



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP 25 2014

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Darren R. Collins, Vice President  
Celanese Ltd.  
1989 Old Naples Road  
Meredosia, Illinois 62665

Dear Mr. Collins:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which Celanese Ltd. and Docket Number CAA-05-2014-0053. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on SEP 25 2014.

Pursuant to paragraph 96 of the CAFO, Celanese Ltd. must pay the civil penalty within 30 days of SEP 25 2014. Your electronic funds transfer must display the case name Celanese Ltd. and the docket number CAA-05-2014-0053.

Please direct any questions regarding this case to Mark Palermo, Associate Regional Counsel, at (312) 886-6082.

Sincerely,

A handwritten signature in black ink that reads "Sarah G. Marshall".

Sarah G. Marshall  
Chief, MI/WI Section

Enclosure

cc: Regional Judicial Officer/C-14J  
Regional Hearing Clerk/E-19J  
Mark Palermo/C-14J  
Ray Pilapil, Manager

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:

Celanese Ltd.  
Meredosia, Illinois

Respondent.



Docket No. CAA-05-2014-0053

Proceeding to Assess a Civil Penalty  
Under Section 113(d) of the Clean Air Act,  
42 U.S.C. § 7413(d)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.
3. Respondent is Celanese Ltd. (Celanese), a Texas limited partnership doing business in Illinois.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

**Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations and alleged violations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

**Statutory and Regulatory Background**

9. The CAA establishes a regulatory scheme designed “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population.” 42 U.S.C. § 7401(b)(1).

10. Section 112 of the CAA sets forth a national program for the control of Hazardous Air Pollutants (HAPs). 42 U.S.C. § 7412. As originally promulgated in the CAA Amendments of 1970, Section 112 directed EPA to publish a list of HAPs. HAP was defined as “an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the Administrator may cause, or contribute to, an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness.” 42 U.S.C. § 1857c-7 (1971). At that time, Congress directed EPA to establish HAP standards that provided “an ample margin of safety to protect the public health from such hazardous air pollutant.” *Id.*

11. Through the CAA Amendments of 1990, Congress replaced the then-existing Section 112 and established a new program for the control of HAPs. H.R. Rep. No. 101-490, 101<sup>st</sup> Cong., 2d Sess., pt 1 at 324 (1990). With the 1990 amendments, Congress itself established a list of 188 HAPs believed to cause adverse health or environmental effects. 42 U.S.C.

§ 7412(b)(1).

12. Congress directed EPA to publish a list of all categories and subcategories of, *inter alia*, major sources of HAPs. 42 U.S.C. § 7412(c).

13. “Major source” was and is defined as any stationary source or group of stationary sources located with a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAPs. 42 U.S.C. § 7412(a)(1) and 40 C.F.R. § 63.2.

14. Congress directed EPA to promulgate regulations establishing emission standards for each category or subcategory of, *inter alia*, major sources of HAPs listed. 42 U.S.C. § 7412(d)(1). These emission standards must require the maximum degree of reduction in emissions of HAPs that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for the new or existing sources in the category or subcategory to which the emission standard applies. 42 U.S.C. § 7412(d)(2).

15. To the extent that it is not feasible to prescribe or enforce an emission standard for control of a HAP, Congress authorized EPA to promulgate “design, equipment, work practice, or operational” standards, which are to be treated as emission standards. 42 U.S.C. § 7412(d)(2).

16. The emission standards promulgated under Section 112 of the 1990 Amendments to the CAA, 42 U.S.C. § 7412, are known as the National Emission Standards for Hazardous Air Pollutants (“NESHAPs”) for Source Categories or “MACT” (“maximum achievable control technology”) standards. These emission standards are found in Part 63 of Title 40 of the Code of Federal Regulations.

17. Section 112(i)(3) of the CAA, 42 U.S.C. § 7412(i)(3), provides that after the effective date of any emission standard, limitation, or regulation promulgated pursuant to Section 112 of the CAA, no person may operate a source in violation of such standard, limitation, or regulation.

18. Pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d), EPA promulgated the NESHAP for Miscellaneous Organic Chemical Manufacturing at 40 C.F.R. Part 63, Subpart FFFF (MON or Subpart FFFF) on November 10, 2003. (68 Fed. Reg. 63888).

19. The MON at 40 C.F.R. § 63.2445(b) provides that the owner or operator of an existing affected source as of November 10, 2003 must comply with the provisions of this subpart no later than May 10, 2008.

20. Pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d), EPA promulgated the NESHAP for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater at 40 C.F.R. Part 63, Subpart G (HON) on April 22, 1994. (59 Fed. Reg. 19468).

21. Pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d), EPA promulgated the General Provisions on March 16, 1994. (59 Fed. Reg. 12430).

22. Pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d), EPA, as part of its “Generic MACT” standards rulemaking, promulgated on June 29, 1999 the National Emission Standards for Equipment Leaks – Control Level 2 Standards at 40 C.F.R. Part 63, Subpart UU (64 Fed. Reg. 34899). These standards generally are referred to as “Subpart UU.”

23. Subpart UU sets forth work practice standards and testing and recordkeeping requirements to ensure that any leaks of organic HAPs from equipment are timely detected and

repaired. The provisions in Subpart UU commonly are referred to as “Leak Detection and Repair” provisions, or “LDAR” for short.

24. Pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d), EPA, as part of its “Generic MACT” standards rulemaking, promulgated on June 29, 1999 the National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process at 40 C.F.R. Part 63, Subpart SS (64 Fed. Reg. 34866). These standards generally are referred to as Subpart SS.

25. The MON at 40 C.F.R. § 63.2440 provides that the MON applies to each miscellaneous organic chemical manufacturing affected source, which is the facility-wide collection of miscellaneous organic chemical manufacturing process units (MCPUs) and heat exchange systems, wastewater, and waste management units that are associated with manufacturing materials described in 40 C.F.R. § 63.2435(b)(1).

26. The MON at 40 C.F.R. § 63.2435(a) applies to owners or operators of MPCUs that are located at, or are part of, a major source of HAP emissions as defined in Section 112(a) of the CAA, 42 U.S.C. § 7412(a).

27. The MON at 40 C.F.R. § 63.2435(b) states that an MCPU includes equipment necessary to operate a miscellaneous organic chemical manufacturing process, as defined in 40 C.F.R. § 63.2550, that a) produces an organic chemical classified using the 1987 version of Standard Industrial Classification (SIC) code 282, 283, 284, 285, 286, 287, 289, or 386; an organic chemical classified using the 1997 version of North American Industry Classification System (NAICS) code 325; quaternary ammonium compounds and ammonium sulfate produced with caprolactam; hydrazine; or organic solvents classified in any of the SIC or NAICS previously listed that are recovered using non-dedicated solvent recovery operations; b)

processes, uses, or generates any of the organic HAP listed in Section 112(b) of the CAA or hydrogen halide and halogen HAP, as defined in 40 C.F.R. § 63.2550; and c) is not an affected source or part of an affected source under another subpart in Part 63, except for process vents from batch operations within a chemical manufacturing process unit, as identified in 40 C.F.R. § 63.100(j)(4). The MCPU also includes any assigned storage tanks and transfer racks; equipment in open systems that is used to convey or store water having the same concentration and flow characteristics as wastewater; and components such as pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentations systems that are used to manufacture any material or family of materials described above.

28. The MON at 40 C.F.R. § 63.2480(a) states that the owner or operator of an affected source must meet each requirement in Table 6 to this subpart that applies to its equipment leaks, except as specified in paragraphs (b) through (d) of this section.

29. Table 6 to the MON states that for all equipment that is in organic HAP service, the owner or operator of an affected source must either comply with the requirements of Subpart UU or Subpart H of 40 C.F.R. Part 63 and the requirements referenced therein, except as specified in 40 C.F.R. §§ 63.2480(b) and (d), or comply with the requirements of Subpart F of 40 C.F.R. Part 65 and the requirements referenced therein, except as specified in 40 C.F.R. §§ 63.2480(c) and (d). The Respondent in this matter has elected to comply with Subpart UU.

30. The MON at 40 C.F.R. § 63.2485(a) requires that the owner or operator must meet each requirement in Table 7 of the MON that applies to wastewater streams and liquid streams in open systems within an MCPU, except as specified in paragraphs (b) through (o) of this section.

31. The MON at 40 C.F.R. § 63.2485(b) requires that where § 63.105 and §§ 63.132 through 63.148 refer to compounds in Table 9 of the HON, the compounds in Tables 8 and 9 to this subpart apply for the purposes of the MON.

32. Table 7 of the MON requires each process wastewater stream to comply with the requirements in §§ 63.132 through 63.148 of the HON and the requirements referenced therein, except as specified in § 63.2485.

33. The HON at 40 C.F.R. § 63.132(a)(1) requires the owner or operator to determine whether each process wastewater stream at a subject process unit is subject to “Group 1” or “Group 2” requirements for Table 9 compounds under the HON.

34. For wastewater streams that are Group 1 for Table 9 compounds, the owner or operator must comply with the applicable HAP emission control requirements specified in § 63.132(a)(2).

35. The MON at 40 C.F.R. § 63.2485(c) provides that, in lieu of § 63.132(c)(1)(i) and (ii) of the HON, for the purposes of the MON, a process wastewater stream is Group 1 for compounds in Tables 8 and 9 of the MON if any of the conditions specified in paragraphs (c)(1) through (3) of this section are met: (1) the total annual average concentration of compounds in Table 8 of the MON is greater than or equal to 10,000 parts per million by weight (ppmw) at any flowrate, and the total annual load of compounds in Table 8 of the MON is greater than or equal to 200 pounds (lb)/year; (2) the total annual average concentration of compounds in Table 8 of the MON is greater than or equal to 1,000 ppmw, and the annual average flowrate is greater than or equal to 11/minute; or (3) the combined total annual average concentration of compounds in Tables 8 and 9 of the MON is greater than or equal to 30,000 ppmw, and the combined total



annual load of compounds in Table 8 and 9 of the MON is greater than or equal to 1 ton per year (tpy).

36. The HON at 40 C.F.R. § 63.144 provides the test methods and procedures for determining applicability and Group 1/Group 2 determinations (determining which wastewater streams require control).

37. The MON at 40 C.F.R. § 63.2450(e)(2) requires that, if the owner or operator is reducing organic HAP emissions by venting emissions through a closed-vent system to a flare, the owner or operator must meet the requirements of Subpart SS at 40 C.F.R. § 63.982(b) and the requirements referenced therein.

38. Subpart SS at 40 C.F.R. § 63.982(b) requires owners or operators that vent emissions through a closed vent system to a flare to meet the requirements in 40 C.F.R. § 63.983 for closed vent systems; 40 C.F.R. § 63.987 for flares; 40 C.F.R. § 63.997(a), (b) and (c) for provisions regarding flare compliance assessments; the monitoring, recordkeeping, and reporting requirements referenced therein; and the applicable recordkeeping and reporting requirements of 40 C.F.R. §§ 63.998 and 63.999.

39. Subpart SS at 40 C.F.R. § 63.987(a) requires flares subject to this subpart to meet the performance requirements in 40 C.F.R. § 63.11(b) (General Provisions).

40. The General Provisions at 40 C.F.R. § 63.11(b)(1) require owners or operators using flares to comply with the provisions of this part and to monitor control devices to assure that they are operated and maintained in conformance with their designs.

41. The General Provisions at 40 C.F.R. § 63.11(b)(5) require that flares shall be operated with the flame present at all times.

42. The MON at 40 C.F.R. § 63.2540 provides that Table 12 to this subpart shows which parts of the General Provisions in 40 C.F.R. §§ 63.1 through 63.15 apply to the owner or operator. Table 12 indicates that the Operation & Maintenance provisions of 40 C.F.R. § 63.6(e)(1) and (2), and the Startup, Shutdown, Malfunction Plan (SSMP) provisions of 40 C.F.R. § 63.6(e)(3)(i), (ii), and (v) through (viii), apply to owners or operators subject to the MON.

43. The General Provisions at 40 C.F.R. § 63.6(e)(1) provides that at all times, including periods of startup, shutdown, and malfunction, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions.

44. The MON at 40 C.F.R. § 63.2520 provides that an owner or operator must submit a compliance report on a semi-annual basis.

45. Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), authorizes the Administrator of EPA (the Administrator) to issue an administrative penalty order in accordance with Section 113(d) of the CAA, 42 U.S.C. § 7413(d), whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of Section 112 of the CAA, any NESHAP promulgated under Section 112 of the CAA, Title V of the CAA, or any permit promulgated, issued, or approved under Title V of the CAA.

46. The Administrator may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for violations that occurred after January 12, 2009 through December 6, 2013 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), 40 C.F.R. Part 19, and 78 Fed. Reg. 66643 (Nov. 6, 2013).

47. The Administrator may assess a penalty greater than \$295,000 where the Administrator and the Attorney General of the United States jointly determine that a matter

involving a larger penalty is appropriate for an administrative penalty action. 42 U.S.C. § 7413(d)(1) and 40 C.F.R. Part 19.

48. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that this matter involving a penalty greater than \$295,000 is appropriate for an administrative penalty action.

49. Section 113(d)(1) of the CAA limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

50. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

#### **Complainant's Findings of Fact and Alleged Violations**

51. Celanese owns and operates an emulsion polymer facility at 1989 Old Naples Road, Meredosia, Illinois (the Meredosia Facility).

52. Celanese is a "person" within the meaning of Sections 113(b) and 302(c) of the CAA, 42 U.S.C. §§ 7413(b) and 7602(c), and the "owner or operator," as defined in Section 112(a)(9) of the CAA, 42 U.S.C. § 7419(a)(9), of plants and processes at the Meredosia Facility.

53. The plants and processes that Celanese owns and operates at the Meredosia Facility include "stationary sources" within the meaning of Section 112(a)(3) of the CAA, 42 U.S.C. § 7412(a)(3).

54. The plants and processes that Celanese owns or operates at the Meredosia Facility are a group of stationary sources located within a contiguous area and under the common control that emit or have the potential to emit considering controls, in the aggregate, 10 tons per year of more than any HAP or 25 tons per year or more of any combination of HAPs.

55. The Meredosia Facility is a major source of HAP emissions as defined in Section 112(a) of the CAA, 42 U.S.C. § 7412(a)

56. The Meredosia Facility contains an MCPU as that term is defined at 40 C.F.R. § 63.2435(b).

57. The Meredosia Facility operated, at times relevant to this matter, two production units as part of the MCPU: the VAE Production Unit (formerly known as the EVA Department) and the PE Production Unit. The Meredosia Facility operated, at times relevant to this matter, two flares and vents and reduced organic HAP emissions through two separate closed vent systems to each flare. On February 10, 2014, the PE Production Unit and the MON Flare were permanently shut down.

**Count I – Failure to Timely Identify and Meet Applicable Emission Control Requirements for Group 1 Wastewater Streams**

58. Complainant incorporates paragraphs 1 through 57 of this CAFO, as if set forth in this paragraph and alleges as follows.

59. At the time of the initial MON compliance date of May 10, 2008, process wastewater streams from the VAE Production Unit and PE Production Unit were routed to a process wastewater recovery system. In its Notification of Compliance Status report for the MON, Celanese had identified these wastewater streams as Group 2

60. In deviation reports for the Meredosia Facility dated April 29, 2011 and July 1, 2011, Celanese reported that it had incorrectly used a point of determination downstream as

opposed to upstream of the process wastewater recovery system for determination of process wastewater group status. Celanese further reported that the correct designation for the wastewater streams from the VAE Production Unit and PE Production Unit was Group 1 under the MON.

61. On October 5, 2012, after receipt of construction permits from the Illinois Environmental Protection Agency, Celanese completed installation of hard piping to route the process wastewater from the VAE Production Unit and PE Production Unit directly to the Meredosia Facility's wastewater treatment plant for biological treatment to comply with the requirements for controlling HAP emissions from Group 1 wastewater streams in accordance with the MON at 40 C.F.R. § 63.2485(a) and the HON at 40 C.F.R. § 63.132(a)(2).

62. In deviation reports for the Meredosia Facility dated January 24, 2012 and February 29, 2012, Celanese reported that a PE Process Unit vacuum pump effluent wastewater stream was improperly characterized by Celanese as Group 2 when its correct designation was Group 1 under the MON.

63. Celanese discontinued use of the PE Process Unit vacuum pump on December 22, 2011, and before restarting use of the pump installed hard piping to route the process wastewater directly to the Meredosia Facility's wastewater treatment plant for biological treatment to comply with the requirements for controlling HAP emissions from Group 1 wastewater streams in accordance with the MON at 40 C.F.R. § 63.2485(a) and the HON at 40 C.F.R. § 63.132(a)(2).

64. By failing to make timely proper Group determinations for process wastewater streams as described in Paragraphs 59 through 63 above, Celanese violated Section 112 of the CAA, 42 U.S.C. § 7412, and its implementing regulations under the MON at 40 C.F.R.

§ 63.2485(a) and Table 7 of the MON, and the HON at 40 C.F.R. §§ 63.132(a)(1) and 63.144.

65. Celanese failed to timely meet applicable HAP emission control requirements for Group 1 process wastewater streams at the Meredosia Facility, in violation of Section 112 of the CAA, 42 U.S.C. § 7412, and its implementing regulations under the MON at 40 C.F.R.

§ 63.2485(a) and Table 7 of the MON, and the HON at 40 C.F.R. § 63.132(a)(2).

**Count II—Failure to Equip Each Open-ended Line with a Cap, Blind Flange, Plug, or Second Valve**

66. Complaint incorporates paragraphs 1 through 57 of this CAFO, as if set forth in this paragraph and alleges as follows.

67. Subpart UU at 40 C.F.R. § 63.1033(b)(1) requires each open-ended valve or line to be equipped with a cap, blind flange, plug, or second valve. The cap, blind flange, plug, or second valve shall seal the open end at all times except during operations requiring process fluid flow through the open-ended valve or line, or during maintenance.

68. In its semi-annual MON compliance reports, the Meredosia Facility reported it failed maintain compliance with 40 C.F.R. § 63.1033(b)(1) with one open-ended line in 2008, two open-ended lines in 2009, and four open-ended lines in 2010.

69. Celanese's failure to equip each open-ended line with a cap, blind flange, plug, or second valve as described in the previous paragraph are violations of Section 112 of the CAA, 42 U.S.C. § 7412, and its implementing regulations under the MON at 40 C.F.R. § 63.2480(a) and Subpart UU at 40 C.F.R. § 63.1033(b)(1).

**Count III—Failure to Perform Weekly Visual Pump and Agitator Inspections**

70. Complaint incorporates paragraphs 1 through 57 of this CAFO, as if set forth in this paragraph and alleges and follows.

71. Subpart UU at 40 C.F.R. § 63.1026(b)(4) requires that each pump shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal. The owner or operator shall document that the inspection was conducted and the date of the inspection.

72. In its semi-annual MON compliance reports, the Meredosia Facility reported it failed to conduct weekly visual inspections for multiple pumps in 2008 and 2009, and again in 2012.

73. The failures by Celanese described in the preceding paragraph are violations of Section 112 of the CAA, 42 U.S.C. § 7412, and its implementing regulations under the MON at 40 C.F.R. § 63.2480(a) and Subpart UU at 40 C.F.R. § 63.1026(b)(4).

74. Subpart UU at 40 C.F.R. § 63.1028(c)(3)(i) requires that each agitator seal shall be checked by visual inspection each calendar week for indications of liquids dripping from the agitator seal. The owner or operator shall document that the inspection was conducted and the date of the inspection.

75. In its semi-annual MON compliance reports, the Meredosia Facility reported it failed to conduct weekly visual inspections for multiple agitators in 2008 and 2009, and again in 2012.

76. The failures by Celanese described in the preceding paragraph are violations of Section 112 of the CAA, 42 U.S.C. § 7412, and its implementing regulations under the MON at 40 C.F.R. § 63.2480(a) and Subpart UU at 40 C.F.R. § 63.1028(c)(3)(i).

**Count IV—Failure to Timely Perform an Initial Closed Vent System Inspection**

77. Complaint incorporates paragraphs 1 through 57 of this CAFO, as if set forth in this paragraph and alleges as follows.

78. Subpart SS at 40 C.F.R. § 63.983(b)(1)(i) requires owners or operators, for closed vent systems that are constructed of hard-piping, to conduct an initial inspection of the closed-vent system according to the procedures in 40 C.F.R. § 63.983(c) of Subpart SS and conduct annual inspections for visible, audible, or olfactory indications of leaks.

79. Subpart SS at 40 C.F.R. § 63.983(c) provides that each closed vent system subject to this paragraph shall be inspected in accordance with Method 21 of 40 C.F.R. Part 60.

80. In its semi-annual MON compliance reports, Celanese did not conduct closed vent system inspections required by the MON until August 27, 2009 for the VAE unit and September 11, 2009 for the PE unit.

81. The failures by Celanese described in the preceding paragraph are violations of Section 112 of the CAA, 42 U.S.C. § 7412, and its implementing regulations under the MON at 40 C.F.R. § 63.2450(e)(2) and Subpart SS at 40 C.F.R. §§ 63.982(b), 63.983(b)(1)(i), and 63.983(c).

**Count V—Failure to Operate a Flare with a Flame Present at All Times**

82. Complaint incorporates paragraphs 1 through 57 of this CAFO, as if set forth in this paragraph and alleges as follows.

83. Subpart SS at 40 C.F.R. § 63.987(a) requires flares subject to this subpart to meet the performance requirements in 40 C.F.R. § 63.11(b) (General Provisions).

84. The General Provisions at 40 C.F.R. § 63.11(b)(1) require owners or operators using flares to comply with the provisions of this part to monitor control devices to assure that they are operated and maintained in conformance with their designs.

85. The General Provisions at 40 C.F.R. § 63.11(b)(5) require that flares shall be operated with the flame present at all times.



86. Celanese reported in its semi-annual MON compliance reports that on multiple occasions between 2009 and 2011, the Meredosia facility had flare flame failures for the VAE Unit flare and the PE Unit flare while process units were venting to the flares. These failures occurred on the following occasions:

- October 22, 2009 (PE flare)
- November 6, 2009 (PE flare)
- January 5, 2010 (VAE flare)
- January 22, 2010 (VAE flare)
- March 8, 2010 (VAE flare)
- July 7 through 8, 2010 (PE flare)
- March 11, 2011 (PE flare)
- April 10, 2011 (PE flare)
- April 13, 2011 (PE flare)
- May 8, 2011 (PE flare)
- May 10, 2011 (PE flare)
- May 17, 2011 (PE flare)
- May 23, 2011 (PE flare)
- May 24, 2011 (PE flare) (three instances)
- May 25, 2011 (PE flare)
- July 7, 2011 (PE flare)
- July 28, 2011 (PE flare)
- August 8, 2011 (PE flare)
- August 12, 2011 (PE flare)

- August 14, 2011 (PE flare)
- August 17, 2011 (PE flare)
- August 31, 2011 (PE flare)
- October 3, 2011 (PE flare)
- November 16, 2011 (PE flare)
- February 2, 2012 (PE flare)
- March 12, 2012 (VAE flare)
- March 19, 2012 (PE flare)
- April 12, 2012 (PE flare)
- April 27, 2012 (PE flare)
- May 17, 2012 (PE flare)
- June 17, 2012 (VAE flare)
- June 21, 2012 (PE flare)

87. Celanese failed to operate a flare with a flame present at all times in violation of Section 112 of the CAA , 42 U.S.C. § 7412, and its implementing regulations under the MON at the MON at 40 C.F.R. § 63.2450(e)(2), Subpart SS at 40 C.F.R. §§ 63.982(b) and 63.987(a), and the General Provisions at 40 C.F.R. § 63.11(b)(5).

**Count VI—Failure to Follow Startup, Shutdown, Malfunction Plan for Flare**

88. Complaint incorporates paragraphs 1 through 57 of this CAFO, as if set forth in this paragraph and alleges as follows.

89. The MON at 40 C.F.R. § 63.2540 provides that Table 12 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to the owner or operator.

90. Table 12 indicates that the Operation & Maintenance provisions of 40 C.F.R. § 63.6(e)(1) and (2), and the Startup, Shutdown, Malfunction Plan (SSMP) provisions of 40 C.F.R. § 63.6(e)(3)(i), (ii), and (v) through (viii), apply to owners or operators subject to the MON.

91. The General Provisions at 40 C.F.R. § 63.6(e)(1) provide that at all times, including periods of startup, shutdown, and malfunction, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions.

92. Celanese reported in its semi-annual MON compliance reports that in a 21-hour period on July 7 through July 8, 2010, Celanese had a PE flare failure and its actions were not consistent with the facility's SSMP as a new batch was loaded during the flare outage.

93. Celanese further reported that the flare outage resulted in excess emissions of approximately 34 pounds of vinyl acetate during the duration of the event.

94. Celanese's failure to follow its SSMP as described in Paragraph 90 violates Section 112 of the CAA, 42 U.S.C. § 7412, to operate and maintain its flare emission controls in a manner consistent with safety and good air pollution control practices for minimizing emissions in violation of the MON at 40 C.F.R. § 63.2540 and the General Provisions at 40 C.F.R. § 63.6(e)(1).

#### **Civil Penalty**

95. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, and Respondent's cooperation and agreement to perform a Supplemental Environmental Project (SEP) in accordance with the terms of this

CAFO, Complainant has determined that an appropriate civil penalty to settle this action is \$380,000.

96. Respondent must, within 30 days after the effective date of this CAFO, pay the \$380,000 civil penalty by electronic funds transfer, payable to “Treasurer, United States of America,” and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
33 Liberty Street  
New York, New York 10045

Field Tag 4200 of the Fedwire message should read: “D68010727  
Environmental Protection Agency”

In the comment or description field of the electronic funds transfer, state Respondent’s name and the docket number of this CAFO.

97. Respondent must send a notice of payment that states Respondent’s name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Mark J. Palermo (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

98. This civil penalty is not deductible for federal tax purposes.

99. If Respondent does not pay timely the civil penalty as set forth in paragraph 96, above, the entire unpaid balance of the civil penalty and any amount required by paragraph 100, below, shall become due and owing upon written notice by EPA to Respondent of the delinquency. EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

100. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorney fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

#### **Supplemental Environment Project**

101. Description of SEP. Respondent shall perform a SEP consisting of providing for the replacement of six conventional gasoline-fueled vehicles owned and operated by the City of Springfield, Illinois with plug-in electric vehicles. Respondent must expend at least \$175,000 for the implementation of this SEP. Each gasoline-fueled vehicle replaced under this project must be scrapped.

102. Project Completion Date. Completion of the SEP must occur by no later than 365 days after the Effective Date of this CAFO. In its sole discretion, EPA may grant additional time to complete the SEP.

103. SEP Certifications:

Respondent certifies that it is not required to perform or develop the SEP by any law, regulation, order, or agreement or as injunctive relief as of the date that I am signing this CAFO. Respondent further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

Respondent certifies that it is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. Respondent further certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date that Respondent is signing this CAFO (unless the project was barred from funding as statutorily ineligible). For purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not expired.

104. Respondent must submit a SEP Completion Report to EPA by no later than 420 days from the Effective Date of this CAFO, unless an extension of time is provided by EPA in its sole discretion. This report shall contain the following information:

- a. Detailed description of the SEP as completed;
- b. Itemized cost of goods and services used to complete the SEP. As part of the SEP Completion Report, Respondent shall provide copies of the invoices, receipts, purchase orders, or other documentation that specifically identify and itemize the individual cost of the goods and services for which payment was made. Cancelled checks do not constitute acceptable documentation unless such checks specifically identify and itemize the individual costs of the goods and/or services for which payment is being made;
- c. Certification that Respondent has completed the SEP in compliance with this CAFO.

105. Respondent must submit all notices and reports required by this CAFO by first class mail to the Compliance Tracker of the Air Enforcement and Compliance Assurance Branch at the address provided in paragraph 97, above.

106. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

107. Following receipt of the SEP completion report described in paragraph 102, above, EPA must notify Respondent in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and EPA will seek stipulated penalties under paragraph 109, below.

108. If EPA exercises option b above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, EPA will give Respondent a written decision on its objection. Respondent will comply with any requirement that EPA imposes in its decision. If Respondent does not complete the SEP as required by EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 109, below.

109. If Celanese violates any requirement of this CAFO relating to the SEP, Celanese must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent did not complete the SEP satisfactorily according to the requirements of this CAFO, Respondent must pay a penalty of \$175,000, but Respondent will receive credit towards the penalty amount for any sums that were satisfactorily expended towards the SEP pursuant to the requirements of this CAFO.
- b. If Respondent did not complete the SEP satisfactorily, but EPA determines that Respondent made good faith and timely efforts to complete the SEP and certified, with supporting documents, that it expended at least \$157,500, Respondent will not be liable for any stipulated penalty under subparagraph a, above.
- c. If Respondent completed the SEP satisfactorily, but spent less than \$157,500, Respondent must pay a stipulated penalty in the amount of the difference between \$157,500 and amount actually spent.
- d. If Respondent did not timely submit the SEP completion report required under paragraph 104, above, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$150	1 <sup>st</sup> through 14 <sup>th</sup> day
\$200	15 <sup>th</sup> through 30 <sup>th</sup> day
\$300	31 <sup>st</sup> day and beyond

110. EPA's determinations of whether Respondent completed the SEP satisfactorily and whether Respondent made good faith and timely efforts to complete the SEP will bind Respondent.

111. Respondent must pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraph 96, above, and will pay interest and nonpayment penalties on any overdue amounts.

112. Any public statement that Respondent makes referring to the SEP must represent that Celanese undertook this project pursuant to a settlement with the United States Environmental Protection Agency for alleged violations of the Clean Air Act.



113. If an event occurs which causes or may cause a delay in completing the SEP as required by this CAFO:

- a. Respondent must notify EPA in writing within 10 days after learning of an event which caused or may cause a delay in completing the SEP. The notice must describe the anticipated length of the delay, its cause(s), Respondent's past and proposed actions to prevent or minimize the delay, and a schedule to carry out those actions. Respondent must take all reasonable actions to avoid or minimize any delay. If Respondent fails to notify EPA according to this paragraph, Respondent will not receive an extension of time to complete the SEP.
- b. If the parties agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, the parties will stipulate to an extension of time no longer than the period of delay.
- c. If EPA does not agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, EPA will notify Respondent in writing of its decision and any delays in completing the SEP will not be excused.
- d. Respondent has the burden of proving that circumstances beyond its control caused or may cause a delay in completing the SEP. Increased costs for completing the SEP will not be a basis for an extension of time under subparagraph b, above. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.

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

#### **General Provisions**

115. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

116. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

117. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 115, above,

compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

118. Respondent certifies that as of the date of its execution of this CAFO, it is complying fully with 40 C.F.R. Part 63, Subparts G, SS, UU and FFFF.

119. This CAFO constitutes an “enforcement response” as that term is used in EPA’s Clean Air Act Stationary Civil Penalty Policy to determine Respondent’s “full compliance history” under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

120. The terms of this CAFO bind Respondent, its successors, and its assigns.

121. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

122. Each party agrees to bear its own costs and attorney fees in this action.

123. This CAFO constitutes the entire agreement between the parties.

124. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

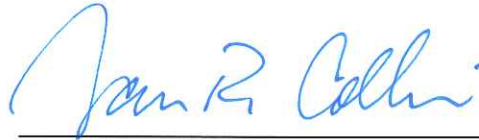
125. This CAFO shall terminate when the Respondent has fully complied with penalty payment requirements set forth in paragraphs 95 - 100 above and the SEP requirements set forth in paragraphs 101 - 114 above.

**Consent Agreement and Final Order  
In the Matter of Celanese Ltd.**

**Celanese Ltd., Respondent  
By: Celanese International Corporation,  
its general partner**

9/16/2014

Date



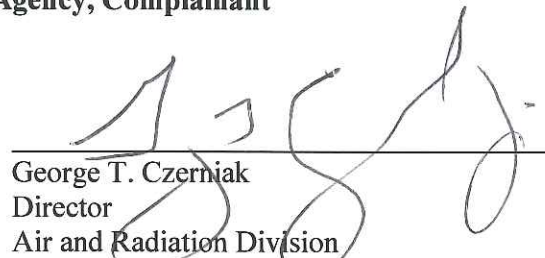
Darren R. Collins  
Vice President

  
9/15/2014

**United States Environmental Protection Agency, Complainant**

9/19/14

Date




George T. Czerniak  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order**  
**In the Matter of: Celanese Ltd.**  
**Docket No. CAA-05-2014-0053**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9-22-2014  
Date

  
\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

**Consent Agreement and Final Order  
In the Matter of: Celanese Ltd.  
Docket No. CAA-05-2014-0053**

Certificate of Service

I certify that I filed two originals of the Consent Agreement and Final Order (CAFO), docket number CAA05 20140053 with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed one original to the Respondent by first-class, postage prepaid, certified mail, return receipt requested, addressed as follows:

Darren R. Collins, Vice President  
Celanese Ltd.  
1989 Old Naples Road  
Meredosia, Illinois 62665


I certify that I sent a copy of the CAFO by intra-office mail to:

Regional Judicial Officer (C-14J)  
U.S. Environmental Protection Agency  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

I also certify that I mailed a copy of the CAFO by first-class mail to:

Ray Pilapil, Manager  
Bureau of Air, Compliance and Enforcement Section  
Illinois Environmental Protection Agency  
P.O. Box 19506  
Springfield, Illinois 62794

On the 25 day of Sept 2014.

  
Loretta Shaffer  
Program Technician  
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER(S):

70091680 0000 7676 2458