EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Christine M. Foot 4/20/17
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number CAA-01-2017-0038

Site-specific Superfund (SF) Acct. Number ____________

✓ This is an original debt ____ This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Solutia Inc.
730 Worcester Street
Sprinfield, MA 01151

Total Dollar Amount of Receivable $ 15,222 Due Date: 5/21/17

SEP due? Yes ✓ No ____ Date Due ____

Installment Method (if applicable)

INSTALLMENTS OF:

1st $ ____________ on ____

2nd $ ____________ on ____

3rd $ ____________ on ____

4th $ ____________ on ____

5th $ ____________ on ____

For RHC Tracking Purposes:

Copy of Check Received by RHC ____________ Notice Sent to Finance ____________

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number ____________

If you have any questions call: ____________ ____________
in the Financial Management Office Phone Number

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

April 20, 2017

BY HAND

RECEIVED
APR 20 2017
EPA ORC WS
Office of Regional Hearing Clerk

Wanda I. Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency-Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912

Re: *In the Matter of: Solutia Inc.*; Docket No. CAA-01-2017-0038

Dear Ms. Santiago:

Enclosed for filing, please find a Consent Agreement and Final Order (CAFO) settling the matter referenced above.

Thank you for your attention to this matter.

Sincerely,

Christine M. Foot
Enforcement Counsel
EPA Region 1

Enclosures

cc: Steven I. Addlestone, Esq., Eastman Chemical Co. (via email, w/o enclosure)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND

IN THE MATTER OF Solutia Inc. 730 Worcester Street Springfield, MA 01151 Respondent Proceeding under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d)	)))))))))))	Docket No. CAA-01-2017-0038 **CONSENT AGREEMENT AND FINAL ORDER**

CONSENT AGREEMENT

The United States Environmental Protection Agency ("EPA" or "Complainant") and Solutia Inc. ("Solutia" or "Respondent"), consent to the entry of this Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. § 22.13(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination, or Suspension of Permits, 40 C.F.R. Part 22 ("Consolidated Rules of Practice"). This CAFO resolves Respondent's liability for alleged violations of the chemical accident prevention provisions of Section 112(r)(7) of the Clean Air Act ("CAA"), 42 U.S.C. § 7412(r)(7), and the implementing federal Risk Management Program regulations found at 40 C.F.R. Part 68 ("RMP Regulations").

EPA and Respondent agree to settle this matter through this CAFO without the filing of an administrative complaint, as authorized under 40 C.F.R. § 22.13(b) and 22.18(b). EPA and Respondent agree that settlement of this cause of action is in the public interest and that entry of this CAFO without litigation is the most appropriate means of resolving this matter.

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Office of Regional Hearing Clerk

NOW, THEREFORE, before taking any testimony, without adjudication of any issue of fact or law, without Respondent admitting or denying any factual or legal allegations herein, and upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

I. PRELIMINARY STATEMENT

1. This CAFO both initiates and resolves an administrative action for the assessment of monetary penalties, pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d). As more thoroughly discussed in Sections III and IV below, the CAFO resolves the following CAA violations that Complainant alleges occurred in conjunction with Respondent's handling of vinyl acetate monomer at its Springfield, Massachusetts plastics and resins manufacturing facility:

(a) *Failure to comply with safety information requirements*, in violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. § 68.65;

(b) *Failure to adequately identify, evaluate, and control hazards*, in violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. § 68.67(e);

(d) *Failure to comply with Program 3 operating procedures requirements*, in violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. § 68.69; and

(d) *Failure to comply with Program 3 mechanical integrity requirements*, in violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. § 68.73.

II. APPLICABLE STATUTES AND REGULATIONS

Statutory and Regulatory Authority

2. Section 112(r) of the CAA, 42 U.S.C. § 7412(r), authorizes EPA to promulgate regulations and programs in order to prevent, and minimize the consequences of, accidental releases of certain regulated substances. In particular, Section 112(r)(3) of the CAA, 42 U.S.C.

§ 7412(r)(3), mandates that EPA promulgate a list of substances that are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment if accidentally released. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), requires that EPA establish, for each listed substance, the threshold quantity over which an accidental release is known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health. Finally, Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires EPA to promulgate requirements for the prevention, detection, and correction of accidental releases of regulated substances, including a requirement that owners or operators of certain stationary sources prepare and implement a Risk Management Plan ("RMP").

3. The RMP Regulations promulgated pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), are found at 40 C.F.R. Part 68.

4. Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E), renders it unlawful for any person to operate a stationary source subject to the regulations promulgated under the authority of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), in violation of such regulations.

5. Forty C.F.R. § 68.130 lists the substances regulated under Part 68 ("RMP chemicals" or "regulated substances") and their associated threshold quantities, in accordance with the requirements of Sections 112(r)(3) and (7) of the CAA, 42 U.S.C. §§ 7412(r)(3) and (7). This list includes vinyl acetate monomer as an RMP chemical and identifies a threshold quantity of 15,000 pounds.

6. A "process" is defined by 40 C.F.R. § 68.3 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.

7. Under 40 C.F.R. § 68.10, an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process must comply with the requirements of Part 68 by no later than the latest of the following dates: (a) June 21, 1999; (b) three years after the date on which a regulated substance is first listed under 40 C.F.R. § 68.130; or (c) the date on which a regulated substance is first present above a threshold quantity in a process.

8. Each process in which a regulated substance is present in more than a threshold quantity ("covered process") is subject to one of three risk management programs. Program 1 is the least comprehensive, and Program 3 is the most comprehensive. Pursuant to 40 C.F.R. § 68.10(b), a covered process is subject to Program 1 if, among other things, the distance to a toxic or flammable endpoint for a worst-case release assessment is less than the distance to any public receptor. Under 40 C.F.R. § 68.10(d), a covered process is subject to Program 3 if the process does not meet the eligibility requirements for Program 1 and is either in a specified NAICS code, including the NAICS code "325211" (plastics materials and resin manufacturing), or subject to the Occupational Safety and Health Administration process safety management standard at 29 C.F.R. § 1910.119. Under 40 C.F.R. § 68.10(c), a covered process that meets neither Program 1 nor Program 3 eligibility requirements is subject to Program 2.

9. Forty C.F.R. § 68.12 mandates that the owner or operator of a stationary source subject to the requirements of Part 68 submit an RMP to EPA, as provided in 40 C.F.R. § 68.150. The RMP documents compliance with Part 68 in a summary format. For example, the RMP for a Program 3 process documents compliance with the elements of a Program 3 Risk Management Program, including 40 C.F.R. § Part 68, Subpart A (including General Requirements and a Management System to Oversee Implementation of RMP); 40 C.F.R. Part 68, Subpart B (Hazard

Assessment to Determine Off-Site Consequences of a Release); 40 C.F.R. Part 68, Subpart D (Program 3 Prevention Program); and 40 C.F.R. Part 68, Subpart E (Emergency Response Program).

10. Additionally, 40 C.F.R. § 68.190(b) requires that the owner or operator of a stationary source revise and update the RMP submitted to EPA at least once every five years from the date of its initial submission or most recent update. Other aspects of the prevention program must also be periodically updated.

11. Sections 113(a) and (d) of the CAA, 42 U.S.C. §§ 7413(a) and (d), as amended by EPA's 2008 Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, promulgated in accordance with the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701, provide for the assessment of civil penalties for violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), in amounts up to $37,500 per day for violations occurring after January 12, 2009 and before November 3, 2015.

12. EPA and the U.S. Department of Justice have jointly determined that this action is an appropriate administrative penalty action under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1).

III. GENERAL ALLEGATIONS

13. Solutia is a corporation organized under the laws of the State of Delaware, with its principal office located in Kingsport, Tennessee.[1] As a corporation, Solutia is a "person" within the meaning of Section 302(e) of the CAA, 42 U.S.C. § 7602(e), against whom an administrative

[1] Solutia is a wholly owned subsidiary of Eastman Chemical Corporation, which also has its principal office in Kingsport, Tennessee. Solutia's 2015 RMP filing indicates that the company "retains corporate structure" in St. Louis, Missouri, but its corporate filings with the Secretary of the Commonwealth of Massachusetts indicate that Solutia's principal office is in Kingsport, Tennessee.

order assessing a civil penalty may be issued under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1).

14. At all times relevant to the violations alleged herein, Respondent was the "owner or operator," including as that term is defined at Section 112(a)(9) of the CAA, 42 U.S.C. § 7412(a)(9), of a plastics and resins manufacturing facility at 730 Worcester Street in Springfield, Massachusetts ("Facility").

15. On May 15, 2014, EPA inspectors visited the Facility ("Inspection") to assess Respondent's compliance with Section 112(r) of the CAA and with Sections 302–312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA").

16. The Facility is located in an industrial park known as Indian Orchard, which encompasses 250 acres and consists of several subsections. The Facility includes an area known as the "South Butvar Department" and another known as the "Adhesives Department." At the time of the Inspection, the Adhesives Department was no longer active and was in the process of being decommissioned, which formally occurred in October of 2014.[2]

17. Respondent uses vinyl acetate monomer in one or more "processes" at the Facility, as defined by 40 C.F.R. § 68.3, in its production of certain chemical products. The vinyl acetate monomer arrives at the Facility via rail car or tanker truck. Vinyl acetate monomer, among other chemicals, is unloaded from railcars at the Railcar Unloading Station. During unloading, the vinyl acetate monomer is pumped into a vinyl acetate monomer bulk storage tank ("VAM Tank"), where it is stored until used in the production process ("VAM Process"). Historically, both the Adhesives Department and the South Butvar Department used vinyl acetate monomer from the VAM Tank in their operations, but following the shut-down of the Adhesives

[2] Before the Adhesives Department was shut down, it was owned by the chemical company Henkel but was operated and maintained by Solutia.

Department, only the South Butvar Department continued to use the vinyl acetate monomer. The VAM Tank was installed in 1955 and has a capacity of 200,000 gallons. The VAM Tank sits on a short pedestal within a large containment pit.

18. The Facility is a building or structure from which an accidental release may occur and is therefore a "stationary source," as defined at Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).

19. In 2010, Respondent filed a Program 3 RMP and reported that it used vinyl acetate monomer in three processes at the Facility: the South Butvar process used 1,000,000 pounds,[3] the Adhesives process used 1,300,000 pounds, and the Building 89 process used 34,000 pounds. After the Adhesives Department was formally shut down in October of 2014, Respondent submitted an updated RMP in August of 2015 reflecting this change: it reported only the South Butvar process, containing 2,300,000 pounds of vinyl acetate monomer (including the vinyl acetate monomer in up to five railcars). Likewise, EPCRA chemical inventory reports submitted by Respondent for reporting years 2013, 2014, and 2015 also each indicate that Respondent stored vinyl acetate monomer in amounts greater than 15,000 pounds at the Facility in each of these years.

20. Accordingly, the VAM Process is a "covered process" subject to the provisions of Part 68 because Respondent "uses," "stores," or "handles" the RMP chemical vinyl acetate monomer at the Facility in an amount greater than 15,000 pounds.

21. The Facility is located along the Chicopee River in a densely populated area. It is within one-half of a mile from a college, Interstate 90, and residences, including a residential

[3] The 2010 RMP noted that the reporting of the quantity of vinyl acetate monomer stored in up to five railcars from the Adhesives process, where it had been reported in 1999 and 2004, was being transferred to the South Butvar process.

trailer park. It is also within one mile of businesses, a large U.S. Postal Service facility, a truck stop and hotel, and many more residences, including another residential trailer park.

22. According to Respondent's 2010 and 2015 RMPs, the endpoint for a worst case release of the amount of vinyl acetate monomer used in the VAM Process is greater than the distance to a public receptor. Likewise, modeling performed by EPA indicates that the endpoint for a worst case release from the VAM Process is greater than the distance to a public receptor.

23. Additionally, the Facility falls within NAICS code 325211.

24. Therefore, in accordance with 40 C.F.R. § 68.10(a)–(d), Respondent's use, storage, and handling of vinyl acetate monomer in the VAM Process is subject to the requirements of RMP Program 3.

25. During the Inspection of the Facility, EPA requested and received certain documentation pertaining to the VAM Process and the Facility, including a RMP eSubmit form dated January 5, 2012[4] and a hardcopy of a procedure titled "South Butvar Vinyl Acetate Railcar Unloading."

26. The Inspection and EPA's review of subsequently submitted information revealed some potentially dangerous conditions relating to the VAM Process at the time of Inspection, including that Respondent:

a. Had not properly labeled several aspects of the VAM Process, in that much of the piping associated with the VAM Tank was not sufficiently labeled, the emergency shut-off switch ("kill button") for the chemical unloading control system at the Railcar Unloading Station was not labeled, and the informational nameplate on the VAM Tank had been painted over and was difficult to read;

[4] However, it does not appear that Respondent ever submitted this RMP via the Central Data Exchange system.

b. Had not adequately addressed hazards in its Process Hazard Analyses ("PHA") that exist at the Facility due to possible earthquakes, floods, tornadoes, and hurricanes, which are all credible threats at the Facility;

c. Had inadequate standard operating procedures ("SOPs"), in that the SOPs associated with the unloading of vinyl acetate monomer (Vinyl Acetate Railcar Unloading, Tank Pit 5 General Safety, and Tank Pit 5 Unloading Computer Operations #1-3) did not have clear cross-references between them, were not updated to reflect all changes in operations (like the idling of the short stop tanks), and were not annually certified to be current and accurate for at least the years 2012 and 2013; and

d. Had not implemented an adequate mechanical integrity program to ensure proper maintenance and safe functioning of the VAM Process, including by not fixing the chemical unloading hose, which was leaking.

IV. VIOLATIONS

Count 1: Failure to Comply with Safety Information Requirements

27. The allegations in Paragraphs 1 through 26 of this document are realleged and incorporated herein by reference.

28. Pursuant to 40 C.F.R. § 68.65, the owner or operator of a Program 3 process is required, among other things, to compile written process safety information before completing the PHA, in order to perform an adequate PHA and to enable proper maintenance of process equipment. This requirement includes documenting information pertaining to the hazards of the RMP chemical in the process; information pertaining to the technology and equipment of the process, including that the equipment complies with recognized and generally accepted good engineering practices ("RAGAGEP"); and information showing that any equipment that was

designed according to outdated standards is designed, maintained, inspected, tested, and operated in a safe manner. This compilation enables appropriate identification and understanding of hazards posed by regulated substances in the process and the technology and equipment of the process.

29. As described above in Paragraph 26(a), at the time of the Inspection, Respondent failed to document that the VAM Process complied with RAGAGEP, in that Respondent had not adequately labeled various pipes and components of the VAM Process. For piping, the recommended industry practice and standard of care is to employ a standard identification system, to identify all piping as to contents, direction of the flow, and pressure and temperature (as necessary), and to place labels close to valves, flanges, changes in direction, branches, and at sufficient intervals on straight piping runs to readily allow for identification. See, e.g., Amer. Soc'y of Mech. Eng'rs, Standard A13.1-2007: Scheme for the Identification of Piping Systems § 3 (2007). Likewise, the recommended industry practice and standard of care is to label the main/emergency shut-off valve of a chemical system, like the "kill" button of the Railcar Unloading Station. See, e.g., 29 C.F.R. §1910.303(f)(1) (OSHA PSM standard requiring "disconnecting means and circuits" be "legibly marked to indicate its purpose"). Finally, the nameplate on the VAM Tank had been painted over and was difficult to read. The recommended industry practice and standard of care is to identify tanks with a nameplate with information about the tank's manufacturer and specifications. See generally Amer. Soc'y of Mech. Eng'rs, Boiler and Pressure Vessel Code, Sec. VIII, Div. 1; Nat'l Bd. of Boiler and Pressure Vessel Inspectors, Nat'l Bd. Inspection Code, Pt. 2 (concerning procedures to follow when nameplates are missing).

30. By failing to compile the necessary information about the technology and equipment of the VAM Process, including by documenting that the VAM Process complied with RAGAGEP, Respondent violated 40 C.F.R. § 68.65 and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 2: Failure to Adequately Identify, Evaluate, and Control Hazards

31. Complainant realleges and incorporates by reference paragraphs 1 through 30 of this document.

32. Pursuant to 40 C.F.R. § 68.67, the owner or operator of a Program 3 process is required, among other things, to perform an initial PHA on each covered process. The PHA must identify, evaluate, and control the hazards involved in the process. The owner or operator must update the PHA every five years and when a major change in the process occurs. Additionally, the owner or operator must establish a system for addressing the recommendations identified in the PHA, including by defining a schedule for completing the action items, taking the actions as soon as possible, and documenting the resolution of the recommendations.

33. As described in Paragraph 26(b) above, Respondent's PHA did not adequately identify or address hazards that exist at the Facility due to possible earthquakes, floods, tornadoes, and hurricanes, which are all credible threats at the Facility. Solutia is located in a Federal Emergency Management Agency moderate intensity earthquake zone, Massachusetts is a coastal state, rendering it vulnerable to hurricanes, the Facility is located along the Chicopee River, resulting in the potential for flooding, and the City of Springfield suffered significant tornado damage as recently as 2011.

34. By failing to adequately identify, evaluate, and control hazards, Respondent violated 40 C.F.R. § 68.67(e) and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 3: Failure to Comply with Program 3 Operating Procedures Requirements

35. Complainant realleges and incorporates by reference paragraphs 1 through 34 of this document.

36. Pursuant to 40 C.F.R. § 68.69, the owner or operator of a Program 3 process is required to develop and implement written operating procedures that provide clear instruction for safely conducting activities in the covered process, to review and update those procedures as often as necessary to reflect current operating practice, and to annually certify that such operating procedures are current and accurate.

37. As described in Paragraph 26(c), above, at the time of Inspection, Respondent did not have adequate written RMP operating procedures, in that the operating procedures included unclear internal cross-references, were not updated to reflect current practices, and were not annually certified.

38. By failing to comply with the operating procedures requirements, Respondent violated 40 C.F.R. § 68.69 and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 4: Failure to Comply with Program 3 Mechanical Integrity Requirements

39. Complainant realleges and incorporates by reference paragraphs 1 through 38 of this document.

40. Pursuant to 40 C.F.R. § 68.73, the owner or operator of a Program 3 process must establish and implement written procedures to maintain the ongoing integrity of certain process equipment and train employees accordingly. The owner or operator must inspect and test the equipment either in accordance with the manufacturer's recommendations and good engineering practices, or more frequently if needed based on prior operating experience. The owner or operator must also document the inspections or tests on process equipment, correct deficiencies,

assure that any new equipment is suitable for the process application, perform checks to ensure that equipment is installed properly, and assure that maintenance materials and spare parts are suitable for the process application.

41. As described in Paragraph 26(d), above, at the time of Inspection, Respondent had not maintained the mechanical integrity of the VAM Process, given that the vinyl acetate monomer withdrawal hose at the Railcar Unloading Station was leaking its contents, reflecting a failure to properly maintain this piece of equipment and to ensure its proper installation.

42. By failing to establish and implement a sufficient mechanical integrity program and by not correcting equipment deficiencies before further use or in a safe and timely manner, Respondent violated 40 C.F.R. § 68.73 and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

V. TERMS OF SETTLEMENT

43. The provisions of this CAFO shall apply to and be binding on EPA and on Respondent, its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

44. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO and that the CAFO states a claim upon which relief can be granted against Respondent. Respondent waives any defenses it might have as to jurisdiction and venue and, without admitting or denying the factual and legal allegations contained herein, consents to the terms of this CAFO.

45. Respondent hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in this CAFO and waives its right to appeal the Final Order.

46. Respondent certifies that it has corrected the violations alleged in this CAFO and continues to operate the Facility in compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

47. Respondent consents to the issuance of this CAFO and consents for purposes of settlement to the performance of the Supplemental Environmental Project ("SEP") described in paragraphs 48 through 63 below to the payment of the civil penalty cited in paragraph 64 below.

Supplemental Environmental Projects

48. Respondent shall satisfactorily complete the Emergency Planning and Preparedness SEP described below and described in the Scope of Work attached to this CAFO as Exhibit A, which is incorporated herein by reference and which is enforceable by this CAFO. Respondent has selected the Fire Department for the City of Springfield to receive emergency response equipment under the SEP. The Parties agree that the SEP is intended to secure significant environmental and public health protection and benefits by enhancing the emergency planning and chemical spill response capabilities of the Springfield Fire Department.

49. The SEP is anticipated to cost approximately $59,779. "Satisfactory completion" of the SEP shall mean: (a) providing the Springfield Fire Department with emergency response equipment, according to the requirements and deadlines described in Exhibit A; (b) ensuring that the Fire Department is trained to use such equipment; and (c) spending approximately $59,779 to carry out the SEP.

50. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report described in paragraph 54 below.

51. With regard to the SEP, Respondent hereby certifies the truth and accuracy of each of the following:

a. that all cost information provided to EPA in connection with EPA's approval of the SEP is complete and accurate and that Respondent, in good faith, estimates that the cost to complete the SEP is $59,779;

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 receive credit for the SEP in any other enforcement action;

e. that Respondent will not receive any reimbursement for any portion of the SEP from any other person;

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 be used to fund the same activity as the SEP; and

h. that Respondent has inquired of the Springfield Fire Department whether it is a party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP and has been informed by the Springfield Fire Department that it is not a party to such a transaction.

52. For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement loan, federally-guaranteed loan guarantee, or other mechanism for providing federal financial assistance whose performance period has not yet expired.

53. Respondent hereby waives any confidentiality rights they have under 26 U.S.C. § 6103 with respect to such SEP costs on their tax returns and on the information supporting their tax returns. This waiver of confidentiality is solely as to EPA and the Department of Justice and solely for the purpose of ensuring the accuracy of Respondent's SEP cost certification.

54. Respondent shall submit a SEP Completion Report to EPA within thirty (30) days of completion of the SEP. The SEP Completion Report shall contain the following information:

a. A detailed description of the SEP as implemented, including a list of the equipment purchased and provided to the Springfield Fire Department;
b. A description of any implementation problems encountered and the solutions thereto;
c. Itemized costs, documented by copies of invoices, purchase orders, receipts, canceled checks, or wire transfer records that specifically identify and itemize the individual costs associated with the SEP. Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such;
d. Certification that the SEP has been fully completed;
e. A description of the environmental and public health benefits resulting from the implementation of the SEP;
f. A statement that no tax returns filed or to be filed by Respondent will contain deductions or depreciations for any expense associated with the SEP; and

g. The following statement, signed by Respondent's officer, under penalty of law, attesting that the information contained in the SEP Completion Report is true, accurate, and not misleading:

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

55. Respondent shall submit all notices and reports required by this CAFO, by first class mail or any other commercial delivery service, to:

Christine M. Foot, Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912

and

Leonard B. Wallace IV, Enforcement Officer
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mailcode: OES05-1
Boston, MA 02109-3912

56. Respondent shall maintain, for a period of three (3) years from the date of submission of each SEP Completion Report, legible copies of all research, data, and other information upon which the Respondent relied to write the SEP Completion Report and shall provide such documentation within fourteen (14) days of a request from EPA.

57. Respondent agrees that failure to submit the SEP Completion Report shall be deemed a violation of this CAFO, and the Respondent shall become liable for stipulated penalties in accordance with paragraph 60(c) below.

58. After receipt of the SEP Completion Report described in paragraph 54 above, EPA will notify Respondent in writing: (i) indicating that the project has been completed satisfactorily; (ii) identifying any deficiencies in the SEP Completion Report itself and granting Respondent an additional thirty (30) days to correct any deficiencies; or (iii) determining that the project has not been completed satisfactorily and seeking stipulated penalties in accordance with paragraph 60 below.

59. If EPA elects to exercise options (ii) or (iii) in paragraph 58 above, Respondent may object in writing to the notice of deficiency given pursuant to this paragraph within ten (10) days of receipt of such notice, except that this right to object shall not be available if EPA found that the project was not completed satisfactorily because Respondent failed to implement or abandoned the project. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of Respondent's objection to reach agreement on changes necessary to the SEP or SEP Completion Report. If agreement cannot be reached on any such issue within this thirty (30) day period as may be extended by the written agreement of both EPA and Respondent, EPA shall provide a written statement of its decision on the adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon Respondent. Respondent agrees to comply with any reasonable requirements imposed by EPA that are consistent with this CAFO as a result of any failure to comply with the terms of this CAFO. In the event that the SEP is not completed as contemplated herein, as determined by EPA, stipulated penalties shall be due and payable by Respondent in accordance with paragraph 60 below.

STIPULATED PENALTIES

60. In the event that Respondent fails to satisfactorily complete the SEP as outlined in Exhibit A, Respondent shall be liable for stipulated penalties in accordance with the provisions set

forth below. The determination of whether the SEP has been satisfactorily completed shall be in the sole discretion of EPA.

a. If EPA determines that Respondent completely or substantially failed to implement the SEP in accordance with this CAFO, Respondent shall pay a stipulated penalty to the United States in the amount of $74,724, plus interest from the effective date of the CAFO;[5]

b. If Respondent spends less than $59,779 on the SEP but EPA determines that Respondent otherwise satisfactorily completes the SEP, Respondent shall only be required to pay a stipulated penalty to the United States in the amount equal to the difference between $59,779 and the actual amount spent on the SEP, plus interest from the effective date of this CAFO;

c. After giving effect to any extensions of time granted by EPA, Respondent shall pay a stipulated penalty in the amount of $200 for each day the SEP Completion Report required by paragraph 54 above is late.

d. 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 65 below. Interest and late charges shall be paid as stated in Paragraph 67 below.

61. EPA may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this CAFO.

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[5] This SEP includes several equipment purchases. If Respondent's substantial or complete failure to implement the SEP is attributable to the failure to perform of one or more but not all of the purchases, the stipulated penalty would be 125% of the estimated cost for each such purchase, as outlined in Exhibit A.

62. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim, as further discussed in paragraph 67 below.

63. Any public statement, oral or written, in print, film, or other media, made by Respondent or its contractors making reference to a SEP 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 violations of the Clean Air Act."

Civil Penalty

64. Pursuant to Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and taking into account the relevant statutory penalty criteria, the facts alleged above, and such other circumstances as justice may require, EPA has compromised the maximum civil penalty. Accordingly, EPA has determined that it is appropriate to assess a civil penalty of $15,222 for the violations alleged in this CAFO, and Respondent consents to payment of this penalty.

65. Within thirty (30) days of the effective date of this CAFO, Respondent shall make a payment by cashier's or certified check, or by wire transfer, in the amount of $15,222 and shall include the case name and docket number (CAA-01-2017-0038) on the face of the check or wire transfer confirmation. A check should be payable to "Treasurer, United States of America." The payment shall be remitted as follows:

If remitted by regular U.S. mail:
U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

If remitted by any overnight commercial carrier:
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101
Include the phrase "Government Lockbox 979077" on the shipping label.

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:
Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

In addition, at the time of payment, Respondents should also forward notice of payment of the civil penalty as well as copies of the payment check or payment receipt to:

Wanda I. Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code ORA18-1
Boston, MA 02109-3912

and

Christine Foot, Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912

66. **Collection of Unpaid Civil Penalty:** Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), if Respondent fails to pay any portion of the civil penalty amount relating to the alleged violations, it will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Interest will be assessed on the civil penalty if it is not paid within thirty (30) calendar days of the effective date of this CAFO. In that event,

interest will accrue from the effective date of this CAFO at the "underpayment rate" established pursuant to 26 U.S.C § 6621(a)(2). In the event that a penalty is not paid when due, an additional charge will be assessed to cover the United States' enforcement expenses, including attorneys' fees and collection costs. In addition, a quarterly nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondent's outstanding civil penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

67. **Collection of Unpaid Stipulated Penalty**: Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. In the event that any portion of the stipulated penalty relating to the performance of the SEP and accrued pursuant to paragraph 60 above is not paid when due, the penalty shall be payable, plus accrued interest, without demand. Interest shall be payable at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2) and shall accrue from the original date on which the penalty was due to the date of payment. In addition, a penalty charge of six percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

68. All penalties, interest, and other charges provided for under this CAFO, and any interest, nonpayment penalties, and charges described in this CAFO, shall represent penalties

assessed by EPA within the meaning of 26 U.S.C. § 162(f) and are not deductible for purposes of federal, state, or local law. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

69. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law.

70. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 113(d) of the CAA for the specific violations alleged in this CAFO. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with said laws and regulations.

71. By signing this Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

72. Nothing in this CAFO shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this CAFO or of the statutes and regulations upon which this CAFO is based, or for Respondent's violation of any applicable provision of law.

73. This CAFO in no way relieves Respondent or its employees of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority

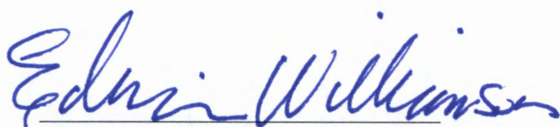
to seek injunctive relief and the authority to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

74. Each party shall bear its own costs and fees in this proceeding including attorneys' fees, and specifically waive any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

75. The terms, conditions, and requirements of this CAFO may not be modified without the written agreement of all Parties and the approval of the Regional Judicial Officer, except that the Regional Judicial Officer need not approve written agreements modifying the SEP schedule described in Exhibit A. In accordance with 40 C.F.R. § 22.31(b), the effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk.

76. Each undersigned representative of the parties certifies that he or she is fully authorized by the party responsible to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

For Respondent:



Edwin Williamson, Vice President
Solutia, Inc.

April 10, 2017
Date

For Complainant:

Susan Studlien, Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region 1 – New England

04/17/2017
Date

EXHIBIT A

<u>Scope of Work for Supplemental Environmental Project</u>

Respondent shall purchase and deliver, or shall ensure the purchase and delivery of, the following emergency response equipment to the Springfield Fire Department, the response agency that operates in the vicinity of the Facility, by May 31, 2017:

- One (1) Wireless transportable area detector, at an approximate cost of $13,890;
- One (1) Mobile Command Center and Device Fleet Manager Software system, at an approximate cost of $1,000;
- One (1) Multi-function Modem with GPS, at an approximate cost of $2,550;
- Two (2) Calibration Gas (116 Liter), at an approximate cost of $878 ($439 each);
- Three (3) UV Handheld Sanitizers, at an approximate cost of $1,785 ($595 each);
- Four (4) UV Room/Vehicle Sanitizers, at an approximate cost of $2,380 ($595 each);
- One (1) First Responder Robot, at an approximate cost of $19,933;
- One (1) First Responder Drone, at an approximate cost of $14,099; and
- Three (3) Portable Drones, at an approximate cost of $3,264 ($1,088 each).

The equipment will enhance local responses to emergencies involving releases of chemicals that are regulated pursuant to Section 112(r) of the Clean Air Act, including vinyl acetate monomer. The equipment will help keep public safety personnel from coming into contact with dangerous toxic and flammable materials. The wireless transportable area monitor and associated equipment can detect toxic and combustible gases, volatile organic compounds, radiation, and meteorological factors for enhanced situational awareness during response activities. Ultraviolet sanitizers provide rapid decontamination of surfaces and equipment. The first responder robot is capable of investigating dangerous and hazardous materials while keeping a responder out of harm's way. The first responder drone is an emergency response assessment tool with visual and thermal imaging capabilities to assess emergency situations. The portable drones are capable of investigating inside buildings during response activities while avoiding walls and other obstacles.

Respondent shall also ensure that the Springfield Fire Department is trained to use the equipment.

The total cost of this SEP is approximately $59,779.

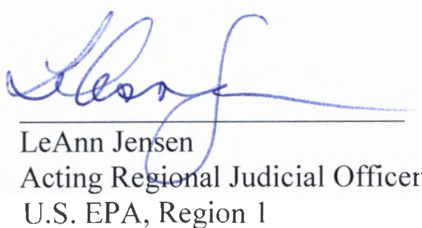
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND

IN THE MATTER OF Solutia, Inc. 730 Worcester St Springfield, MA 01151 Respondent Proceeding under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d)	)))))))))))	Docket No. CAA-01-2016-0031 **CONSENT AGREEMENT** **AND FINAL ORDER**

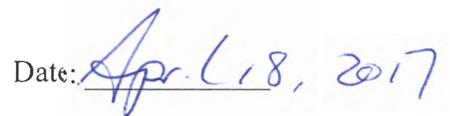
FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(c) of EPA's Consolidated Rules of Practice, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

The Respondent, as specified in the Consent Agreement, is hereby ordered to comply with the terms of the above Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.



LeAnn Jensen
Acting Regional Judicial Officer
U.S. EPA, Region 1

Date: 

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND

IN THE MATTER OF Solutia Inc. 730 Worcester Street Springfield, MA 01151 Respondent Proceeding under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d)	)))))))))))	Docket No. CAA-01-2017-0038 **CONSENT AGREEMENT AND FINAL ORDER**

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date noted below:

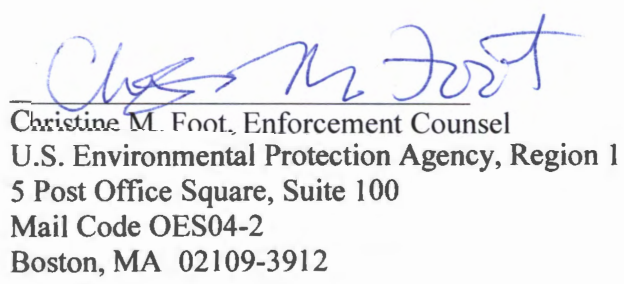
Original and one copy (hand-delivered):

Ms. Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
Mail Code ORA18-1
Boston, MA 02109-3912

Copy (certified mail, return receipt requested):

Steven I. Addlestone, Senior Counsel
HSE Legal Services
Eastman Chemical Company
Building 280
200 S. Wilcox Drive
Kingsport, TN 37660

Dated: 4/20/17



Christine M. Foot, Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912