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REGIONAL HEARING CLERK
EPA REGION VI

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 Elm Street, Suite 500
Dallas, Texas 75270**

In the Matter of

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Samsung Austin Semiconductor, LLC

Docket No. CAA-06-2023-3338

Respondent.

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 6 (“EPA” or “Complainant”), and Samsung Austin Semiconductor, LLC (“Respondent”) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) 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. §§ 22.13(b) and 22.18(b)(2).

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that this matter, which involved a longer period of violation beyond 12 calendar months from the first alleged date of violation, was appropriate for administrative penalty action.

2. This Consent Agreement and Final Order serves as notice that the EPA has reason

to believe that Respondent has violated the Chemical Accident Prevention Provisions in 40 C.F.R. Part 68, promulgated pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and that Respondent is therefore in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). Furthermore, this Consent Agreement and Final Order serves as notice pursuant to Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), and 40 C.F.R. § 22.34, of the EPA's intent to issue an order assessing penalties for these violations.

Parties

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

4. Respondent is Samsung Austin Semiconductor, LLC, a corporation incorporated in the state of Delaware and conducting business in the state of Texas.

Statutory and Regulatory Background

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

6. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), requires the Administrator to promulgate a list of regulated substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), that requires that the Administrator to establish a threshold quantity for any

substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). The list of regulated substances and respective threshold quantities is codified at 40 C.F.R. § 68.130.

7. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for stationary sources with threshold quantities of regulated substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). On June 20, 1996, EPA promulgated a final rule known as the Risk Management Program, 40 C.F.R. Part 68 – Chemical Accident Prevention Provisions, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

8. The regulations at 40 C.F.R. Part 68 require owners and operators to develop and implement a Risk Management Program at each stationary source with over a threshold quantity of regulated substances. The Risk Management Program must include, among other things, a hazard assessment, a prevention program, and an emergency response program. The Risk Management Program is described in a Risk Management Plan (RMP) that must be submitted to the EPA.

9. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150, an RMP must be submitted for all covered processes by the owner or operator of a stationary source subject to 40 C.F.R. Part 68 no later than the latter of June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.

10. The regulations at 40 C.F.R. § 68.10 set forth how the Chemical Accident Prevention Provisions of 40 C.F.R. Part 68 apply to each program level of covered processes. Pursuant to 40 C.F.R. § 68.10(i), a covered process is subject to Program 3 requirements if the process does not meet the requirements of Program 1, as described in 40 C.F.R. § 68.10(g), and if it is in a specified North American Industrial Classification System code or is subject to the

OSHA process safety management standard, 29 C.F.R. 1910.119.

11. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to \$25,000 per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and its implementing regulations. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred before November 2, 2015, and to \$55,808 for violations that occur after November 2, 2015, and are assessed after January 6, 2023.

Definitions

12. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” to include any individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency department, or instrumentality of the United States and any officer, agent, or employee thereof.

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

14. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3 defines “stationary source,” in part, as any buildings, structures, equipment, installations or substance-emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of

the same person (or persons under common control), and from which an accidental release may occur.

15. Section 112(r)(2)(B) of the CAA, 42 U.S.C. § 7412(r)(2)(B), and the regulation at 40 C.F.R. § 68.3 defines “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA, as amended, in 40 C.F.R. § 68.130.

16. The regulation at 40 C.F.R. § 68.3 defines “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, as amended, listed in 40 C.F.R. § 68.130 and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

17. The regulation at 40 C.F.R. § 68.3 defines “process” as any activity involving a regulated substance including any use, storage, manufacturing, handling or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

18. The regulation at 40 C.F.R. § 68.3 defines “covered process” as a process that has a regulated substance present in more than a threshold quantity as determined under 40 C.F.R. § 68.115.

EPA Findings of Fact and Conclusions of Law

19. Respondent is, and at all times referred to herein was, a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

20. Respondent is the owner and operator of a facility located at: 12100 Samsung Blvd., Austin, Texas 78754 (the “Facility”).

21. Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, the EPA conducted an

inspection of the Facility on October 7-9, 2019, to determine Respondent's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68 (the "Inspection").

22. On June 13, 2022, the EPA sent Respondent a Notice of Potential Violation and Opportunity to Confer letter. On December 01, 2022, the EPA responded to the documentation and information received from Respondent as a result of the opportunity to confer and articulated the EPA's position concerning Respondent's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r). Respondent subsequently provided additional documentation and information from January through April 2023 to which EPA last responded on April 27, 2023, concerning Respondent's compliance.

23. The Facility is a "stationary source" pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3.

24. Respondent has a semiconductor manufacturing process at the Facility. The Facility has three covered processes using silane, ammonium hydroxide (conc 20% or greater), and anhydrous hydrogen chloride, meeting the definition of "process", as defined by 40 C.F.R. § 68.3.

25. Anhydrous hydrogen chloride, silane and ammonia (concentration 20% or greater) are "regulated substances" pursuant to Section 112(r)(2)(B) of the CAA, 42 U.S.C. § 7412(r)(2)(B), and the regulation at 40 C.F.R. § 68.3. The threshold quantity for anhydrous hydrogen chloride, as listed in 40 C.F.R. § 68.130 is 5,000 pounds. The threshold quantity for silane, as listed in 40 C.F.R. § 68.130 is 10,000 pounds. The threshold quantity for ammonia (concentration 20% or greater), as listed in 40 C.F.R. § 68.130 is 20,000 pounds.

26. Respondent has greater than threshold quantities of anhydrous hydrogen chloride, silane, and ammonia (concentration 20% or greater) in covered processes at the Facility, meeting

the definition of “covered process” as defined by 40 C.F.R. § 68.3.

27. From the time Respondent first had on-site greater than a threshold quantity of anhydrous hydrogen chloride, silane, and ammonia (concentration 20% or greater) in a process, Respondent was subject to the requirements of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68 because it was the owner or operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

28. From the time Respondent first had on-site greater than a threshold quantity of silane and ammonia (concentration 20% or greater) in a process, Respondent was required to submit an RMP pursuant to 40 C.F.R. § 68.12(a) and comply with the Program 1 requirements, because pursuant to 40 C.F.R. § 68.10(g), the covered processes at the Facility meet the eligibility requirements of Program 1.

29. From the time Respondent first had on-site greater than a threshold quantity of anhydrous hydrogen chloride in a process, Respondent was required to submit an RMP pursuant to 40 C.F.R. § 68.12(a) and comply with the Program 3 prevention requirements, because pursuant to 40 C.F.R. § 68.10(i), the covered process at the Facility did not meet the eligibility requirements of Program 1, and is subject -to the OSHA process safety management standard, 29 C.F.R. § 1910.119.

EPA Findings of Violation

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

31. Complainant hereby states and alleges that Respondent has violated the CAA and federal regulations promulgated thereunder as follows:

Count 1 – Process Hazard Analysis

32. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.67(e), the owner or operator shall establish a system to promptly address the process hazard analyses team's findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.

33. Respondent failed to consistently implement a tracking system to document follow up action items and their completion. Specifically, four (4) outstanding PHA recommendations were still open at the time of the EPA inspection, the last of which was not completed until March 12, 2020.

34. Respondent's failure to promptly address the team's findings and recommendations, assure that the recommendations were resolved in a timely manner, and complete actions as soon as possible pursuant to 40 C.F.R. § 68.67(e), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 2 – Management of Change (MOC)

35. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.75, the owner or operator shall establish and implement written procedures to manage changes (except for "replacements in kind") to process chemicals, technology, equipment, and procedures; and changes to stationary

sources that affect a covered process. Pursuant to 40 C.F.R. § 68.75(b) The procedures shall assure that the following considerations are addressed prior to any change: (1) the technical basis for the proposed change, (2) impact of change on safety and health, (3) modifications to operating procedures, (4) necessary time period for the change; and (5) authorization requirements for the proposed change. Pursuant to 40 C.F.R. § 68.75(c) employees involved in operating a process and maintenance and contract employees whose job tasks will be affected by a change in the process shall be informed of, and trained in, the change prior to start-up of the process or affected part of the process.

36. Respondent failed to ensure that changes were implemented in consideration of the time period needed for completing each part of a management of change in proper sequence. Specifically, the Respondent made changes to operating procedures prior to the management of change being completed. Revisions to the operating procedures were dated August 30, 2017, but the MOC was not initiated until September 15, 2017, and was not completed until October 23, 2017.

37. Respondent's failure to assure that the necessary time period was given to implement the changes to MOC, given that the changes to the operating procedures occurred prior to the MOC being completed, which did not allow for the completion of the revisions for the operating procedures as part of the management of change pursuant to 40 C.F.R. § 68.73(b), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 3 – Compliance Audit

38. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements

of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.79(d), the owner or operator shall promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected.

39. Respondent failed to consistently identify and document completion of audit recommendations, responses and corrective actions. Respondent did not identify and document appropriate responses to audit findings and recommendations until after the October 2019 inspection, beginning in November 2019.

40. Respondent's failure to consistently identify and document audit findings and corrective actions to completion pursuant to 40 C.F.R. § 68.79(d), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

CONSENT AGREEMENT

41. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- a. admits the jurisdictional allegations set forth herein;
- b. neither admits nor denies the specific factual allegations stated herein;
- c. consents to the assessment of a civil penalty, as stated herein;
- d. consents to the issuance of any specified compliance or corrective action order;
- e. consents to any conditions specified herein;
- f. consents to any stated Permit Action;
- g. waives any right to contest the allegations set forth herein; and
- h. waives its rights to appeal the Final Order accompanying this Consent Agreement.

42. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein.

43. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

Penalty Payment

44. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of ten thousand dollars (\$10,000.00), as set forth below, and shall perform a Supplemental Environmental Project ("SEP") as set forth herein. The projected cost of the SEP is eighteen thousand, nine hundred dollars (\$18,900.00).

45. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

46. A copy of the check or other information confirming payment shall simultaneously be sent electronically by email to the following:

Lorena S. Vaughn
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ORC)
Dallas, Texas 75270-2102
vaughn.lorena@epa.gov; and

Diana Lundelius
Enforcement and Compliance Assurance Division
Air Enforcement Branch

U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ECDAC)
Dallas, Texas 75270-2101
Lundelius.Diana@epa.gov

47. Respondent understands that its failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full, per 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six percent (6%) per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

Supplemental Environmental Project

48. In response to the CAA violations alleged in this Consent Agreement and Final Order, and in settlement of this matter, although not required by the CAA or any other federal, state, or local law, Respondent shall complete the SEP described herein, which the parties agree is intended to secure significant environmental or public health protection and improvement.

49. Respondent shall complete the purchase and donation emergency response equipment to the City of Taylor Fire Department (TFD), located at 304 E. 3rd Street, Taylor, Texas 76574. The City of Taylor is where the Respondent's new facility will be located, and the TFD will respond to emergencies in the area of the Samsung Austin Semiconductor-Taylor facility. The donated emergency equipment shall include: two (2) self-contained breathing apparatus harnesses, tanks, and masks. The SEP is described in more detail in Appendix A to this

Consent Agreement and Final Order. The SEP shall be completed within nine (9) months of the Effective Date of this Consent Agreement and Final Order and shall be performed in accordance with the requirements herein. The SEP advances at least one of the objectives of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), by aiding the TFD with being better prepared to respond more effectively to emergency incidents involving chemicals and other hazardous materials that occur in the area. The SEP is not inconsistent with any provision of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). Further, the SEP has a nexus to the alleged violations, and is designed to reduce the overall risk to public health and/or the environment potentially affected by the alleged violations through assistance to the TFD with equipment that will provide significant improvement to protection of the environment and/or public health.

50. The SEP is consistent with the applicable EPA policy and guidelines, specifically EPA's *2015 Update to the 1998 Supplemental Environmental Projects Policy* (March 10, 2015).

51. The SEP shall cost at least eighteen thousand, nine hundred dollars (\$18,900.00). Detailed cost estimates are described in Appendix A.

52. Any public statement, oral or written, in print, film, internet, or other media, made by Respondent making reference to the SEP under this Consent Agreement and Final Order from the date of its execution of this Consent Agreement and Final Order 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 to enforce federal laws.

53. SEP Completion Report. Within thirty (30) days of completion of the SEP, Respondent shall submit a SEP Completion Report to:

Samuel Tate, Section Chief
Enforcement and Compliance Assurance Division

Chemical Accident Enforcement Section
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ECDAC)
Dallas, Texas 75270-2101
tates.samuel@epa.gov

The SEP Completion Report shall contain the following information:

- a. A detailed description of the SEP as implemented.
- b. A description of any problems encountered in the implementation of the SEP and the solutions thereto.
- c. A description of the environmental and/or public health benefits resulting from implementation of the SEP.
- d. An itemized description of the final costs for all expenditures.
- e. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Agreement and Final Order.
- f. A statement of Respondent, through a responsible official, signed and certifying under penalty of law, stating:

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.

In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP Costs. Costs not eligible for SEP credit must be clearly identified as such. For purposes of this paragraph, “acceptable documentation” includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is made. Cancelled drafts do not constitute acceptable documentation unless such drafts specifically

identify and itemize the individual costs of the goods and/or services for which payment is being made.

54. SEP Completion Approval: After receipt of the SEP Completion Report, EPA will review the Report and may approve, approve with modifications, or disapprove and provide comments to Respondent. If the SEP Completion Report is disapproved with comments, Respondent shall incorporate EPA's comments and resubmit the SEP Completion Report within thirty (30) days of receipt of EPA's comments. If Respondent fails to revise the SEP Completion Report in accordance with EPA's comments, Respondent may be subject to stipulated penalties as set forth herein.

55. SEP Certifications: With regard to the SEP, Respondent certifies as to 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 Defendant in good faith estimates that the cost to implement the SEP is eighteen thousand, nine hundred dollars (\$18,900.00).
- b. That, as of the date of executing this Consent Agreement and Final Order, 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 Consent Agreement and Final Order.

- 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 reimbursement for any portion of the SEP from another person or entity.
- f. That for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.
- g. Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in herein.

56. Stipulated Penalties: In the event Respondent fails to comply with any terms or provisions of this Consent Agreement and Final Order relating to the performance of the SEP described herein, and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP described herein, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- a. If the SEP has not been completed satisfactorily and timely pursuant to this Consent Agreement and Final Order, Respondent shall pay a stipulated penalty to the United States in the daily amount of one thousand, five hundred dollars, (\$1,500.00), minus any documented expenditures determined by EPA to be acceptable for the SEP.
- b. If the SEP is completed in accordance with this Consent Agreement and Final Order, but Respondent spent less than the proposed SEP cost, Respondent shall pay a stipulated penalty to the United States which equals the difference between the proposed SEP amount as defined above and the actual cost of the

SEP.

- c. If Respondent fails to satisfactorily submit the SEP Completion Report, Respondent shall pay a stipulated penalty in the amount of five hundred dollars (\$500.00) for each day after the report was due until the report is satisfactorily submitted.
- d. The determination of whether the SEP has been satisfactorily completed and whether Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.
- e. Stipulated penalties shall begin to accrue on the day after performance is due and shall continue to accrue through the final day of the completion of the activity.
- f. Respondent shall pay stipulated penalties not more than thirty (30) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of the Penalty Payment section above, including as related to interest and late charges.
- g. The EPA may, in its unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this Consent Agreement and Final Order.

Effect of Settlement and Reservation of Rights

57. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of the CAA or any other applicable law.

58. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in paragraph directly below.

59. Respondent certifies by the signing of this Consent Agreement that it is presently in compliance with all requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

60. Full payment of the penalty proposed in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the CAA and regulations promulgated thereunder.

61. Complainant reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order.

General Provisions

62. By signing this Consent Agreement, the undersigned representative of Respondent certifies that it is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party it represents to this Consent Agreement.

63. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon filing of the Final Order by the Regional Hearing Clerk for EPA, Region 6. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

64. The terms, conditions and requirements of this Consent Agreement and Final

Order may not be modified or amended except unless agreed to in writing between the EPA and Respondent and filed with the Regional Hearing Clerk.

65. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State, and local taxes.

66. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

67. The EPA and Respondent agree to the use of electronic signatures for this matter pursuant to 40 C.F.R. § 22.6. The EPA and Respondent further agree to electronic service of this Consent Agreement and Final Order by email to the following:

To EPA: *mcdonald.ashley@epa.gov*

tates.samuel@epa.gov

To Respondent: *c.ellingswor@samsung.com,*

Jeff.haffner@farleyllp.com, and

Mark.farley@farleyllp.com

**RESPONDENT:
SAMSUNG AUSTIN SEMICONDUCTOR, LLC**

Date: 7/18/23

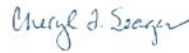

Signature

DAVID ELLINGSWORTH
Print Name

ETS DIRECTOR
Title

**COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY**

Date: July 18, 2023



Digitally signed by CHERYL
SEAGER
Date: 2023.07.18 15:01:03 -05'00'

Cheryl T. Seager
Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

FINAL ORDER

Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

This Final Order shall resolve only those causes of action alleged in the Consent Agreement. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action.

IT IS SO ORDERED.

THOMAS
RUCKI

Digitally signed by THOMAS RUCKI
DN: cn=U.S. Government, ou=Environmental
Protection Agency, cn=THOMAS RUCKI,
o=927427900200010011468001003655804
Date: 2023.07.18 20:09:34 -0400

Thomas Rucki
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE

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

Copy via Email to Complainant:

Mcdonald.ashley@epa.gov

Copy via Email to Respondent:

c.ellingswor@samsung.com,

Jeff.haffner@farleyllp.com, and

Mark.farley@farleyllp.com

Copy via Email to Regional Hearing Clerk:

vaughn.lorena@epa.gov

Signed
Office of Regional Counsel
U.S. EPA, Region 6

ATTACHMENT A: Supplemental Environmental Project

Title Community Emergency Response Improvements

SEP Category Purchase of Emergency Response Resources

Timeline Complete expenditures within nine (9) months of date of CAFO filing

Projected Cost \$18,900

Description Samsung Austin Semiconductor, LLC (“SAS”) is partnering with the Taylor Fire Department in the City of Taylor, Texas area in the fulfillment of this Supplemental Environmental Project (SEP). Each of the components of the listed project focuses on emergency planning and preparedness directed to assist the intended recipients to handle emergency responses at SAS’s Taylor facility. The intended recipient and related equipment purchases are provided below.

Emergency Equipment for TFD

Samsung Austin Semiconductor, LLC (“SAS”) shall donate emergency response equipment to the City of Taylor Fire Department (“TFD”), located at 303 E. 3rd Street, Taylor, Texas 76574. TFD supports the City of Taylor, where SAS is building a new semiconductor manufacturing facility. TFD will respond to emergencies in the area of the SAS-Taylor facility. TFD has requested assistance with equipment that will secure significant improvement to protection of the environment and/or public health.

This donation covers traditional emergency equipment for the TFD, consisting of two (2) self-contained breathing apparatus (SCBA) harnesses, tanks, and masks. The donation shall include:

<u>Item Name</u>	<u>Quantity</u>
SCBA Harnesses	2
SCBA Bottles	2
SCBA Masks	2

The total estimated cost of the donation is \$18,900. SAS shall purchase and donate this equipment to TFD within (9) months of the effective date of the Consent Agreement and Final Order.