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1 UNITED STATES  
2 ENVIRONMENTAL PROTECTION AGENCY  
3 REGION 9

2011 SEP 30 PM 3: 2

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGIONAL HEARING OFFICE

<p>4 In the Matter of:</p> <p>5 Huntsman Advanced Materials</p> <p>6 Americas, Inc., a subsidiary</p> <p>7 of Huntsman Corp.,</p> <p style="text-align: right;">Respondent</p>	<p>)</p> <p>)</p> <p>) Docket No. EPCRA-09-2011- 0020</p> <p>)</p> <p>) CONSENT AGREEMENT AND FINAL</p> <p>) ORDER PURSUANT TO 40 C.F.R.</p> <p>) §§ 22.13 AND 22.18</p> <p>)</p>
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9 I. CONSENT AGREEMENT

- 10 1. The Director of the Communities and Ecosystems Division
- 11 ("Complainant"), United States Environmental Protection
- 12 Agency ("EPA") Region 9, and Huntsman Advanced Materials
- 13 Americas, Inc., a subsidiary of Huntsman Corp. ("Respondent"
- 14 or "Huntsman") agree to settle this matter and consent to the
- 15 filing of this Consent Agreement and Final Order Pursuant to
- 16 40 C.F.R. §§ 22.13 and 22.18 ("CAFO"), which simultaneously
- 17 commences and concludes this matter in accordance with 40
- 18 C.F.R. §§ 22.13(b) and 22.18(b).
- 19 2. This is a civil administrative proceeding initiated pursuant
- 20 to Section 325(c) of Title III of the Superfund Amendments
- 21 and Reauthorization Act, 42 U.S.C. § 11001 et seq., also
- 22 known as the Emergency Planning and Community Right-to-Know
- 23 Act of 1986 ("EPCRA"), for violation of Section 313 of EPCRA,
- 24 42 U.S.C. § 11023, and the regulations promulgated to
- 25 implement Section 313 at 40 C.F.R. Part 372.
- 26 3. Complainant has been duly delegated the authority to file
- 27 this action and sign a consent agreement settling this
- 28 action. Respondent is a corporation incorporated in

1 Delaware.

2 4. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023  
3 and 11048, EPA promulgated the Toxic Chemical Release  
4 Reporting: Community Right-to-Know Rule at 40 C.F.R. Part  
5 372.

6 5. Section 313(a) of EPCRA, as implemented by 40 C.F.R.  
7 § 372.30, provides that an owner or operator of a facility  
8 that meets the criteria set forth in EPCRA Section 313(b) and  
9 40 C.F.R. § 372.22, is required to submit annually to the  
10 Administrator of EPA and to the State in which the facility  
11 is located, no later than July 1st of each year, a toxic  
12 chemical release inventory reporting form (hereinafter "Form  
13 R") for each toxic chemical listed under 40 C.F.R. § 372.65  
14 that was manufactured, processed or otherwise used at the  
15 facility during the preceding calendar year in quantities  
16 exceeding the thresholds established under EPCRA Section  
17 313(f) and 40 C.F.R. §§ 372.25, 375.27, and 372.28.

18 6. Section 313(b) of EPCRA and 40 C.F.R. § 372.22 provide that  
19 the requirements of Section 313(a) and 40 C.F.R. § 372.30  
20 apply to an owner and operator of a facility that has 10 or  
21 more full-time employees; that is in a Standard Industrial  
22 Classification major group codes 10 (except 1011, 1081, and  
23 1094), 12 (except 1241), 20 through 39; industry codes 4911,  
24 4931, or 4939 (limited to facilities that combust coal and/or  
25 oil for the purpose of generating power for distribution in  
26 commerce), or 4953 (limited to facilities regulated under the  
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1 Resource Conservation and Recovery Act, subtitle C, 42 U.S.C.  
2 §6921 et seq.), or 5169, 5171, or 7389 (limited to facilities  
3 primarily engaged in solvent recovery services on a contract  
4 or fee basis); and that manufactures, processes, or otherwise  
5 uses one or more toxic chemicals listed under Section 313(c)  
6 of EPCRA and 40 C.F.R. § 372.65 in quantities in excess of  
7 the applicable thresholds established under EPCRA Section  
8 313(f) and 40 C.F.R. §§ 372.25, 372.27, and 372.28.

9 7. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c) and 40 C.F.R.  
10 Part 19 authorize EPA to assess a penalty of up to \$32,500  
11 for each violation of Section 313 of EPCRA that occurred  
12 after March 15, 2004 but on or before January 12, 2009 and up  
13 to \$37,500 for each violation of Section 313 of EPCRA that  
14 occurred after January 12, 2009.

15 8. Respondent is a "person," as that term is defined by Section  
16 329(7) of EPCRA.

17 9. At all times relevant to this CAFO, Respondent was the owner  
18 and operator of a "facility," as that term is defined by  
19 Section 329(4) of EPCRA and 40 C.F.R. § 372.3, located at  
20 5121 San Fernando Road West, Los Angeles, California  
21 90039("Facility"); the Facility had 10 or more "full-time  
22 employees," as that term is defined at 40 C.F.R. § 372.3; and  
23 the Facility was classified in Standard Industrial  
24 Classification Code 2821 - Plastic Materials, Synthetic  
25 Resins and Nonvulcanizable Elastomers.

26 10. During calendar years 2004 and 2005, Respondent processed the  
27  
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1 following amounts (in pounds) of mercury compounds, chemicals  
2 listed under 40 C.F.R. § 372.28(a)(2):

3 <u>Year</u>	<u>mercury compounds</u>
4 2004	648
5 2005	662

- 6 11. The quantities of mercury compounds that the Respondent  
7 processed at the Facility during calendar years 2004 and 2005  
8 exceeded the established threshold of 10 pounds set forth at  
9 40 C.F.R. § 372.28(a)(2).
- 10 12. Respondent failed to submit Form Rs for mercury compounds  
11 processed at the Facility to the EPA Administrator and to the  
12 State of California on or before July 1, 2005 for calendar  
13 year 2004; Respondent failed to submit Form Rs for mercury  
14 compounds processed at the Facility to the EPA Administrator  
15 and to the State of California on or before July 3, 2006 for  
16 calendar year 2005; as required by Section 313(a) of EPCRA  
17 and 40 C.F.R. § 372.30.
- 18 13. Respondent's failure to submit Form Rs for mercury compounds  
19 processed at the Facility for calendar years 2004 and 2005  
20 constitutes two violations of Section 313 of EPCRA and 40  
21 C.F.R. § 372.30.
- 22 14. The EPA Enforcement Response Policy for EPCRA Section 313  
23 dated August 10, 1992, as amended, provides for a penalty of  
24 sixty-five thousand dollars (\$65,000) for these violations.
- 25 15. In executing this CAFO, Respondent certifies that (1) it has  
26 now fully completed and submitted to EPA all of the required  
27 Form Rs in compliance with Section 313 of EPCRA and the

1 regulations promulgated to implement Section 313; and (2) it  
2 has complied with all Section 313 of EPCRA requirements at  
3 all domestic facilities under its control.

4 16. As part of Respondent's certification to compliance with  
5 Section 313 of EPCRA, as specified in Paragraph 15 above,  
6 Respondent has supplemented its disclosure based on an  
7 additional voluntary environmental audit it conducted. The  
8 violations disclosed based on that additional voluntary  
9 environmental audit are identified in Attachment 1 hereto and  
10 are hereby incorporated by reference into Paragraph 22 of  
11 this CAFO as resolving Respondent's liability for federal  
12 civil penalties for the violations and facts specifically  
13 alleged in this CAFO. The EPA Enforcement Response Policy  
14 for EPCRA Section 313 dated August 10, 1992, as amended,  
15 provides for a penalty of five hundred forty-nine thousand  
16 and seven hundred dollars (\$549,700) for these violations.

17 17. In accordance with 40 C.F.R. § 22.18(b)(2) and for the  
18 purpose of this proceeding, Respondent (i) admits that EPA  
19 has jurisdiction over the subject matter of this CAFO and  
20 over Respondent; (ii) admits the violations and facts alleged  
21 in this CAFO; (iii) consents to the terms of this CAFO; (iv)  
22 waives any right to contest the allegations in this CAFO; and  
23 (v) waives the right to appeal the proposed final order  
24 contained in this CAFO.

25 18. The terms of this CAFO constitute a full settlement of the  
26 civil administrative matter filed under the docket number  
27

1 above.

2 19. EPA's final policy statement on Incentives for Self-Policing:  
3 Discovery, Disclosure, Correction and Prevention of  
4 Violations, 65 Fed. Reg. 19617 (April 11, 2000) ("Audit  
5 Policy") has several important goals, including encouraging  
6 greater compliance with the laws and regulations which  
7 protect human health and the environment and reducing  
8 transaction costs associated with violations of the laws EPA  
9 is charged with administering. If certain specified criteria  
10 are met, reductions in gravity-based penalties of up to 100%  
11 are available under the Audit Policy. These criteria are (1)  
12 discovery of the violation(s) through an environmental audit  
13 or due diligence; (2) voluntary disclosure; (3) prompt  
14 disclosure; (4) discovery and disclosure independent of  
15 government or third party plaintiff; (5) correction and  
16 remediation; (6) prevent recurrence; (7) no repeat  
17 violations; (8) other violations excluded; and (9)  
18 cooperation.

19 20. Complainant has determined that Respondent has satisfied all  
20 of the criteria under the Audit Policy and thus qualifies for  
21 the elimination of civil penalties in this matter based on  
22 the violations expressly described in Paragraph 10 through 13  
23 above and in Attachment 1 hereto. Accordingly, the civil  
24 penalty assessed in this matter is zero (\$0) dollars.

25 21. Complainant's finding that Huntsman has satisfied the  
26 criteria of the Audit Policy is based upon documentation that  
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1 Huntsman has provided to establish that it satisfies these  
2 criteria. Complainant and Respondent agree that, should any  
3 material fact upon which Complainant relied in making its  
4 finding subsequently prove to be other than as represented by  
5 Huntsman, this CAFO may be voided in whole or in part.

6 22. Nothing in this CAFO modifies, affects, exempts or relieves  
7 Respondent's duty to comply with all applicable provisions of  
8 EPCRA and other federal, state or local laws and permits. In  
9 accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves  
10 Respondent's liability for federal civil penalties for the  
11 violations and facts specifically alleged in this CAFO.  
12 Nothing in this CAFO is intended to or shall be construed to  
13 resolve (i) any civil liability for violations of any  
14 provision of any federal, state, or local law, statute,  
15 regulation, rule, ordinance, or permit not specifically  
16 alleged in this CAFO; or (ii) any criminal liability. EPA  
17 specifically reserves any and all authorities, rights, and  
18 remedies available to it (including, but not limited to,  
19 injunctive or other equitable relief or criminal sanctions)  
20 to address any violation of this CAFO or any violation not  
21 specifically alleged in this CAFO.

22 23. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b),  
23 this CAFO shall be effective on the date that the final order  
24 contained in this CAFO, having been approved and issued by  
25 either the Regional Judicial Officer or Regional  
26 Administrator, is filed.

1 24. The provisions of this CAFO shall be binding upon Respondent,  
2 its agents, successors or assigns. Respondent's obligations  
3 under this Consent Agreement, if any, shall end when  
4 Respondent has performed all of the terms of the Consent  
5 Agreement in accordance with the Final Order. Complainant  
6 and Respondent consent to the entry of the CAFO without  
7 further notice.

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FOR COMPLAINANT:

9/30/2011  
Date



Enrique Manzanilla, Director  
Communities and Ecosystems Division  
EPA Region 9

FOR RESPONDENT:

9/28/2011  
Date



Elizabeth McDaniel  
Vice President, EHS  
Americas Region  
Huntsman Corporation

## II. FINAL ORDER

Complainant EPA Region 9 and Respondent Huntsman Corporation, having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this Consent Agreement and Final Order Pursuant to 40 C.F.R. §§ 22.13 and 22.18 (Docket No. EPCRA-09-2011- 0020 ) be entered.

09/30/11  
Date



Steven L. Jawgiel  
Regional Judicial Officer  
U.S. Environmental Protection  
Agency, Region 9

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order against **Huntsman Corporation (Docket #: EPCRA-09-2011-0020)** was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

A copy was mailed via CERTIFIED MAIL to:

Elizabeth McDaniel  
Vice President, EHS  
American Region  
Huntsman Corporation  
8600 Gosling Road  
The Woodlands, TX 73381

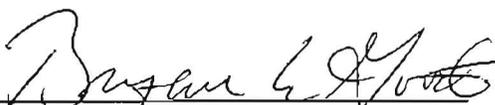
**CERTIFIED MAIL NUMBER:** 7000-0520-0021-6107-7004

An additional copy was mailed via FIRST-CLASS MAIL to:

C. David Nutt  
Director of Legal Services, EHS  
Huntsman Corporation  
8600 Gosling Road  
The Woodlands, TX 73381

An additional copy was hand-delivered to the following U.S. EPA case attorney:

Daniel Reich, Esq.  
Office of Regional Counsel  
U.S. EPA, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

  
Bryan K. Goodwin  
Regional Hearing Clerk  
U.S. EPA, Region IX

9/30/11  
Date

**Attachment 1**

**(Consent Agreement and Final Order Pursuant to 40 C.F.R. §§ 22.13 and 22.18 in the matter of: Huntsman Advanced Materials Americas, Inc., a subsidiary of Huntsman Corp., Respondent)**

**Huntsman Audit Summary of Counts (EPCRA Section 313)**

**Part I: Failure to Report**

Port Neches

Count 1	Failure to report in a timely manner for dicyclopentadiene processed in calendar year 2006, Circumstance Level 1, Extent Level B	\$ 21,922
Count 2	Failure to report in a timely manner for nitrates manufactured in calendar year 2006, Circumstance Level 1; Extent Level A	\$ 32,500
Count 3	Failure to report in a timely manner for n-methyl-2-pyrrolidone otherwise used in calendar year 2007, Circumstance Level 1; Extent Level B	\$21,922
Count 4	Failure to report in a timely manner for cyclohexane otherwise used in calendar year 2007, Circumstance Level 1; Extent Level B	\$21,922
Count 5	Failure to report in a timely manner for silver otherwise used in calendar year 2007, Circumstance Level 1; Extent Level B	\$21,922
Count 6	Failure to report in a timely manner for nitrates manufactured in calendar year 2007, Circumstance Level 1; Extent Level A	\$32,500
Count 7	Failure to report in a timely manner for nitrates manufactured in calendar year 2008, Circumstance Level 4; Extent Level A	<u>\$18,580</u>

Total: \$171,268

**Total Proposed Penalty: \$171,300**  
(Per Skinner Memo, 9/21/04)

Chocolate Bayou

Count 1	Failure to report in a timely manner for xylene processed and otherwise used in calendar year 2007, Circumstance Level 1, Extent Level A	\$32,500
Count 2	Failure to report in a timely manner for ethylbenzene processed and otherwise used in calendar year 2007, Circumstance Level 1, Extent Level B	<u>\$21,922</u>

Total: \$54,422

**Total Proposed Penalty: \$54,400**

(Per Skinner Memo, 9/21/04)

Conroe

Count 1 Failure to report in a timely manner for ethylene glycol manufactured, processed and otherwise used in calendar year 2006, Circumstance Level 1, Extent Level A \$32,500  
**Total Proposed Penalty: \$32,500**

Dayton

Count 1 Failure to report in a timely manner for maleic anhydride manufactured, processed and otherwise used in calendar year 2006, Circumstance Level 1, Extent Level A \$ 32,500  
Count 2 Failure to report in a timely manner for maleic anhydride manufactured, processed and otherwise used in calendar year 2007, Circumstance Level 1, Extent Level A \$ 32,500  
Count 3 Failure to report in a timely manner for maleic anhydride manufactured, processed and otherwise used in calendar year 2008, Circumstance Level 4, Extent Level B \$ 12,342  
**Total: \$77,342**  
**Total Proposed Penalty: \$77,300**

Pensacola

Count 1 Failure to report in a timely manner for nitrates manufactured in calendar year 2007, Circumstance Level 1, Extent Level B \$21,922  
Count 2 Failure to report in a timely manner for sodium nitrite otherwise used in calendar year 2007, Circumstance Level 1, Extent Level A \$32,500  
**Total: \$54,422**  
**Total Proposed Penalty: \$54,400**

**Cumulative Total for Part I Violations: \$389,900**

**Part II: Data Quality**

Chocolate Bayou

Count 1 Failure to calculate or provide reasonable estimate of releases for ethylbenzene in calendar year 2006, Circumstance Level 3, Extent Level B \$12,895  
Count 2 Failure to calculate or provide reasonable estimate of releases for toluene in calendar year 2006, Circumstance Level 3, Extent Level B

		\$12,895
Count 3	Failure to calculate or provide reasonable estimate of releases for xylene, in calendar year 2006, Circumstance Level 3, Extent Level B	\$12,895
Count 4	Failure to calculate or provide reasonable estimate of releases for methyl isobutyl ketone in calendar year 2006, Circumstance Level 3, Extent Level B	\$12,895
Count 5	Failure to calculate or provide reasonable estimate of releases for ethylbenzene in calendar year 2007, Circumstance Level 3, Extent Level B	\$12,895
Count 6	Failure to calculate or provide reasonable estimate of releases for toluene in calendar year 2007, Circumstance Level 3, Extent Level B	\$12,895
Count 7	Failure to calculate or provide reasonable estimate of releases for xylene, in calendar year 2007, Circumstance Level 3, Extent Level B	\$12,895
Count 8	Failure to calculate or provide reasonable estimate of releases for methyl isobutyl ketone in calendar year 2007, Circumstance Level 3, Extent Level B	\$12,895
Count 9	Failure to calculate or provide reasonable estimate of releases for ethylbenzene in calendar year 2008, Circumstance Level 3, Extent Level B	\$14,170
Count 10	Failure to calculate or provide reasonable estimate of releases for toluene in calendar year 2008, Circumstance Level 3, Extent Level B	\$14,170
Count 11	Failure to calculate or provide reasonable estimate of releases for xylene, in calendar year 2008, Circumstance Level 3, Extent Level B	\$14,170
Count 12	Failure to calculate or provide reasonable estimate of releases for methyl isobutyl ketone in calendar year 2008, Circumstance Level 3, Extent Level B	<u>\$14,170</u>

Total Penalty            \$159,840  
 Total Proposed Penalty    \$159,800  
 (Per Skinner Memo, 9/21/04)

**Cumulative Total for Part II Violations: \$159,800**

**Total Proposed Penalty for Part I and Part II Violations Combined: \$549,700**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

Certified Mail No. 7000 0520 0021 6107 7004  
Return Receipt Requested

Re: EPCRA-09-2011- 0020

Date: SEP 30 2011

Elizabeth McDaniel  
Vice President, EHS  
Americas Region  
Huntsman Corporation  
8600 Gosling Road  
The Woodlands, TX 77381

Dear Ms. McDaniel:

Enclosed please find your copy of the fully executed Consent Agreement and Final Order Pursuant to 40 C.F.R. Sections 22.13 and 22.18 which contains the terms of the settlement reached as a result of your voluntary disclosure under EPA's *Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations* (EPA Audit Policy). Your completion of all actions enumerated in the Consent Agreement and Final Order will close this case. If you have any questions, please contact Patricia Maravilla at (415) 947-4177.

Sincerely,

A handwritten signature in black ink, appearing to read "Enrique Manzanilla", with a long horizontal line extending to the right.

Enrique Manzanilla, Director  
Communities and Ecosystems Division

Enclosure