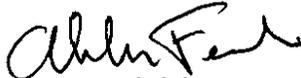
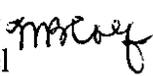


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

MEMORANDUM

SUBJECT: Consent Agreement and Final Order
In the Matter of: Sasol North America, Inc.
Docket No. RCRA-03-2008-0013

FROM: Abraham Ferdas, Director 
Waste and Chemicals Management Division

William C. Early 
Regional Counsel

TO: Renée Sarajian
Regional Judicial Officer (3RC00)

The attached Consent Agreement and Final Order both commences and concludes a matter negotiated in settlement of alleged violations of the authorized State of Maryland Hazardous Waste Management Regulations, enforceable by EPA under Section 3008(a) of Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a), pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22.13(b).

The attached Final Order directs Respondents to pay a civil penalty in the amount of \$95,000.00 and carry out a Compliance Order contained in the CAFO.

We recommend that you sign the attached Final Order. After you execute the Final Order, please return the documents to Joyce Howell, x2644, for further processing.

Attachments

cc: Pamela Marks, Esq.

RECEIVED
MAY 29 11:30 AM '09

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

In the Matter of:

SASOL NORTH AMERICA INC.

DOCKET No. RCRA-03-2008-0013

Respondent.

CONSENT AGREEMENT

Facility Address:

3441 Fairfield Road
Baltimore, Maryland 21226



I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director, Waste and Chemicals Management Division, U.S. Environmental Protection Agency, Region III ("EPA," "Agency" or "Complainant") and Sasol North America Inc. ("Sasol" or "Respondent") pursuant to Section 3008(a) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act ("RCRA") of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as "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 ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3). This Consent Agreement and the accompanying Final Order address alleged violations by Respondent of RCRA and the State of Maryland Hazardous Waste Management Regulations ("MdHWMR"), set forth at the Code of Maryland Regulations ("COMAR"), Title 26, Subtitle 13 *et seq.* The MdHWMR were originally authorized by EPA on February 11, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b). Revisions to the Maryland Hazardous waste management program set forth at COMAR, Title 26, Subtitle 13 were authorized by EPA effective July 31, 2001 and September 24, 2004. The provisions of the revised authorized program are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

2. Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, this Consent Agreement and the attached Final Order (hereinafter jointly referred to as this "CAFO") simultaneously commence and conclude an administrative proceeding against Respondent, brought under Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), to resolve alleged violations of RCRA at Respondent's facility at 3441 Fairfield Road, Baltimore, Maryland (the "Facility").
3. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
4. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this Consent Agreement, except as provided in Paragraph 3, above.
5. Respondent agrees not to contest EPA's jurisdiction with respect to the execution and issuance of this CAFO, or the enforcement of the CAFO.
6. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
7. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
8. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

Notice of Action to the State of Maryland

9. EPA has given the State of Maryland, through the Maryland Department of the Environment ("MDE"), prior notice of the initiation of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant alleges the following findings of fact and conclusions of law:

10. Respondent is a corporation registered to do business in the State of Maryland.
11. Respondent is a person within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), 40 C.F.R. § 260.10, and COMAR 26.13. 01.03.B (61).
12. Respondent is the owner and operator of a linear alkylbenzene ("LAB") manufacturing

operation, located at 3441 Fairfield Road, Baltimore, Maryland 21226 (the "Facility").

13. In or about 1980, Respondent submitted to EPA a Notification of Hazardous Waste Activity ("Notification") for the Facility, pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, identifying itself as a generator of hazardous waste at the Facility. On or about August 18, 1980, the Facility was assigned EPA ID No. MDD990686222.
14. At the Facility, Respondent is a "generator" of materials described below that are "solid wastes" and "hazardous waste," as those terms are defined in COMAR 26.13.01.03.B (29), (73) and (31).
15. On February 15, 2006, a representative of EPA and a representative of MDE conducted a Compliance Evaluation Inspection ("CEI") at the Facility.
16. In accordance with the delegation of authority recited in Paragraph 1, above, MDE will make determinations with respect to the need for, and the requirements, implementation, and completion of any further remedial action resulting from the release on February 15, 2007 through February 23, 2007.

COUNT I

(Failure to Make a Waste Determination)

17. The allegations contained in Paragraphs 1 through 16 are incorporated herein by reference as though fully set forth at length.
18. COMAR 26.13.03.02A provides that a person who generates a solid waste as defined in COMAR 26.13.02.02 shall determine if that waste is a hazardous waste using the method set forth in COMAR 26.13.03.A-C.
19. As the person who generated the solid waste described in this Count, Respondent was required by COMAR 26.13.03.02A to determine if the solid waste it generated was hazardous waste using the method prescribed by COMAR 26.13.03.02A-C.
20. At Respondent's facility, at the time of the allegations, stormwater, utilities wastewater and process treated wastewater flowed through a concrete basin. This concrete basin is identified by Respondent as the "SSB." Water from the SSB can also flow into a retention basin identified by Respondent as the "Slip."
21. Solid waste with a concentration of .5 ppm benzene or greater is a hazardous waste (D018) pursuant to 40 C.F.R. § 261.24 and COMAR 26.13.02.14 because it exhibits the characteristic of "toxicity" for benzene.

22. On February 15, 2007, in connection with a release, Respondent treated, stored and/or disposed of a solid waste, i.e. wastewater with a concentration of benzene greater than .5 ppm and thus exhibiting the hazardous waste characteristic of "toxicity" (D018) into the Slip without first performing a hazardous waste determination on such solid waste. Respondent asserts such release was accidental.
23. Respondent failed to perform a hazardous waste determination, as required by COMAR 26.13.03.02, on solid waste it generated at the Facility.
24. Respondent violated COMAR 26.13.03.02A by failing to perform a hazardous waste determination on solid waste generated at the Facility and treated, stored and/or disposed into the Slip on February 15, 2007.

COUNT II

(Operation Without a Permit or Interim Status)

25. The allegations contained in Paragraphs 1 through 24 are incorporated herein by reference.
26. COMAR 26.13.07.01A provides that, subject to exceptions not applicable to this matter, a person may not operate any "facilities" within the meaning of COMAR 26.13.01.03.B (23) without first obtaining a valid permit from MDE.
27. The benzene-contaminated wastewater released into the Slip on February 15, 2007 caused the wastewater in the Slip to have an initial concentration of 300 ppm benzene on February 15, 2007, which reduced over time to .6 ppm on February 23, 2007.
28. From February 15 through February 23, 2007, Respondent engaged in the "storage, treatment and/or disposal" of a "hazardous waste" exhibiting the characteristic of toxicity for benzene (D018) in the Slip within the meaning of COMAR 26.13.01.03.B (76), (86), and (15) and COMAR 26.13.05.11A.
29. The Slip is a "surface impoundment" and a "facility" as those terms are defined in COMAR 26.13.01B(23) and (77).
30. Respondent is the "owner" and "operator" of the Slip and, therefore, the owner and operator of a "facility" as those terms are defined in COMAR 26.13.01.03B(59), (58), and (23).
31. Respondent did not obtain a permit from MDE before treating, storing and/or disposing benzene into the Slip as required by COMAR 26.13.07.01A.

32. Respondent violated COMAR 26.13.07.01A by operating a facility, i.e., a surface impoundment for the storage, treatment and/or disposal of hazardous waste, without a permit or interim status.

COUNT III
(Unpermitted Land Disposal)

33. The allegations contained in Paragraphs 1 through 32 are incorporated herein by reference as though fully set forth at length.
34. 40 C.F.R. § 268.38 provides that D018 waste, with exceptions not relevant here, is prohibited from land disposal.
35. The Slip is a “surface impoundment” within the meaning of COMAR 26.13.01.03.B(77).
36. Placement in a “surface impoundment” is “land disposal” within the meaning of 40 C.F.R. § 268.2(c).
37. On February 15, 2007 through February 23, 2007, Respondent violated 40 C.F.R. § 268.38 by placing D018 waste into the Slip.

III. COMPLIANCE ORDER

Respondent shall perform the Compliance Tasks set forth in paragraphs 38-43 below. “Days” as used herein shall mean calendar days unless specified otherwise.

38. Immediately cease the treatment, storage and/or disposal of hazardous wastes at the Facility except in accordance with a permit issued by, or an exemption or exclusion allowed by, the MdHWMR, COMAR 26.13.01.01 *et seq.* and/or EPA’s hazardous waste management regulations, 40 C.F.R. Parts 260-279, as applicable.
39. Within fourteen (14) days of Respondent’s receipt of the fully executed and filed CAFO, implement the hazardous waste determination sampling protocol attached to this CAFO (Attachment A) and incorporated by reference as though fully set forth herein. This protocol may be modified from time to time by Respondent based upon hazardous waste management activities at the Facility, and information that Respondent develops regarding its waste streams, provided that nothing herein shall relieve Respondent of its obligations under COMAR 26.13.03.02A.
40. Within fourteen (14) days of Respondent’s receipt of the fully executed and filed CAFO, incorporate into plant procedures the emergency response protocol attached to this CAFO

(Attachment B) and incorporated by reference as though fully set forth herein. This protocol may be modified from time to time by Respondent based upon hazardous waste management activities at the Facility and information that Respondent develops regarding the plant operations, provided that nothing herein shall relieve Respondent of its obligations under COMAR 26.13.05.03 and 26.13.05.04.

41. Within 21 days after receipt of this fully executed and filed CAFO, submit to EPA a written statement certifying that the compliance tasks set forth in paragraphs 38-40 herein have been implemented or explaining why any such tasks have not been implemented.
42. Within 30 days of submission to MDE, submit to EPA copies of all documentation of any remedial actions directed by MDE and performed by Respondent or on behalf of Respondent. Such documentation need not be certified under paragraph 43, below.
43. Submissions to EPA: Any notice, certification, data presentation, or other document submitted by Respondent pursuant to this Compliance Order which discusses, describes, demonstrates, or supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirements of this Compliance Order shall be certified by a responsible corporate officer of Respondent. A responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. The aforesaid certification shall provide the following statement above the signature of the responsible corporate officer signing the certification on behalf of the Respondent:

I certify under penalty of law that this document and all attachments are true, accurate and complete. As to portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate 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 fines and imprisonment for knowing violations.

Signature: _____
Name: _____
Title: _____

Any notifications or submissions to EPA required by this Compliance Order shall be sent to the attention of:

Stacie Peterson (3WC31)
RCRA Enforcement and Compliance Officer
United States Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103-2029; and

Joyce A. Howell (3WC31)
Sr. Asst. Regional Counsel
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029

IV. CIVIL PENALTIES

- 44. Respondent agrees to pay a civil penalty in the amount of Ninety-five Thousand Dollars (\$95,000.00), which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO fully executed by all parties. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent.
- 45. Having determined that this Consent Agreement is in accordance with law and that the civil penalty amount was determined after consideration of the statutory factors set forth in Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements, EPA hereby agrees and acknowledges that payment of the civil penalty shall be in full and final satisfaction of all civil claims for penalties which Complainant may have under Section 3008(a) of RCRA for the violations alleged in this CAFO.
- 46. Respondent shall remit the payment for the civil penalty specified in Paragraph 44, above, payable to United States Treasury, using one of the payment methods set forth below:

IMO Sasol North America Inc.

Docket No. 03-2008-0013

CHECK PAYMENTS:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

WIRE TRANSFERS:

Wire transfers should be directed to the Federal Reserve Bank of New York

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read " D 68010727 Environmental Protection Agency "

OVERNIGHT MAIL:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
314-418-4087

ACH (also known as REX or remittance express)

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact – Jesse White 301-887-6548
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account 310006
CTX Forma

ON LINE PAYMENT:

There is now an On Line Payment Option, available through the Dept. of Treasury. This payment option can be accessed from the information below:

WWW.PAY.GOV

Enter sfo 1.1 in the search field

Open form and complete required fields.

All payments by Respondent shall reference its name and address and the Docket Number of this action (RCRA-03-2008-0013)

At the time of payment, Respondent shall send a notice of such payment, including a copy of any check or electronic transfer, as appropriate, to:

Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Joyce A. Howell
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3WC31)
1650 Arch Street
Philadelphia, PA 19103-2029

47. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.
48. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment as specified in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

49. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
50. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
51. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

VI. OTHER APPLICABLE LAWS

52. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

VII. PARTIES BOUND

53. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind the Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

VIII. EFFECTIVE DATE

54. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Judicial Officer or Regional Administrator.

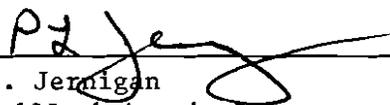
IMO Sasol North America Inc.

Docket No. 03-2008-0013

For Respondent, Sasol North America Inc.

Date: March 26, 2008

By:


P.L. Jernigan
Sasol North America Inc.
Vice President, Operations

IMO Sasol North America Inc.

Docket No. 03-2008-0013

For Complainant, United States Environmental Protection Agency, Region III:

Date: 4/21/08

By: Joyce A. Howell
Joyce A. Howell
Senior Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Director, Waste and Chemicals Management Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

Date: 4/21/08

By: Abraham Ferdas

Abraham Ferdas
Director
Waste and Chemicals Management Division

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

In the Matter of:

SASOL NORTH AMERICA, INC.
Respondent.

DOCKET No. RCRA-03-2008-0013

CONSENT AGREEMENT

Facility Address:

3441 Fairfield Road
Baltimore, Maryland 21226

CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent by Federal Express, a copy of the Consent Agreement and Final Order to the addressee listed below. The original and one copy of the Consent Agreement and Final Order were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Ms. Pamela Marks, Esq.
Beveridge and Diamond
201 N. Charles Street
Suite 2219
Baltimore, MD 21201

Dated: 4/29/2008


Joyce A. Howell
Senior Assistant Regional Counsel
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

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