

**FILED**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6**

**1201 Elm Street, Suite 500  
Dallas, Texas 75270**

23 MAY 10 AM 10:09

REGIONAL HEARING CLERK  
EPA REGION VI

**In the Matter of**

**INEOS Americas, LLC,**

**Respondent.**

§  
§  
§  
§  
§  
§

**Docket No. CAA-06-2023-3315**

---

**CONSENT AGREEMENT AND FINAL ORDER**

**Preliminary Statement**

The U.S. Environmental Protection Agency, Region 6 (“EPA” or “Complainant”), and INEOS Americas, LLC (“Respondent” or “INEOS”) 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).
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 INEOS Americas, 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), requires 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 define “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: 3503 Pasadena Freeway, Pasadena, Texas 77503 (the “Facility”).

21. Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, the EPA conducted an inspection of the Facility from August 2-5, 2022, 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 November 21, 2022, the EPA sent Respondent a Notice of Potential Violation and Opportunity to Confer letter. On December 8, 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).

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 cumene process at the Facility, meeting the definition of "process", as defined by 40 C.F.R. § 68.3.

25. Propylene and propane are each a "regulated substance" 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 both propylene and propane, as listed in 40 C.F.R. § 68.130 is 10,000 pounds.

26. Respondent has greater than a threshold quantity of propylene and propane, in a process 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 propylene and propane 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 propylene and propane 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 or Program 2, is subject to Occupational Safety and Health Administration requirements for Process Safety Management pursuant to 29 C.F.R. 1910.119, and is in North American Industry Classification System code 32511.

**EPA Findings of Violation**

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

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

**Count 1 – Process Hazard Analysis**

31. 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 and assure that the recommendations are resolved in a timely manner and that the resolution is documented.

32. Respondent failed to assure the recommendations were resolved in a timely manner, and to ensure that the resolutions were documented.

33. Respondent's failure to promptly address the team's findings and recommendations and assure that the recommendations were resolved in a timely manner 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 – Mechanical Integrity**

34. 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. § 68.73(d)(2), the owner or operator shall perform inspection and tests on process equipment that follows recognized and generally accepted good engineering practices.

35. Respondent failed to ensure that Class 2 piping circuits received visual external inspections every five-years for the following piping circuits: 6-H-1860-11 and 6-H-1006-39.

36. Respondent's failure to perform inspections and tests on process equipment at a frequency consistent with applicable good engineering practices pursuant to 40 C.F.R. § 68.73(d)(2), 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 – Management of Change (MOC)**

37. 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(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.

38. Respondent failed to inform and train relevant employees regarding a change prior to start-up of the process or affected part of the process, as required by 40 C.F.R. § 68.75(c). INEOS's employees involved in operating a process and maintenance and contract employees whose job tasks will be affected by a change were trained; however, not necessarily prior to start up, according to the following MOCs: PAS-PRD-4-2021-20 and PAS-PRD-4-2021-33.

39. Respondent's failure to inform and train relevant employees regarding a change prior



to start-up of the process or affected part of the process pursuant to 40 C.F.R. § 68.75(c), 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 4 – Compliance Audits**

40. 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(a) and (d), the owner or operator shall certify that they have evaluated compliance with the provisions of this subpart at least every three years to verify that procedures and practices developed under this subpart are adequate and are being followed, and 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.

41. Respondent failed to certify and complete a compliance audit every 3 years. The two most recent compliance audits were December of 2016 (certification date: December 27, 2016) and December of 2021 (certification date: December 17, 2021). Respondent should have completed a compliance audit in December 2019. Respondent also failed to document deficiencies were corrected. Respondent had several repeat findings from their 2016 audit that are in their 2021 audit.

42. Respondent's failure to certify that they have evaluated compliance with the provisions of this subpart at least every three years to verify that procedures and practices developed under this subpart are adequate and are being followed, and Respondent's failure to promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected pursuant to 40 C.F.R. §§

68.79(a) and (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).

#### **Count 5 – Incident Inspection**

43. 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. §§ 68.81(b) and (e), an incident investigation shall be initiated as promptly as possible, but not later than 48 hours following the incident, and the owner or operator shall establish a system to promptly address and resolve the incident report findings and recommendations. Resolutions and corrective actions shall be documented.

44. Respondent failed to document dates in their incident investigation reports that showed incident investigations were initiated as promptly as possible. Additionally, Respondent failed to promptly address and resolve the incident report findings and recommendations. Four (4) action items in INEOS's incident investigation reports were not promptly addressed and were late in being completed.

45. Respondent's failure to indicate that incident investigations were initiated as promptly as possible, and not later than 48 hours following the incident, and Respondent's failure to establish a system to promptly address and resolve the incident report findings and recommendations pursuant to 40 C.F.R. §§ 68.81(b) and (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 6 – Emergency Response Program**

46. Pursuant to 40 C.F.R. § 68.95(a)(1)(ii), the owner or operator shall develop and implement an emergency response program for the purpose of protecting public health and the environment. Such program shall include an emergency response plan, which shall be

maintained at the stationary source and contain documentation of proper first aid and emergency medical treatment necessary to treat accidental human exposures.

47. Respondent's emergency response plan failed to include proper documentation of first aid and emergency medical treatment necessary to treat accidental human exposures for propylene and cumene.

48. Respondent's failure to document proper first aid and emergency medical treatment necessary to treat accidental human exposures in their emergency response plan pursuant to 40 C.F.R. § 68.95(a)(1)(ii), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

#### **CONSENT AGREEMENT**

49. 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 performance of the Supplemental Environmental Projects (SEPs) set forth herein;
- e. consents to the issuance of any specified compliance or corrective action order;
- f. consents to any conditions specified herein;
- g. consents to any stated Permit Action;
- h. waives any right to contest the allegations set forth herein; and
- i. waives its rights to appeal the Final Order accompanying this Consent Agreement.

50. 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.

51. 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**

52. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of Twenty-Five Thousand Six Hundred Seventeen Dollars (\$25,617), as set forth below.

53. 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>.

54. A copy of the check or other information confirming payment shall simultaneously be sent 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

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

**Supplemental Environmental Project**

56. In response to the alleged violations of 112(r) of the CAA, 42 U.S.C. § 7412(r), and in settlement of this matter, although not required by 112(r) of the CAA, 42 U.S.C. § 7412(r), or any other federal, state, or local law, Respondent agrees to implement two supplemental environmental projects (SEPs), as described below in Paragraphs 57 and 58 (or in Attachment A).

57. Respondent shall complete a purchase and the donation of the listed emergency response equipment to the Pasadena Office of Emergency Management consisting of an Alertus Server Upgrade, a Public Safety Drone Initiative Enhancement (3 drones), and Public Safety PPE (face masks). Additionally, Respondent will install an electronic mustering point accountability system. The SEPs are more specifically described in Attachment A and incorporated herein by reference.

58. Respondent shall spend no less than \$91,205 on implementing the SEPs. Respondent shall include documentation of the expenditures made in connection with the SEPs as part of the SEP Completion Report. If Respondent's implementation of the SEPs as described in Attachment A does not expend the full amount set forth in this paragraph, and if EPA determines that the amount remaining reasonably could be applied toward the purchase of additional emergency response equipment, Respondent will identify, purchase, and provide additional emergency response equipment to the emergency response organization identified in Attachment A.

59. Respondent shall complete the SEPs within 12 months of the effective date of this Consent Agreement and Final Order.

60. Identification of SEP Recipient

a. SEP Recipient

i. Respondent has selected the Pasadena Office of Emergency Management (OEM) to receive the first SEP, which includes the emergency response equipment donation of an Alertus Server Upgrade, a Public Safety Drone Initiative Enhancement (3 drones), and Public Safety PPE (face masks).

b. The EPA had no role in the selection of the SEP recipient, or specific equipment identified in the SEP, nor shall this CAFO be construed to constitute EPA approval or endorsement of any SEP recipient or specific equipment identified in this CAFO.

61. The SEPs are consistent with applicable EPA policy and guidelines, specifically EPA's 2015 Update to the 1998 Supplemental Environmental Projects Policy, (March 10, 2015). The SEPs advance at least one of the objectives of 112(r) of the CAA, 42 U.S.C. § 7412(r), by

enhancing the OEM's public building and school notification system as well as public safety response and coordination that would include hazmat response. Additionally, the second SEP advances at least of the objectives of 112(r) of the CAA, 42 U.S.C. § 7412(r), by allowing for accurate and immediate headcount verification during an incident, which will save time and keep rescue teams out of harm's way. The SEPs are not inconsistent with any provision of 112(r) of the CAA, 42 U.S.C. § 7412(r). The SEPs relate to the alleged violation(s), and are designed to reduce:

- a. The overall risk to public health and/or the environment potentially affected by the alleged violations by providing valuable information and equipment to emergency response personnel to prepare for and respond to chemical emergencies at the facility and in the community.

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

- a. That all cost information provided to the EPA in connection with the EPA's approval of the SEPs is complete and accurate and that the Respondent in good faith estimates that the cost to implement the SEP is \$91,205;
- b. That, as of the date of executing this CAFO, Respondent is not required to perform or develop the SEPs by any federal, state, or local law or regulation and is not required to perform or develop the SEPs by agreement, grant, or as injunctive relief awarded in any other action in any forum;
- c. That the SEPs are not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;

- d. That Respondent has not received and will not have received credit for the SEPs in any other enforcement action;
- e. That Respondent will not receive reimbursement for any portion of the SEPs 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 SEPs; and
- g. That Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Paragraph 57.
- h. That Respondent has inquired of the Pasadena Office of Emergency Management whether it is 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 Pasadena Office of Emergency Management that it is not a party to such a transaction.

63. Any public statement, oral or written, in print, film, or other media, made by Respondent or a representative of Respondent making reference to the SEP under this CAFO from the date of its execution of this CAFO shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of the federal laws."

#### **SEP Completion Report**

64. Respondent shall submit a SEP Completion Report to EPA within 12 months of the effective date of this Consent Agreement and Final Order. The SEP (Completion) Report shall



contain the following information, with supporting documentation:

- a. A detailed description of the SEPs as implemented;
- b. A description of any operating or logistical problems encountered and the solutions thereto;
- c. Itemized costs;
- d. Certification that the SEPs have been fully implemented pursuant to the provisions of this Consent Agreement and Final Order; and
- e. A description of the environmental and public health benefits resulting from implementation of the SEPs (with a quantification of the benefits and pollutant reductions, if feasible).

65. Respondent agrees that failure to submit the SEP Completion Report required by Paragraph 64 above shall be deemed a violation of this CAFO and Respondent shall become liable for stipulated penalties pursuant to paragraphs 71-75 below.

66. Respondent shall submit all notices and reports required by this CAFO to Diana Lundelius at [lundelius.diana@epa.gov](mailto:lundelius.diana@epa.gov).

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

68. The Respondent shall submit the following certification in the SEP Completion

Report, signed by a responsible corporate official:

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.

69. After receipt of the SEP Completion Report described in paragraphs 64-68 above,

EPA will notify the Respondent, in writing, regarding:

- a. Any deficiencies in the SEP Completion Report itself along with a grant of an additional thirty (30) days for Respondent to correct any deficiencies; or
- b. Indicate that EPA concludes that the project has been completed satisfactorily; or
- c. Determine that the project has not been completed satisfactorily and seek stipulated penalties in accordance with the stipulated penalties section herein.

70. If EPA elects to exercise option (69.a) above, i.e., if the SEP Report is determined to be deficient but EPA has not yet made a final determination about the adequacy of SEP completion itself, Respondent may object in writing to the notification of deficiency given pursuant to this paragraph within ten (10) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon Respondent. Respondent agrees to comply with any requirements imposed by EPA as a result of any failure to comply with the terms of this CAFO.

#### **Stipulated Penalties**

71. Except as provided in Paragraphs 72 and 73 below, if Respondent fails to satisfactorily complete the requirements regarding the SEP specified in Paragraph 57 above by the deadline in Paragraph 59 Respondent agrees to pay, in addition to the civil penalty in Paragraph 52, the following per day per violation stipulated penalty for each day the Respondent is late meeting the applicable SEP requirement:

- a. \$250 per day for days 1-30;
- b. \$300 per day for days 31-60;
- c. \$350 per day for 60 or more days.

72. If Respondent fails to timely submit any SEP reports, such as those referred to in the SEP Completion Report Section, in accordance with the timelines set forth in this CAFO, Respondent agrees to the following per day stipulated penalty for each day after the report was due until Respondent submits the report in its entirety:

- a. \$100 per day for days 1-30;
- b. \$150 per day for days 31-60;
- c. \$200 per day for 60 or more days.

73. If Respondent does not satisfactorily complete the SEP, including spending the minimum amount on the SEP set forth in paragraph 58 above, Respondent shall pay a stipulated penalty to the United States in the amount of \$100,000. "Satisfactory completion" of the SEPs is defined as Respondent spending no less than \$91,205 to purchase and donate an Alertus Server Upgrade, a Public Safety Drone Initiative Enhancement (3 drones), Public Safety PPE (face masks), as well as install an electronic mustering point accountability system within 12 months of the effective date of this Consent Agreement and Final Order. The determinations of whether the SEP has been satisfactorily completed shall be in the sole discretion of EPA.

74. EPA retains the right to waive or reduce a stipulated penalty at its sole discretion.

75. 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 Paragraphs 53-54 above. Interest and late charges shall be paid as stated in Paragraph 55.

**Dispute Resolution**

76. If the Respondent objects to any decision or directive of EPA, the Respondent shall notify the following persons in writing of its objections, and the basis for those objections, within fifteen (15) calendar days of receipt of EPA's decision or directive:

Chief, Chemical Accident Enforcement Section  
Compliance Assurance and Enforcement Division  
U.S. EPA - Region 6  
1201 Elm St, Suite 500  
Dallas, TX 75270-2101

Chief, RCRA & Toxics Enforcement Branch  
Office of Regional Counsel  
U.S. EPA - Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270-2101

77. The Chemical Accident Enforcement Section Chief (Chief) or his designee, and the Respondent shall then have an additional fifteen (15) calendar days from receipt by EPA of the Respondent's written objections to attempt to resolve the dispute. If an agreement is reached between the Chief and the Respondent, the agreement shall be reduced to writing and signed by the Chief and the Respondent and incorporated by reference into this Consent Agreement and Final Order.

78. If no agreement is reached between the Chief and the Respondent within that time period, the dispute shall be submitted to the Director of the Compliance Assurance and

Enforcement Division (Division Director) or his designee. The Division Director and the Respondent shall then have a second 15-day period to resolve the dispute. If an agreement is reached between the Division Director and the Respondent, the resolution shall be reduced to writing and signed by the Division Director and Respondent and incorporated by reference into this Consent Agreement and Final Order. If the Division Director and the Respondent are unable to reach agreement within this second 15-day period, the Division Director shall provide a written statement of EPA's decision to the Respondent, which shall be binding upon the Respondent and incorporated by reference into the Consent Agreement and Final Order.

**Notification**

79. Unless otherwise specified elsewhere in this Consent Agreement and Final Order, whenever notice is required to be given, whenever a report or other document is required to be forwarded by one party to another, or whenever a submission or demonstration is required to be made, it shall be directed to the individuals specified below at the addresses given (in addition to any action specified by law or regulation), unless these individuals or their successors give notice in writing to the other parties that another individual has been designated to receive the communication:

EPA: 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

Respondent: Amy Narvaez  
Site Manager  
INEOS Americas, LLC  
3503 Pasadena Freeway  
Pasadena, Texas 77503  
Amy.narvaez@ineos.com

**Modification**

80. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of all parties and approval of the Regional Judicial Officer. However, the Regional Judicial Officer need not approve written agreements between the parties modifying the specified emergency response equipment in Attachment A and written agreements between the parties modifying for good cause the SEP schedules in Attachment A. The Branch Manager of the Air Enforcement Branch of the Enforcement and Compliance Assurance Division shall sign the written agreements that do not require Regional Judicial Officer approval and said written agreements shall be filed with the Regional Hear Clerk.

**Termination**

81. At such time as Respondent believes that it has complied with all terms and conditions of this Consent Agreement and Final Order, Respondent may request that EPA advise whether this Consent Agreement and Final Order has been satisfied and terminated. EPA will respond to said request as expeditiously as possible. This Consent Agreement and Final Order shall terminate when all actions required to be taken by this Consent Agreement and Final Order have been completed, and Respondent has been notified by the EPA in writing that this Consent Agreement and Final Order has been satisfied and terminated.

**No EPA Liability**

82. Neither EPA nor the United States Government shall be liable for any injuries or damages to persons or property resulting from acts or omissions of the Respondent, their officers, directors, employees, agents, receivers, trustees, successors, assigns or contractors in carrying out activities pursuant to this Consent Agreement and Final Order, nor shall the EPA or

the United States Government be held out as a party to any contract entered into by the Respondent in carrying out activities pursuant to this Consent Agreement and Final Order.

**Effect of Settlement and Reservation of Rights**

83. 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.

84. 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.

85. 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).

86. 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.

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

**General Provisions**

88. 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.

89. 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.

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

91. 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.

92. 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: *George.elizabeth.a@epa.gov*

To Respondent: *Amy.narvaez@ineos.com*



**RESPONDENT:**  
**INEOS AMERICAS, LLC**

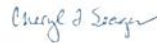
Date: 04-28-2023

  
Signature

AMY NARVAEZ  
Print Name

SITE MANAGER  
Title

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



Digitally signed by CHERYL  
SEAGER  
Date: 2023.05.09 17:54:01 -05'00'

---

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,  
o=THOMAS RUCKI,  
0.9.2342.19200300.100.1.1-68001003655804  
Date: 2023.05.10 10:49:26 -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:

*George.elizabeth.a@epa.gov*

Copy via Email to Respondent:

*Amy.narvaez@ineos.com*

Copy via Email to Regional Hearing Clerk:

*vaughn.lorena@epa.gov*

**ELIZABETH  
GEORGE**

Digitally signed by  
ELIZABETH GEORGE  
Date: 2023.05.10  
10:20:01 -05'00'

---

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

## ATTACHMENT A: SUPPLEMENTAL ENVIRONMENTAL PROJECT

INEOS Phenol will donate Public Safety Equipment to the Pasadena Office of Emergency Management (OEM), located at 606 Magnolia Avenue, Port Neches, TX, 77651. The Pasadena OEM is responsible for protecting the citizens of Pasadena before, during and after any and all disasters, including man-made events and natural events. The donated equipment will enhance the OEM's public building and school notification system as well as public safety response and coordination that would include hazmat response. The area covered by the OEM is the same area where INEOS Phenol's facility is located.

The donation will include:

1. Alertus Server Upgrade, at an estimated cost of \$4,410;
2. Public Safety Drone Initiative Enhancement (3 Drones), at an estimated cost of \$35,040;
3. Public Safety PPE (Face Masks) at an estimated cost of \$11,755

This donation covers traditional public safety equipment, cutting edge technology, and an upgrade to public notification servers. These improvements will support emergency response coordination and improve safety during natural disasters and/or industrial incidents.

The Alertus system is used to send notifications to all City of Pasadena owned buildings that are open to the public such as libraries, city hall, courts, etc.; and provide immediate alerts such as the need to Shelter-in-Place. Additional organizations that use the system and will benefit from the upgrade include: The City of Deer Park, Deer Park ISD and Pasadena ISD.

The Public Safety Drone Initiative Enhancement will purchase 4 DJI Drones that will be utilized in first response on police and fire calls for service, which can include haz-mat initial response.

The Public Safety PPE – Face Masks will be utilized by first responders in an initial response to a possible haz-mat incident with airborne hazards. While the officers are not haz-mat certified and do not respond to clean up of chemical leaks, they are expected to be near leaks in order to block and reroute traffic for the safety of citizens driving within the community.

The total estimated cost of the donation is \$51,205. INEOS Phenol will purchase and donate this equipment to Pasadena OEM within twelve months of the effective date of the Consent Agreement and Final Order

INEOS Phenol will also install an electronic mustering point accountability system. This system will allow for accurate and immediate headcount verification during an incident. With this latest technology, employees and contractors will be able to be accounted for with the simple scan of their badge/TWIC card. The remote mustering stations will be equipped with the wireless card readers that send a signal back to the accountability overseer for immediate confirmation of headcount in the plant. This system will save time, but more importantly will keep rescue teams out of harm's way. We believe this falls under the Emergency planning and preparedness category for SEP's and is allowable due to our violation in the emergency planning portion of RMP. The total estimated cost for this project is estimated to be between \$40,000 and \$45,000. The project would be completed within 12 months of the effective date of the Consent Agreement and Final Order.