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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY REGIONAL HEARING CLERK
REGION 6 EPA REGION VI
DALLAS, TEXAS

In the Matter of §
Indorama Ventures Olefins LLC, § Administrative Order on Consent
§ Docket No. CAA-06-2023-3356
Respondent §
§
§

ADMINISTRATIVE ORDER ON CONSENT

Preliminary Statement

1. The U.S. Environmental Protection Agency, Region 6 (EPA), and Indorama Ventures Olefins LLC (Respondent) have agreed to voluntarily enter into this Administrative Order on Consent (Order) for the purposes of carrying out the goals of Section 112(r) of the Clean Air Act (CAA), 42 U.S.C. § 7412(r), and the regulations promulgated thereunder and codified at 40 C.F.R. Part 68.

Jurisdiction

2. This Order is entered into pursuant to the authority of Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B). Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), provides that whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any other requirement or prohibition of Subchapter I of the CAA, which includes, among other things, the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the regulations promulgated thereunder, the Administrator may issue an order requiring compliance with such requirement or prohibition.

Parties

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

4. Respondent is Indorama Ventures Olefins LLC, a limited liability company and authorized to conduct business in the State of Louisiana.

Statutory and Regulatory Background

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

6. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of regulated substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), mandates that the Administrator establish a threshold quantity for any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). The list of regulated substances and respective threshold quantities is codified at 40 C.F.R. § 68.130.

7. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for stationary sources with threshold quantities of regulated substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). On June 20, 1996, EPA promulgated a final rule

known as the Risk Management Program, 40 C.F.R. Part 68, 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 apply to each program level of covered processes. Pursuant to 40 C.F.R. § 68.10(i), a covered process is subject to Program 3 requirements if the process does not meet the requirements of Program 1, as described in 40 C.F.R. § 68.10(g), and if it is in a specified North American Industrial Classification System code or is subject to the OSHA process safety management standard, 29 C.F.R. 1910.119.

Definitions

11. 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.

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

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

14. The regulation at 40 C.F.R. § 68.3 defines “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.

EPA Findings of Fact and Conclusions of Law

18. Respondent is a limited liability company, 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).

19. Respondent is the owner and operator of the facility located at: 4300 Highway 108, Westlake, Louisiana 70669 (the Facility).

20. 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.

21. The Respondent has a chemical manufacturing process (NAICS Code 32511- Petrochemical Manufacturing) process at the Facility, meeting the definition of “process” and “covered process” as defined by 40 C.F.R. § 68.3.

22. Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, the EPA conducted an inspection of the Facility on May 13-17, 2019, 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). A prior inspection had occurred on June 18-22, 2018, that also focused on the Facility’s compliance with CAA § 112.

23. Butene, 2-butene-trans, ethylene, isopentane, 1-pentene, ethane, methane, 1-butene, and propylene are “regulated substances” pursuant to 40 C.F.R. § 68.3. Each of these regulated substances is held at the Facility above the threshold quantities identified in 40 C.F.R. § 68.130.

24. Respondent has greater than a threshold quantity of a regulated substance, in a process at the Facility.

25. From the time Respondent first had on-site greater than a threshold quantity of a regulated substance 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.

26. From the time Respondent first had on-site greater than a threshold quantity of regulated substance in a process, Respondent was required to submit an RMP pursuant to 40 C.F.R. § 68.12(a). Respondent was also required to 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 2 and the Facility is in North American Industry Classification System (NAICS) code 32511 (Petrochemical Manufacturing) and the Facility is subject to the OSHA process safety management standard, 29 C.F.R. § 1910.119.

EPA Findings of Violation

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

Management System

28. 40 C.F.R. § 68.15(b) requires the Respondent to assign a qualified person or position that has the overall responsibility for the development, implementation, and integration of the risk management program elements.

29. At the time of the inspection, Indorama failed to correctly identify the qualified person or position with overall RMP responsibility.

30. In a July 15, 2019, letter to EPA, Respondent stated that "IVOL will revise its RMP management system to indicate that the PSM Manager has the overall responsibility for RMP elements."

31. Respondent failed to fully implement the requirements of 40 C.F.R. § 68.15(b).

Worst Case Scenario (distance to endpoint)

32. 40 C.F.R. § 68.25(a)(2)(ii) requires the Respondent to analyze worst-case release scenarios at the Facility. These worst-case scenarios must be reported in the Facility Risk Management Plan. For Program 2 and 3 processes the Respondent must include, among other things, one worst-case release scenario that is estimated to create the greatest distance in any direction to an endpoint defined in § 68.22(a) resulting from an accidental release of regulated flammable substances from covered processes under worst-case conditions as defined in § 68.22.

33. Indorama modeled the release for its flammable substance under refrigeration, but the facility representatives stated that the gas is liquified under pressure.

34. Indorama failed to properly model the selected scenario resulting in an incorrect estimate of the greatest distance to endpoint.

35. Respondent failed to fully implement the requirements of 40 C.F.R. § 68.25 (a)(2)(ii).

Process Safety Information

36. 40 C.F.R. § 68.65(a) & (d)(1)(ii) require that the Respondent complete a compilation of written process safety information before conducting any process hazard analysis. The compilation of written process safety information items includes a current and accurate piping and instrument diagram (P&ID) for the facility.

37. During field verifications of piping and instrument diagrams, multiple inaccuracies were found on the P&IDs provided by the Facility. The P&IDs did not match the equipment at the Facility.

38. Respondent failed to fully implement the requirements of 40 C.F.R. § 68.65(a) and (d)(1)(ii) for process safety information.

Recognized and Generally Accepted Good Engineering Practices

39. 40 C.F.R. § 68.65(d)(2) requires the Respondent to document that the equipment at the Facility complies with recognized and generally accepted good engineering practices.

40. The anhydrous ammonia unloading skid did not have any guard posts, bollards, or other barriers. Such barriers are safety standards included in available recognized and accepted as good engineering practices intended to protect the ammonia tank unloading skid from vehicular damage.

41. NFPA 55-2013 Section 4.11.1.1 and ANSI/CGA G-2.1-2014 Section 6.7.1 are available industry standards that require barriers to protect the ammonia tank unloading skids from vehicular damage.

42. Respondent failed to fully implement the requirements of 40 C.F.R. § 68.65(d)(2).

Pre-Start-up Safety Review

43. 40 C.F.R. § 68.67(a) requires that the Respondent perform an initial process hazard analysis (hazard evaluation) on processes covered by this part. The process hazard analysis shall be appropriate to the complexity of the process and shall identify, evaluate, and control the hazards involved in the process.

44. Once the Process Hazard Analysis is completed then 40 C.F.R. § 68.67(e) requires that the Respondent establish a system to promptly address the team's findings and recommendations and assure that the recommendations are resolved in a timely manner. Additionally, the resolution for each recommendation must be documented, including what actions were taken and when they occurred.

45. A Process Hazard Analysis occurred at the Facility from June 2018 through September 2018. This Process Hazard Analysis used an acceptable methodology, Hazard and

Operability Study (“HAZOP”) and covered all covered processes at the Facility. While the HAZOP was completed in September 2018, the report findings were not finalized until February 2, 2019.

46. Additionally, the Facility brought more than a threshold quantity of Propylene on-site at the Facility on October 18, 2018.

47. 40 C.F.R. § 68.77(b)(3) requires that for new stationary sources, a process hazard analysis has been performed and recommendations have been resolved or implemented before start-up.

48. Respondent failed to perform a process hazard analysis and resolve recommendations prior to starting the propylene unit at the Facility.

49. Respondent failed to fully implement the requirements of 40 C.F.R. § 68.77(b)(3).

Mechanical Integrity

50. 40 C.F.R. § 68.73(b) requires the Respondent to establish and implement written procedures to maintain the on-going integrity of process equipment.

51. Due to discrepancies found during the inspection for the process safety information, the written procedures for maintaining the on-going integrity of process equipment does not accurately reflect all equipment in the covered processes.

52. Respondent has not established and implemented written procedures to maintain the on-going integrity of process equipment related to the underground pipes.

53. Respondent failed to fully implement the requirements of 40 C.F.R. § 68.73(b).

Incident Investigation

54. 40 C.F.R. § 68.81(e) requires the Respondent to establish a system to promptly address and resolve incident report findings and recommendations. Resolutions and corrective

actions shall be documented.

55. There were three incidents requiring investigation at the Facility between February 12, 2019, and March 14, 2019. Each of the incidents involved a fire at the Facility.

56. Indorama identified identical corrective actions in their three investigation reports of each fire.

57. Respondent failed to fully implement the requirements of 40 C.F.R. § 68.81(e).

Hot Work Permits

58. 40 C.F.R. § 68.85(b) requires the Respondent to issue hot work permits which document that the fire prevention and protection requirements in 29 C.F.R. § 1910.252(a) have been considered and implemented prior to beginning hot work. The permit shall indicate the date(s) authorized for hot work and identify the object on which hot work is to be performed. The permit shall be kept on file until completion of the hot work operations.

59. At the time of the inspection, the inspector reviewed a hot work permit #141638 for hot work performed on April 10, 2019, through May 7, 2019. Documentation that the fire watch was conducted throughout the entire timeframe referenced in the hot work permit was not provided.

60. Respondent failed to fully implement the requirements of 40 C.F.R. § 68.85(b).

Indorama Voluntary Projects

61. Whereas Respondent has volunteered to complete the following projects:

- a. Ambient Air Monitoring – Whereas Indorama will voluntarily purchase equipment and cause the installation of such monitors at the LAIA Ambient Air Monitoring Station, located at 1910 Swisco Road, Sulphur, LA, approximately one mile north of the facility, which should be capable of monitoring, in real time,

the following parameters: Total Non-Methane Hydrocarbons (TNMC); 1,3 butadiene; and benzene. Indorama will pay for the operation of these monitors for a period of three years. Indorama will use its best efforts to secure rights through the Lake Area Industrial Alliance (LAIA) to install these monitors at LAIA's location. After three years of operation of such monitors Indorama may, at its election, continue to pay for monitoring. Indorama will at the end of three years of operation of such monitors donate the monitoring equipment to LAIA or another party mutually agreeable. The data produced by this monitoring project will be made available to any public or private entity or individual for any purpose. Data will be made available within 30 days of collection after a 30 day period of quality assurance/quality control during such three years of operation. For example, data collected over the 30 days of June would be QA/QC in July and the June data would be released on August 1. The data will be disseminated to a publicly available web site. Equipment purchase and installation will take place within six months of the effective date of this Order. Indorama may extend this period due to unforeseen circumstances; and

- b. Enhancement of the leak detection program – Whereas Indorama will voluntarily enhance their leak detection program at the Westlake/Lake Charles, Louisiana facility to reduce the leak threshold for pumps from the current 1000 ppmv down to 500 ppmv, and to lower the % leak rate from the current 2% down to 1% at which the frequency of monitoring would increase for valves and connectors. This means that if more than 1% of the components are found leaking, the valve inspection frequency would be increased from quarterly to

monthly (and will continue monthly until 4 months of monitoring demonstrates less than 1% leak rate), and connector inspection frequency would be increased from annually to quarterly (and will continue quarterly until 5 quarters of monitoring demonstrates less than 1% leak rate).

Compliance Order

62. Based on the EPA Findings of Fact and Conclusions of Law and the EPA Findings of Violation set forth above, and pursuant to the authority of Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), as amended, Respondent is hereby ORDERED and agrees to comply with the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the regulations promulgated thereunder and codified at 40 C.F.R. Part 68.

63. The EPA and Respondent agree that Respondent shall, as expeditiously as possible, but in no event later than two hundred and seventy (270) days from the effective date of this Order, complete the following actions (Compliance Actions):

- a. Respondent is ordered to conduct a comprehensive third-party Part 68 audit of the Facility. This audit shall not be limited to the currently identified covered processes at the Facility but will also seek to identify any additional covered processes or equipment not currently identified as part of the Facility's RMP program.
- b. Respondent shall update all Process Safety Information for every covered process at the Facility, other than any covered process or equipment not currently identified as part of the Facility's RMP program and added as a result of the audit discussed in the prior paragraph.

- c. The external audit will meet the requirements for auditor independence, audit results and responses identified below.
- d. Clarify incident investigation procedures – Indorama agrees to more formally define their incident investigation procedure to explicitly state that if a release results in an off-site shelter-in-place, off-site evacuation, or off or on-site injury requiring hospital admittance or death, Indorama’s investigation team will be led by an independent party, which may include third parties or an Indorama employee so long as such Indorama employee is not regularly employed at Indorama’s Westlake/Lake Charles facility and has not been directly involved in the design and implementation of Indorama’s Westlake/Lake Charles plant PSM/RMP program. Lake Charles facility personnel may otherwise participate in the investigation.

Selection of Third-Party Auditor

- 64. Each audit shall have an audit leader (“Auditor”) who meets the requirements of independence outlined below. Different standards shall apply to audit team members.
- 65. Auditors shall be impartial and independent in conducting all third-party audit activities.
- 66. Auditors shall receive no compensation or financial benefit from the outcome of the audit, apart from payment for auditing services.
- 67. Auditors shall be experienced and knowledgeable in the Facility’s general processes.
- 68. Auditors shall be knowledgeable with the requirements of 40 C.F.R. Part 68 and the implementing statute.

69. Auditors shall be experienced with the stationary source type and processes being audited and applicable recognized and generally accepted good engineering practices.

70. Auditors shall be trained or certified in proper auditing techniques.

71. Auditors do not need to be registered Professional Engineers. The audit team does not require the participation of a Professional Engineer.

72. Respondent may not select an Auditor who has performed work for the Respondent within the last two years at the time of contract between the Auditor and Respondent.

73. For purposes of the preceding paragraph, the phrase "has performed work" shall not include being an auditor in an independent third-party audit that meets the requirements for independence as described in this document.

74. Respondent may not hire, as either employees or contractors, Auditors, or audit team members, for a period of two years following the submission of the final audit report from the Auditor to the Respondent.

75. For purposes of the preceding paragraph, the term "hire, as either employees or contractors" shall not include being an auditor in an independent third-party audit that meets the requirements for independence as described in this document.

76. All Auditors, and audit team members, shall sign and date a conflict of interest statement verifying that they are eligible to perform the audit under the terms of this agreement.

77. These requirements shall not apply to an organization that employs, or is owned by, an Auditor and in which an employee has performed work for the Respondent in the past two years where the organization ensures that such personnel do not participate in the audit or manage or advise the audit team concerning the audit.

78. Retired employees who satisfy the requirements of independence may qualify as independent if their sole continuing financial attachments to the owner or operator are employer-financed or managed retirement and/or health plans.

Auditor Responsibilities

79. Respondent shall ensure that the third-party auditor meets the following conditions:

- a. Manages the audit and participates in audit initiation, design, implementation, and reporting;
- b. Evaluates the competency of audit team members, as applicable, to determine appropriate roles and responsibilities for the audit;
- c. Prepares the audit report and documents the full team's views and opinions in the final audit report; and
- d. Certifies the final audit report and its contents as meeting the requirements of this document.

Audit Report and Response

80. Respondent shall ensure that the auditor prepares and submits a final audit report within 90 days of the completion of the audit that:

- a. Identifies the lead auditor or manager, participating individuals, and any other key persons participating in the audit, including names, titles, and summaries of qualifications;
- b. Documents the auditor's evaluation of each process audited to determine whether procedures and practices developed by Respondent are adequate and being followed;
- c. Documents the findings of the audit, including any identified compliance or

performance deficiencies. The Auditor shall also ensure that photographs and video recordings of the covered process areas may be made to enhance understanding of the audit reports and provide context to the audit results. These photographs and video recordings shall be included in the audit reports submitted for each facility;

d. Includes a summary of Respondent's comments on, and identify any adjustments made by the auditor to, any draft audit report provided by the auditor to Respondent for review or comment, and

e. Include the following certification, signed and dated by the auditor or supervising manager for the audit:

f. "I certify that this compliance audit report was prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information upon which the audit is based. I further certify that the audit was conducted, and this report was prepared pursuant to all applicable auditing, competency, independence, impartiality, and conflict of interest standards and protocols. Based on my personal knowledge and experience, the inquiry of personnel involved in the audit, the information submitted herein is true, accurate, and complete. I am aware that there are significant penalties for making false material statements, representations, or certifications, including the possibility of fines and imprisonment for knowing violations."

81. The auditor shall submit the final audit report to the EPA Region 6 and the Respondent at the same time. Upon request, following submittal of the final audit report, Respondent will submit any drafts provided to Respondent.

82. The audit report and related records, including any documents reviewed, cited, or

relied on the audit team in undertaking the audit, shall not be privileged as attorney-client communications or attorney work products, even if written for or reviewed by legal staff.

83. Response Report. As soon as possible, but no later than 90 days after receiving the final audit report, Respondent shall determine an appropriate response to each of the findings in the audit report. If Respondent determines that no response is appropriate, Respondent shall provide an explanation as to why the finding does not reflect a deficiency. Respondent shall develop and provide to EPA Region 6 a findings response report that includes:

84. A copy of that final audit report;

85. An appropriate response to each of the audit report findings;

86. A schedule for promptly addressing deficiencies; and

87. A certification, signed and dated by Respondent's senior corporate officer or other official in an equivalent position, stating:

88. "I certify under penalty of law that the attached compliance audit report was received, reviewed, and responded to under my direction or supervision by qualified personnel. I further certify that appropriate responses to the findings have been identified and deficiencies were corrected, or are being corrected, as documented herein. Based on my personal knowledge and experience, or inquiry of personnel involved in evaluating the report findings and determining appropriate responses to the findings, the information submitted herein is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

89. Respondent shall implement the schedule developed by Respondent to address deficiencies identified in the audit findings response report.

90. Respondent shall document the actions taken to address each deficiency, along

with the date completed. If deficiencies are corrected prior to the response report, then they may be included in that document. Respondent shall submit a quarterly report within 30 days of the end of each calendar quarter that identifies deficiencies that were corrected after submittal of the response report until all deficiencies are corrected.

91. Respondent shall retain all copies of draft and final audit reports, including associated documents, for a period of five years from the date of the final audit report, and provide any audit reports or associated documents to EPA Region 6 upon request.

Submissions

92. Respondent must provide documentation of completion of the compliance actions described above to the EPA. All documentation shall be submitted as set forth in this subsection.

93. All submissions to EPA required by this Order shall contain the following certification signed by an authorized representative of Respondent:

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, 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.

94. All submissions to EPA required by this Order shall be sent by electronic mail to:

Tony Robledo
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
robledo.tony@epa.gov

95. All documents submitted by Respondent to EPA in the course of implementing this Order shall be available to the public when appropriately requested under the Freedom of

Information Act unless identified by Respondent as Confidential Business Information (CBI) and determined to be CBI pursuant 40 C.F.R. Part 2, Subpart B.

Stipulated Penalties

96. Unless excused under Section [TBP] as a force majeure, Respondent shall be liable for stipulated penalties for failure to comply with the requirements of this Order. The following stipulated penalties shall accrue per violation per day for failure to comply with the Compliance Actions, including the final audit report above:

<u>Penalty per Violation per Day</u>	<u>Period of Noncompliance</u>
\$2,500	1st through 15th day
\$5,000	16th through 60th day
\$10,000	61st day and beyond

97. Stipulated penalties of \$250/day shall accrue per violation for each violation of the quarterly reporting requirements of this Order.

98. Notwithstanding any other provision of this Order, no stipulated penalty under this Administrative Order of Consent shall accrue for violations identified in the final Auditor's Report to the EPA and corrected within 1 year from the date of the final Audit Report.

99. All penalties shall begin to accrue on the day after the complete performance is due, or on the day a violation occurs and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity required by this Order.

100. The payment of penalties shall not alter in any way Respondent's obligation to comply with the provisions of this Order.

101. EPA shall notify Respondent of the intent to demand a stipulated penalty and provide Respondent 15 days to respond with further explanations. If EPA is unpersuaded by

Respondent's response to EPA's notice of intent, EPA may thereafter demand payment for stipulated penalties. All penalties accruing under this section shall be due and payable to the United States within thirty (30) days of Respondent's receipt from the EPA of a demand for payment of stipulated penalties. Such payments 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>.

102. A copy of the check or other information confirming payment shall be simultaneously sent by electronic mail to:

Tony Robledo
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
robledo.tony@epa.gov

103. Respondent understands that failure to timely pay any portion of the stipulated 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 the stipulated penalty from the date of delinquency until such 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).

Other Terms and Conditions

104. By entering into this Order, Respondent: (a) consents to and agrees to not contest the EPA's authority or jurisdiction to issue or enforce this Order; and (b) agrees to undertake all actions required by this Order.

105. Respondent neither admits nor denies the EPA Findings of Fact and Conclusions of Law and the EPA Findings of Violation.

106. Respondent and the EPA agree to bear their respective costs and attorney's fees. Respondents waive their right to seek reimbursement of their costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 104-121), and any regulations promulgated thereunder.

General Provisions

107. Respondent waives any and all remedies, claims for relief and otherwise available rights to jurisdictional or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including, but not limited to, any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1), or under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

108. Any violation of this Order may result in an additional enforcement action under Section 113 of the CAA, 42 U.S.C. § 7413. The EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action. Section 113 of the CAA, 42 U.S.C. § 7413, authorizes the Administrator to:

- a. issue an administrative penalty order under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), assessing a civil penalty not to exceed \$48,192 (or amount as adjusted by the Civil Monetary Penalty Adjustment Rule) per day of violation, pursuant to Section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B);
- b. bring a civil judicial enforcement action for permanent or temporary injunction, or to assess and recover a civil penalty not to exceed \$101,439 (or amount as adjusted by the Civil Monetary Penalty Adjustment Rule) per day of violation, or both, pursuant to Section 113(b)(2) of the CAA, 42 U.S.C. § 7413(b)(2); or
- c. request the Attorney General to commence a criminal action pursuant to Section 113(c) of the CAA, 42 U.S.C. § 7413(c).

109. This Order does not resolve any civil or criminal claims for violations alleged in this Order. In accordance with Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), issuance of this Order does not preclude EPA from assessing penalties, obtaining injunctive relief, or taking any other action authorized under the CAA, or other applicable federal laws or regulation. This Order does not affect the obligation of Respondents to comply with all federal, state, and local statutes, regulations, and permits.

110. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to public health, welfare, or the environment.

111. Nothing in this Order shall limit EPA's right to obtain access to, and/or inspect the Facility, and/or to request additional information from Respondent pursuant to the authority of Section 114 of the CAA, 42 U.S.C. § 7414.

112. By signing this Order, the undersigned representative of Respondent certifies that

he or she is authorized to enter into the terms and conditions of this Order, and to execute and legally bind Respondent to this Order.

113. The provisions of this Order shall apply and be binding upon Respondents and their agents, officers, directors, employees, trustees, authorized representatives, successors, and assigns. Respondents shall ensure that any agents, officers, directors, employees, contractors, consultants, firms or other persons or entities acting under or for Respondents with respect to matters included herein comply with the terms of this Order. From the Effective Date until termination of this Order, Respondents must give written notice and a copy of this Order to any successors in interest prior to any transfer of ownership or control of any portion or interest in the Facility. Simultaneously with such notice, Respondents shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of such transfer, assignment, or delegation, Respondents shall not be released from the obligations or liabilities of this Order unless the EPA has provided written approval of the release of said obligations or liabilities.

114. The terms of this Order shall be effective immediately upon signature of the latter of Respondents or the EPA (Effective Date).

115. The EPA and Respondents may subsequently amend this Order, in writing, in accordance with the authority of the CAA. In the event of any amendment to this Order, all requirements for performance of this Order not affected by the amendment shall remain as specified by the original Order.

116. This Order shall remain in effect until the earlier of the following, at which point Respondents shall operate in compliance with the CAA:

- a. One year after the Effective Date of this Order;
- b. The effective date of any determination by the EPA that Respondents have

achieved compliance with all terms of this Order; or

- c. Immediately upon receipt by Respondents of notice from the EPA finding that an imminent and substantial endangerment to public health, welfare, or the environment has occurred.

117. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

118. The EPA and Respondent agree to the use of electronic signatures for this matter. The EPA and Respondent further agree to electronic service of this Order by electronic mail to the following:

To EPA:

Clay.Jeffrey@epa.gov

To Respondent:

leo.guglielmi@us.indorama.net

RESPONDENT:

INDORAMA VENTURES OLEFINS LLC

Date: 6-26-23

Site Manager
Indorama Ventures Olefins LLC

David Hoyt
Name

Site Manager
Title

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: _____



Digitally signed by CHERYL
SEAGER
Date: 2023.06.27 11:41:28
-05'00'

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. Environmental Protection Agency, Region 6

CERTIFICATE OF SERVICE

I certify that on the date noted below I sent a true and correct electronic copy of the original Administrative Order on Consent to:

Leonardo M Guglielmi
Indorama Ventures Olefins, LLC
24 Waterway Avenue
The Woodlands, TX 77380
leo.guglielmi@us.indorama.net

JEFFREY CLAY Digitally signed by JEFFREY
CLAY
Date: 2023.06.27 11:46:08 -05'00'

U.S. Environmental Protection Agency, Region 6