE 30 SERIES-PART08-TB30 Intelligent Flight batteries for the Southeast Regional LEPC (SERLEPC); and (3) purchase and retain one (1) Matrice 300RTK drone equipped with a search light and a Zenmuse H20T camera/thermal camera to monitor conditions in areas of the Clear Lake Plant used to store and handle chemicals regulated under 40 CFR Part 68 for purposes of accident prevention and emergency response. The foregoing list of equipment will be referred herein, collectively as the "Emergency Response Equipment." Respondent's costs of performing the SEP are described in more detail in Attachment A to this Consent Agreement and Final Order. The Emergency Response Equipment purchase and donation will be completed no later than twelve (12) months from the effective date of this Consent Agreement and Final Order.

66. 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 emergency preparedness and response for the City of Pasadena, Texas. 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 overall risk to public health and/or the environment potentially affected by the alleged violations by improving emergency preparedness and response for the City of Pasadena, Texas and the

surrounding communities given this equipment will enhance the City of Pasadena's ability to respond to accidental releases through the use of unmanned visual inspections. In addition, the SEP is designed to reduce the overall risk to public health and/or the environment potentially affected by the alleged violations by improving Respondent's Clear Lake Plant in its capabilities for both emergency response and incident prevention as a result of proactively scanning and inspecting operating units and equipment located within the Clear Lake Plant with the use of unmanned visual inspections.

67. The Respondent is responsible for the satisfactory completion of the SEP described in the foregoing Paragraph 65 and Attachment A. The total expenditure for the SEP described in Paragraph 65 shall be no less than \$99,953.20. The Respondent hereby certifies that the cost information provided to EPA in connection with EPA's approval of the SEP is complete and accurate, and that the Respondent in good faith estimates that the cost to implement the SEP is \$99,953.20. The Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

68. The Respondent hereby certifies that as of the date of this Consent Agreement and Final Order, the Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation; nor is the Respondent required to perform or develop the SEP by any other agreement, grant, or as injunctive relief in this or any other case. The Respondent further certifies that the SEP is not a project that the Respondent was planning or intending to construct, perform, or implement other than in settlement of this action. Finally, the Respondent certifies that it has not received, and is not presently negotiating to receive credit in any other enforcement action for this SEP, and that the Respondent will not receive reimbursement for any portion of the SEP from another person or entity.

69. The Respondent also certifies that it 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 65 and Attachment A.

70. Any public statement, oral or written, in print, film, or other media, made by the Respondent making reference to the SEP under this Consent Agreement and Final Order from the date of its execution of this Consent Agreement and Final Order shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action against Celanese Ltd. taken on behalf of the EPA to enforce federal laws."

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

SEP Completion Report

72. Respondent shall submit a SEP Completion Report to EPA within thirty (30) days after completion of the SEP under this Consent Agreement and Final Order. The SEP Completion Report shall contain the following information:

- A. A detailed description of the SEP as implemented;
- B. A description of any operating or logistical problems encountered and the solutions thereto;
- C. Itemized final costs with copies of receipts for all expenditures;
- D. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Agreement and Final Order; and,
- E. A description of the environmental, emergency preparedness, and/or public health benefits resulting from implementation of this SEP.

73. Respondent agrees that failure to timely submit the final SEP Completion Report shall be deemed a violation of this Consent Agreement and Final Order, and Respondent shall become liable for stipulated penalties pursuant to Paragraphs 78-82.

74. 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.

75. Respondent shall submit the following certification in the SEP Completion Report, signed by a responsible corporate official:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

76. After receipt of the SEP Completion Report described in Paragraph 72 above, EPA will notify the Respondent, in writing, regarding: (a) any deficiencies in the SEP Report itself along with a grant of an additional thirty (30) days for Respondent to correct any deficiencies; or (b) indicate that EPA concludes that the project has been completed satisfactorily; or (c) determine that the project has not been completed satisfactorily and seek stipulated penalties in accordance with Paragraphs 78-82 below.

77. If EPA elects to exercise option (a) in Paragraph 76 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, EPA shall permit the Respondent the opportunity to object in writing to the notification of deficiency given pursuant to Paragraph 76 within fifteen (15) days of receipt of such notification. EPA and the 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 the Respondent. The Respondent agrees to comply with any requirements imposed by EPA as a result of any failure to comply with the terms of this Consent Agreement and Final Order. In the event the SEP is not completed as reasonably contemplated herein, as determined by EPA, a stipulated penalty shall be due and payable by Respondent to EPA in accordance with Paragraphs 78-82 herein.

Stipulated Penalties for Failure to Complete SEP/Failure to Spend Agreed-On Amount

78. In the event that the Respondent fails to comply with any of the terms or provisions of this Consent Agreement and Final Order relating to the performance of the SEP described in Paragraph 65 and Attachment A of this Consent Agreement and Final Order and/or to the extent that the actual expenditures for the SEP does not equal or exceed the cost of the SEP described in Paragraph 67 above, the Respondent shall be liable for stipulated penalties according to the provisions set forth below:

A. Except as provided in subparagraph (B) immediately below, if the SEP has not been completed, or has not been completed satisfactorily, pursuant to this Consent Agreement and Final Order, the Respondent shall pay a stipulated penalty to the United States in the amount of \$100,000.00.

B. If the SEP is not completed in accordance with Paragraph 65 and Attachment A, but EPA determines that the Respondent: a) made good faith and timely efforts to complete the project; and b) certifies, with supporting documentation, that at least 95 percent of the amount of money which was required to be spent was expended on the SEP, the Respondent shall not be liable for any stipulated penalty.

C. If the SEP is completed in accordance with Paragraph 65 and Attachment A, but the Respondent spent less than 95 percent of the amount of money required to be spent for the project, the Respondent shall pay a stipulated penalty, along with accrued interest, to the United States that shall reflect, dollar for dollar, the difference between the cost expended on the SEP and \$100,000.00.

D. If the Respondent fails to timely complete the SEP (not including the SEP Completion Report) for any reason, the Respondent shall pay stipulated penalties as follows:

<u>Period of Noncompliance</u>	<u>Penalty Per Violation Per Day</u>
1st through 15th day	\$ 500
16th through 30th day	\$ 1,000
31st day and beyond	\$ 2,500

E. For failure to submit the SEP Completion Report required by Paragraph 72 above, the Respondent shall pay a stipulated penalty in the amount of \$500 for each day after the report was originally due, until the report is submitted.

79. The determinations of whether the SEP has been satisfactorily completed and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole determination of EPA.

80. Stipulated penalties for Paragraphs 78.D and 78.E above shall begin to accrue on

the day after performance is due and shall continue to accrue through the final day of the completion of the activity.

81. Respondent shall pay stipulated penalties not more than thirty (30) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of Paragraphs 62-63 herein.

82. The EPA may, in its unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this Consent Agreement and Final Order.

Dispute Resolution

83. If the Respondent objects to any decision or directive of EPA, the Respondent shall notify the following persons in writing of its objections, and the basis for those objections, within fifteen (15) calendar days of receipt of EPA's decision or directive:

Chief, Chemical Accident Enforcement Section
Compliance Assurance and Enforcement Division
U.S. EPA - Region 6
1201 Elm St, Suite 500
Dallas, TX 75270-2101

Chief, RCRA & Toxics Enforcement Branch
Office of Regional Counsel
U.S. EPA - Region 6
1201 Elm St., Suite 500
Dallas, TX 75270-2101

84. The Chemical Accident Enforcement Section Chief (Chief) or his designee, and the Respondent shall then have an additional fifteen (15) calendar days from receipt by EPA of the Respondent's written objections to attempt to resolve the dispute. If an agreement is reached between the Chief and the Respondent, the agreement shall be reduced to writing and signed by the Chief and the Respondent and incorporated by reference into this Consent Agreement and Final Order.

85. If no agreement is reached between the Chief and the Respondent within that time period, the dispute shall be submitted to the Director of the Compliance Assurance and Enforcement Division (Division Director) or his designee. The Division Director and the Respondent shall then have a second 15-day period to resolve the dispute. If an agreement is reached between the Division Director and the Respondent, the resolution shall be reduced to writing and signed by the Division Director and Respondent and incorporated by reference into this Consent Agreement and Final Order. If the Division Director and the Respondent are unable to reach agreement within this second 15-day period, the Division Director shall provide a written statement of EPA's decision to the Respondent, which shall be binding upon the Respondent and incorporated by reference into the Consent Agreement and Final Order.

Notification

86. Unless otherwise specified elsewhere in this Consent Agreement and Final Order, whenever notice is required to be given, whenever a report or other document is required to be forwarded by one party to another, or whenever a submission or demonstration is required to be made, it shall be directed to the individuals specified below at the electronic email addresses given (in addition to any action specified by law or regulation), unless these individuals or their successors give notice in writing to the other parties that another individual has been designated to receive the communication:

EPA: Diana Lundelius
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
Lundelius.diana@epa.gov

Respondent: Rhonda Perry
Assistant General Counsel

Celanese Ltd.
222 W Las Colinas Blvd. #900n
Irving, TX 75039
rhonda.perry@celanese.com

Modification

87. The terms, conditions, and compliance requirements of this Consent Agreement and Final Order may not be modified or amended except as otherwise specified in this Consent Agreement and Final Order, or upon the written agreement of EPA and Respondent, and such modification or amendment being filed with the Regional Hearing Clerk.

Termination

88. At such time as Respondent believes that it has complied with all terms and conditions of this Consent Agreement and Final Order, Respondent may request that EPA advise whether this Consent Agreement and Final Order has been satisfied and terminated. EPA will respond to said request as expeditiously as possible. This Consent Agreement and Final Order shall terminate when all actions required to be taken by this Consent Agreement and Final Order have been completed, and Respondent has been notified by the EPA in writing that this Consent Agreement and Final Order has been satisfied and terminated.

No EPA Liability

89. Neither EPA nor the United States Government shall be liable for any injuries or damages to persons or property resulting from acts or omissions of the Respondent, their officers, directors, employees, agents, receivers, trustees, successors, assigns or contractors in carrying out activities pursuant to this Consent Agreement and Final Order, nor shall the EPA or the United States Government be held out as a party to any contract entered into by the Respondent in carrying out activities pursuant to this Consent Agreement and Final Order.

Effect of Settlement and Reservation of Rights

90. 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.

91. 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.

92. Respondent certifies by the signing of this Consent Agreement that to the best of its knowledge it is presently in compliance with all requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

93. 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.

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

General Provisions

95. 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.

96. 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.

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

98. 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.

99. 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: *george.elizabeth.a@epa.gov*


To Respondent: *rhonda.perry@celanese.com*

*In the Matter of Celanese Ltd.
Docket No. CAA-06-2022-3302*

**RESPONDENT:
CELANESE LTD.**

**BY: CELANESE INTERNATIONAL CORPORATION
ITS GENERAL PARTNER**

Date: 28-Nov-2022 | 8:01:57 AM CST

DocuSigned by:

Brenda Stout
Vice President

**COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY**


Digitally signed by Seager,
Cheryl
Date: 2022.11.30 17:21:19
-06'00'

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: 2022.12.01 09:59:35 -0500

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 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:

george.elizabeth.a@epa.gov

Copy via Email to Respondent:

rhonda.perry@celanese.com

Copy via Email to Regional Hearing Clerk:

vaughn.lorena@epa.gov

ELIZABETH
GEORGE

Digitally signed by
ELIZABETH GEORGE
Date: 2022.12.01 14:12:15
-06'00'

Signed
Office of Regional Counsel
U.S. EPA, Region 6

Attachment A

Supplemental Environmental Project (SEP)

Attachment 1: Supplemental Environmental Project (SEP)

SEP Description:

Celanese has partnered with the Channel Industries Mutual Aid (CIMA) and the Southeast Regional LEPC (SERLEPC) to identify a Supplemental Environmental Project (SEP) to enhance their ability to serve the residents and visitors of Pasadena, Harris County and its industrial partners. Both CIMA and SERLEPC are organizations that serve to protect the lives and property of Pasadena, Harris County. Additional background information for each organization is provided below.

Celanese will complete the SEP by directly purchasing equipment for CIMA and the SERLEPC that will enhance their ability to respond to emergencies and protect the public. These purchases will assist both organizations with fulfilling their mission and commitment to Pasadena, Harris County. Celanese will also purchase equipment for use in both emergency response and accident prevention at the Clear Lake Plant.

CIMA

Background: CIMA is a Texas non-profit organization whose primary purpose is to respond to fire alarms and extinguish fires in the Houston Metropolitan area through the mutual efforts of its members, as provided in its bylaws. CIMA is founded on the belief that the pooling of available resources of its members, which include various Houston Ship Channel industries and governmental entities that have the resources required to participate in these activities, will provide a more efficient and effective response for firefighting, rescue, hazmat, and emergency medical manpower and facilities in emergency situations either natural or man-made, including but not limited to acts of war or terrorism. No member is allowed to receive any compensation from CIMA for its participation in this plan but may receive reimbursement for its expenses incurred in responding to emergency situations as described herein. Each company participating in this plan must reserve manpower, material, and equipment for its own protection before releases can be made in an emergency.

SERLEPC

Background: The SERLEPC was created in July 2004 following the merger of the former Bay Area and Pasadena LEPCs and is comprised of six (6) cities that include Pasadena, El Largo, Nassau Bay, Webster, Seabrook and Taylor Lake Village. It is a 501(C)(3) volunteer organization composed of a cross-section of citizens, industry, business, government, and other interested parties. The SERLEPC works with local government public safety agencies to develop emergency planning in the event of a chemical disaster and to increase citizen awareness of protection measures through community education projects. The SERLEPC operates through an executive committee, four (4) standing subcommittees,¹ and ad hoc subcommittees. The City of Pasadena

¹ The standing subcommittees include: (1) Emergency Response & Security, (2) Compliance, (3) Emergency Warning System, and (4) Public Education & Community Awareness.

Attachment 1: Supplemental Environmental Project (SEP)

Office of Emergency Management serves as the point of contact for release reporting and emergency notification.

SERLEPC communicates their mission to be “[t]o improve hazardous materials preparedness within our community through cooperative public-private partnerships.”

SEP:

CIMA and SERLEPC desire to utilize state-of-the-art drone technology to aid their respective organizations during emergency response, firefighting, search and rescue, and other operations. Celanese will purchase two (2) Matrice 30T (NA) SP Plus drones for each organization, equipped with a camera, thermal imaging, a loudspeaker, and a spotlight, to enhance their ability to respond to emergency situations and protect the public. In addition, Celanese will purchase a total of twelve (12) MATRICE 30 SERIES-PART08-TB30 Intelligent Flight batteries for each organization. The cost including the selected cameras and equipment is \$72,460.00. Basic drone training is to be provided by the vendor at no additional cost.

Celanese will also purchase a Matrice 300RTK drone for use in both emergency response and accident prevention at the Clear Lake Plant. This drone will be equipped with a search light and a Zenmuse H20T camera/thermal camera, and the SEP will include the purchase of required batteries and charging station. Celanese will use the drone to monitor conditions in areas of the Clear Lake Plant used to store and handle chemicals regulated under 40 CFR 68. The drone will enhance the Clear Lake Plant’s ability to respond to an environmental release and/or industrial fire with the goal of preventing or minimizing an off-site impact to the community, which will directly benefit the surrounding community. In addition, Celanese intends to use this drone to proactively scan and inspect operating units and equipment located within the Clear Lake Plant. These scans and inspections will aid the Clear Lake Plant in early detection and enhanced protection from releases of hazardous air pollutants from regulated sources, which will benefit the residents of Pasadena, Harris County and surrounding areas. Celanese’s use of the drone for both emergency response and incident prevention purposes will be voluntary and is not required by any regulation. The cost of this drone is \$27,493.20.

The total cost of the equipment to be purchased under this SEP is \$99,953.20, and a copy of the quote is attached hereto.

The Celanese Clear Lake Plant is a facility subject to Program 3 of the RMP regulations and, as such, is required to comply with the chemical accident prevention requirements of 40 CFR 68. The subject alleged violations are related to the facility’s compliance with 40 CFR 68, which includes obligations for emergency preparedness pursuant to 40 CFR Part 68 Subpart E; therefore, this SEP is closely related to the underlying alleged violations. Given the purposes of the SEP as described herein, it is our belief that the SEP is designed to reduce the adverse impact to public health and the environment to which the alleged violations contribute. The Senior Stewardship Specialist and Fire Chief for the Celanese Clear Lake Plant contacted the Chairman of CIMA and

Attachment 1: Supplemental Environmental Project (SEP)

the Emergency Management Coordinator of the SERLEPC and confirmed that neither CIMA or SERLEPC have received state or federal funds that could be used to fund the SEP herein. As a result of this inquiry, Celanese hereby certifies that:

1. It 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 Attachment 1 – SEP;
2. It has inquired of CIMA, a SEP recipient, whether it is a party to an open federal financial assistance transition that is funding or could fund the same activity as outlined in SEP 1 above and has been informed by the Chairman of CIMA that it is not a party to such a transaction; and
3. It has inquired of the SERLEPC, a SEP recipient, whether it is a party to an open federal financial assistance transition that is funding or could fund the same activity as outlined in SEP 1 above and has been informed by the Emergency Management Coordinator of the SERLEPC that it is not a party to such a transaction.

Celanese Ltd.

By: Celanese International Corporation
Its general partner

DocuSigned by:

Brenda Stout

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Brenda Stout

Vice President