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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

REGIONAL HEARING CLERK
EPA REGION 6

IN THE MATTER OF:

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Evonik Oil Additives USA, Inc.

Consent Agreement and Final Order
USEPA Docket No. RCRA-06-2025-0902

RESPONDENT

CONSENT AGREEMENT AND FINAL ORDER

I. PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order ("CAFO") is entered into by the United States Environmental Protection Agency, Region 6 ("EPA" or "Complainant") and Respondent, Evonik Oil Additives USA, Inc. ("Respondent" or "Evonik Oil Additives") and concerns the facility located at 1700 Tidal Road, Deer Park, Texas, 77536 ("Facility").
2. Notice of this action has been given to the State of Texas under Section 3008(a)(2) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(2).¹

¹ On December 26, 1984, the State of Texas received final authorization for its base Hazardous Waste Management Program (49 FR 48300). Subsequent revisions have been made to the Texas Hazardous Waste Program and authorized by the EPA. Except as otherwise provided, all citations found within this order are to the "EPA-Approved Texas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" dated December 2015, incorporated by reference under 40 C.F.R. § 272.2201(c)(1)(i) effective on April 10, 2020. 85 Fed. Reg. 20190 (April 10, 2020); 40 C.F.R. 272.2201: Texas State-Administered Program: Final Authorization. References and citations to the "EPA-Approved Texas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" may vary slightly from the State of Texas' published version. The corresponding C.F.R. citations are also provided.

3. For the purpose of this CAFO, Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.
4. Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO and waives all defenses which have been raised or could have been raised to the claim in the CAFO.
5. The CAFO resolves only those violations which are alleged herein.
6. Respondent consents to the issuance of this CAFO as the most appropriate means of settling EPA's allegations without any adjudication of issues of law or fact, consents to the assessment and payment of the civil penalty in the amount and by the method set out in this CAFO, and consents to the compliance order in this CAFO.

II. JURISDICTION

7. This CAFO is issued by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), as amended by the Hazardous and Solid Waste Amendments of 1984 and is simultaneously commenced and concluded through the issuance of this CAFO under 40 Code of Federal Regulations ("C.F.R.") §§ 22.13(b) and 22.18(b)(2) and (3).
8. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of EPA to issue or enforce this CAFO and agrees not to contest the validity of this CAFO or its terms or conditions.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. Respondent is a specialty chemicals corporation authorized to do business in the State of Texas.
10. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 30 Texas Administrative Code (Tex. Admin. Code) § 335.2(25), [40 C.F.R. § 260.10].
11. Respondent owns or operates the Evonik Oil Additives USA facility.
12. The Evonik Oil Additives facility develops lubricant additives, formulation solutions and base oil technologies to meet the fuel economy needs of passenger cars and commercial vehicles, to increase efficiency of construction and mining and to provide energy savings in compressors and manufacturing equipment.
13. The Facility is a "facility" within the meaning of 30 Tex. Admin. Code § 335.1(60), [40 C.F.R. § 260.10]
14. Pursuant to 3007 of RCRA, 42 U.S.C. § 6927, the EPA conducted a RCRA records review of the Facility's activities as a generator of hazardous waste from February 13, 2023, through October 29, 2024, including a review of the information voluntarily provided to EPA by Respondent (the "Investigation").
15. During the Investigation, EPA discovered that Respondent generated, and offered for transport and treatment, hazardous wastes streams with one or more of the following characteristics:
 - A. D waste: D001, D002, D009, D018, D027, D039.
 - B. F wastes: F001, F003.
 - C. U wastes: U031, U151, U154, U213.

16. The waste streams identified in Paragraph 15 are "hazardous waste" as defined in 30 Tex.

Admin. Code § 335.1 (70), [40 C.F.R. §§ 261.21, 261.22, 261.24, and 261.33].

17. Based on its review, EPA determined that Respondent generated the hazardous waste streams in quantities that exceeded the threshold amount of 1000 kilograms of non-acute hazardous waste in a month, corresponding to Large Quantity Generator (LQG) status under 30 Texas Admin. Code, Chapter 335, Subchapter C, [40 C.F.R. Part 262], for the periods that such wastes remained onsite.

18. Respondent is a "generator" of "hazardous waste" as those terms are defined in 30 Texas

Admin. Code §§ 335.1(66) & (70) [40 C.F.R. § 260.10].

19. As a generator of hazardous waste, Respondent is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth in 30 Texas Admin. Code Chapter 335, Subchapter C, [40 C.F.R Part 262 and/or 270].

IV. CLAIMS

Claims 1. Failure to modify notification of hazardous waste activity

20. The allegations in Paragraphs 1-19 are realleged and incorporated herein by reference.

21. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), any person generating a characteristic or listed hazardous waste shall file with the Administrator or authorized State a notification stating the location and general description of such activity and the identified characteristic or listed hazardous wastes handled by such person. No identified characteristic or listed hazardous waste subject to this subchapter may be transported, treated, stored, or disposed of unless notification has been given as required by Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

22. Respondent did not file with the Administrator or the State of Texas an adequate and timely notification of its hazardous waste activities at the Oil Additives facility during the period from 2019, 2020, 2021, 2022, and 2023 in violation of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).
23. At all times relevant to this CAFO, Respondent did not comply with the notification requirements of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

Claims 2. Failure to Meet the Standards of a Large Quantity Generator

24. The allegations in Paragraphs 1-19 are realleged and incorporated by reference.
25. Under 30 Tex. Admin. Code §335.53(a), [40 C.F.R. § 262.13], any person who generates 1000 kilograms or more of hazardous waste in any given calendar month is a Large Quantity Generator of hazardous waste and is subject to the applicable requirements of 30 Texas Admin. Code, Chapter 335, Subchapter C, [40 C.F.R. Part 262 through 268 and 270].
26. During the Investigation, EPA determined that Evonik Oil Additives was registered as a small quantity generator.²
27. On more than one occasion from 2019 to 2023, Evonik Oil Additives exceeded its SQG status and, for the period such hazardous waste remained onsite, operated as a LQG in violation of one or more of the requirements of LQG under 30 Tex. Admin. Code Chapter 335, Subchapter C, [40 C.F.R. Part 262 through 268 and 270].
28. At all times relevant to this CAFO, Respondent failed to comply with one or more of the requirements for Large Quantity Generators pursuant to 30 Tex. Admin. Code, Chapter 335, Subchapter C, [40 C.F.R. § 262.13].

² The Notice of Registration (NOR) dated August 23, 2017; September 4, 2017, March 26, 2019, August 13, 2020, November 19, 2020, November 12, 2021, and April 29, 2022, reported the facility as a Small Quantity Generator.

Claims 3. Failure to Make an Adequate Waste Determination

29. The allegations in Paragraphs 1-19 are realleged and incorporated by reference.

30. Under 30 Tex. Admin. Code § 335.504, [40 C.F.R. §262.11(a)], a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations. A hazardous waste determination is made using the following step: (a) The hazardous waste determination for each solid waste must be made at the point of waste generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the RCRA classification of the waste may change.

31. During the Investigation, EPA determined that the Respondent failed to make an adequate waste determination for the combustible liquid (methacrylate) material on multiple hazardous waste manifests. The Respondent did not identify the material as hazardous or non-hazardous waste.

32. At all times relevant to this CAFO, the Respondent failed to properly make a waste determination in violation of 30 Tex. Admin. Code § 335.504, [40 C.F.R. § 262.11(a)].

Claim 4. Failure to comply with manifest requirements.

33. The allegations in Paragraphs 1-19 are realleged and incorporated by reference.

34. Under 30 Tex. Admin. Code § 335.54, [40 C.F.R. § 262.20(a)(1)], a generator that transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, or disposal facility that offers for transport a rejected hazardous waste

load, must prepare a Manifest (OMB Control number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A.

35. During the Investigation, EPA determined that the Respondent failed to enter the appropriate hazardous waste codes in its manifests for hazardous wastes shipped for disposal.
36. At all times relevant to this CAFO, the Respondent failed to include the required hazardous waste codes on its hazardous waste manifests pursuant to 30 Tex. Admin. Code § 335.54 and 40 C.F.R. § 262.20.

Claim 5. Failure to maintain/operate facility to minimize a release of hazardous waste.

37. The allegations in Paragraph 1-19 are realleged and incorporated by reference.
38. Pursuant to 30 Tex. Admin. Code §§ 335.61, and 40 C.F.R. § 265.31, facilities must be designed, constructed, maintained, and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water which could threaten human health or the environment.
39. During the Investigation, EPA determined that the Evonik Oil Additives identified multiple hazardous waste spill events in 2023 reported in the company's internal spill tracking reports. Respondent maintains that, to the extent the alleged hazardous waste spills occurred, which Respondent neither admits nor denies, such spills were below reportable quantities and were fully contained within secondary containment.
40. At all times relevant to this CAFO, Respondent failed to maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could

threaten human health or the environment, in violation of 30 Tex. Admin. Code §§ 335.61, and 40 C.F.R. § 265.31.

COMPLIANCE ORDER

41. Pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within sixty (60) calendar days of the effective date of this CAFO, Respondent shall provide in writing the following:

- A. Respondent shall certify that it has assessed all its solid waste streams at the Evonik Oil Additives USA, Inc. facility to determine the accurate waste codes and has developed and implemented standard operating procedures ("SOPs") to ensure that Respondent is operating the Evonik Oil Additives USA, Inc. facility in compliance with RCRA and the regulations promulgated thereunder, including, but not limited to, procedures for: (a) making hazardous waste determinations; (b) managing hazardous wastes; (c) reporting, transporting, and disposing of hazardous waste; (d) preparing its manifests; and (e) meeting the requirements of the land disposal requirements.
- B. Respondent shall certify that it has accurately and adequately complied with its RCRA Section 3010 notification for the Evonik Oil Additives USA, Inc. facility and within the prescribed time period; and
- C. Respondent shall provide, with its certification, a copy of Respondent's SOPs as described in subparagraph A above.

42. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of the Respondent and shall include the following certification:

"I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Copies of all documents required by this CAFO shall be sent to the following:

U.S. EPA, Region 6
Enforcement and Compliance Assurance Division (ECDSR)
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102
ATTN: Adolphus Talton

Where required, notice shall be sent electronically by email or telephone to Enforcement Officer Adolphus Talton, respectively at Talton.Adolphus@epa.gov or at 214-665-6651.

V. TERMS OF SETTLEMENT

A. Penalty Provisions

43. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of forty-four thousand, three hundred and ninety dollars (\$44,390.00).

44. The penalty shall be paid within sixty (60) calendar days of the effective date of this CAFO and made payable to the Treasurer United States.

45. The EPA web address, <https://www.epa.gov/financial/additional-instructions-making-payments-epa>, provides a list of options available for transmitting payment of penalties.

Options for payment include:

A. Electronic payments via Pay.gov. <https://www.pay.gov/public/form/start/11751879>

B. Remittance by Regular Mail, U.S. Postal Mail (including certified mail) or U.S. Postal Service

Express Mail. The check should be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979078
St. Louis, Missouri 63197-9000

C. Overnight Mail (non-U.S. Postal Service), the check should be remitted to:

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, MO 63045

D. Wire Transfer:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

The case name and docket number (**In the Matter of Evonik Oil Additives USA, Docket No. RCRA-06-2025-0902**) shall be clearly documented on or within the chosen method of payment to ensure proper credit.

46. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn
Regional Hearing Clerk (ORC)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102
Vaughn.Lorena@epa.gov

U.S. EPA, Region 6
Enforcement and Compliance Assurance Division (ECAD)
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102
ATTN: Adolphus Talton
Talton.adolphus@epa.gov

Respondent's adherence to this request will ensure proper credit is given when penalties are received by EPA.

47. 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).

48. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN; Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at chalifoux.jessica@epa.gov within 30 days after the Final Order ratifying

this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and

- c. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the effective date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
 - i. Notify EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the effective date of this Order; and
 - ii. Provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

Supplemental Environmental Projects

- 49. In response to the alleged violations of RCRA and in settlement of this matter, although not required by RCRA or any other federal, state, or local law, Respondent agrees to implement a SEP as described in Paragraph 50.
- 50. Respondent shall complete a SEP involving the purchase and installation of condensers on two existing poly kettles at its Deer Park, Texas facility. The proposed project will result in a decreased volume of scrubber oil that is currently classified as hazardous and thus a decrease in the volume of hazardous waste that the Facility generates.
- 51. Respondent shall spend no less than One Hundred Eighty-Eight Thousand One Hundred and Thirty-One Dollars (\$188,131), on implementing the SEP. Respondent shall include

documentation of the expenditures made in connection with the SEP as part of the SEP completion report. If Respondent's implementation of the SEP as described in Paragraph 50 does not expend the full amount set forth in this paragraph, and if EPA determines that the amount remaining reasonably could be applied toward additional condensers, Respondent will identify, purchase and install the additional condensers as identified in Paragraph 50.

52. Respondent shall complete the SEP within 15 months after the effective date of this Consent Agreement and Final Order.

53. The SEP is consistent with applicable EPA policy and guidelines, specifically EPA's 2015 Update to the 1998 Supplemental Environmental Projects Policy, (March 10, 2015). The SEP advances the objectives of RCRA by reducing the amount of hazardous waste generated at the facility addressing the generation and disposal of hazardous waste pursuant 40 C.F.R. Part 262, Subpart A. The SEP addresses these objectives by reducing the amount of hazardous waste generated at the facility with the installation of the subject condensers. The SEP is not inconsistent with any provision of RCRA. The SEP relates to the alleged violations, and is designed to reduce:

- a. The adverse impact to public health and environment to which the alleged violations contribute, specifically reducing the amount of hazardous waste (i.e., scrubber oil) generated and disposed of by the facility.
- b. The overall risk to public health and the environment potentially affected by the alleged violations by the installation of condensers that would be more effective in reducing the amount of hazardous waste generated at the facility and reducing the risk of the amount of hazardous material releases or threat of releases.

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

- a. That all cost information provided to the EPA in connection with the 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, One Hundred Eighty-Eight Thousand One Hundred and Thirty-One Dollars (\$188,131);
- b. That, as of the date of executing this CAFO, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;
- c. That the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;
- d. That Respondent has not received and will not have received credit for the SEP in any other enforcement action;
- e. That Respondent will not receive reimbursement for any portion of the SEP from another person or entity;
- f. That for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP;
- g. That Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Paragraph 50;

55. Any public statement, oral or written, in print, film, or other media, made by Respondent or a representative of Respondent making reference to the SEP under this CAFO from the date of its

execution of this CAFO shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of the federal laws."

56. SEP Reports.

- a. Respondent shall submit a SEP Completion Report to EPA within 17 months after the effective date of this Consent Agreement and Final Order. The SEP (Completion) Report shall contain the following information, with supporting documentation:
 - i. A detailed description of the SEP as implemented;
 - ii. A description of any operating problems encountered and the solutions thereto;
 - iii. Itemized costs;
 - iv. Certification that the SEP has been fully implemented pursuant to the provisions of this CAFO; and
 - v. A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).
- b. Respondent agrees that failure to submit the SEP Completion Report shall be deemed a violation of this CAFO and Respondent shall become liable for stipulated penalties pursuant to Paragraph 58 below.
- c. Respondent shall submit all notices and reports required by this CAFO to Adolphus Talton at talton.adolphus@epa.gov.

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

57. EPA Acceptance of SEP report.

- a. After receipt of the SEP Completion Report described in paragraph 56 above, EPA will, in writing to the Respondent, either:
 - i. Identify any deficiencies in the SEP Completion Report itself along with a grant of an additional thirty (30) days for Respondent to correct any deficiencies; or
 - ii. Indicate that EPA concludes that the project has been completed satisfactorily; or
 - iii. Determine that the project has not been completed satisfactorily and seek stipulated penalties in accordance with paragraph 58 herein.
- b. If EPA elects to exercise option (i) above, i.e., if the SEP Report is determined to be deficient but EPA has not yet made a final determination about the adequacy of SEP completion itself, Respondent may object in writing to the notification of deficiency

given pursuant to this paragraph within ten (10) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon Respondent.

58. Stipulated Penalties.

- a. Except as provided in subparagraphs (b) and (c) below, if Respondent fails to satisfactorily complete the requirements regarding the SEP specified in Paragraph 50 by the deadline in Paragraph 52, Respondent agrees to pay, in addition to the civil penalty in Paragraph 43, the following per day per violation stipulated penalty for each day the Respondent is late meeting the applicable SEP requirement:
 - i. \$250 per day for days 1-30
 - ii. \$300 per day for days 31-60
 - iii. \$350 per day for 60 or more days
- b. If Respondent fails to timely submit any SEP reports, in accordance with the timelines set forth in this CAFO, Respondent agrees to the following per day stipulated penalty for each day after the report was due until Respondent submits the report in its entirety:
 - i. \$100 per day for days 1-30
 - ii. \$150 per day for days 31-60

- iii. \$200 per day for 60 or more days
- c. If Respondent does not satisfactorily complete the SEPs, including spending the minimum amount on the SEPs set forth in paragraph 51 above, Respondent shall pay a stipulated penalty to the United States in the amount of Two Hundred Thousand Dollars (\$200,000). "Satisfactory completion" of the SEP is defined as Respondent spending no less than \$188,131 to purchase and install two (2) condensers at the facility no later than four hundred and fifty (450) days after the effective date of this Consent Agreement and Final Order. The determinations of whether the SEPs have been satisfactorily completed shall be in the sole discretion of EPA.
- d. EPA retains the right to waive or reduce a stipulated penalty at its sole discretion.
- e. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions of paragraph 45 above. Interest and late charges shall be paid as stated in paragraph 48.

B. Modification

59. The terms, conditions, and compliance requirements of this Consent Agreement and Final Order may not be modified or amended except upon the written agreement of all parties and approval of the Regional Judicial Officer, except that the Regional Judicial Officer need not approve written agreements between the parties modifying the SEP schedule. The Waste Enforcement Branch Manager shall have the authority to extend the deadlines in Paragraph 52 for good cause.

C. Costs

60. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its 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. 04-121), and any regulations promulgated pursuant to those Acts.

D. Termination and Satisfaction

61. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall also certify this in writing and in accordance with the certification language set forth in the Compliance Order. Unless the EPA, Region 6 objects in writing within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

62. By signing this consent agreement, respondent waives any rights or defenses that respondent has or may have for this matter to be resolved in federal court, including but not limited to any

right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

E. Effective Date of Settlement

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

RESPONDENT:
EVONIK OIL ADDITIVES USA, INC.

Date: May 23, 2025



Signature

Thomas J. Mallon

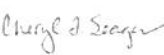
Name

President, Evonik Oil Additives USA, Inc.

Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: May 28, 2025



Digitally signed by Seager, Cheryl
Date: 2025.05.28 16:04:44 -05'00'
Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

FINAL ORDER

Pursuant to Sections 3008(a) of RCRA, 42 U.S.C. §§ 6928(a), 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.

Date: _____

Rucki,
Thomas

Digitally signed by Rucki,
Thomas
Date: 2025.05.28
17:41:30 -04'00'

Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

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

Copy via Email to Complainant, EPA:

mcdonald.ashley@epa.gov

Copy via Email to Respondent:

Jillian.mooney@evonik.com
Evonik Oil Additives USA, Inc.
1700 Tidal Road
Deer Park, TX 77536

LORENA
VAUGHN

Digitally signed by
LORENA VAUGHN
Date: 2025.05.28
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Regional Hearing Clerk
EPA Region 6