

FILED

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1201 Elm Street, Suite 500
Dallas, Texas 75270

2022 MAY -3 PM 12:43

REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of

Occidental Chemical Corporation,
Geismar, Louisiana

Respondent.

§
§
§
§
§
§

Docket No. CAA-06-2022-3300

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 6 (“EPA” or “Complainant”), and Occidental Chemical Corporation (“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 was appropriate for administrative penalty action even though the penalty exceeds the statutory amount and the alleged violations have occurred more than twelve (12) months prior to the initiation of the administrative 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). 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 Occidental Chemical Corporation, a corporation authorized to do business in the state of Louisiana.

Statutory and Regulatory Background

5. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The CAA Amendments of 1990 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 accidental releases and 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), mandates 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), mandates that the Administrator 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 Occupational Safety and Health Administration (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 \$48,192 for violations that occur after November 2, 2015, and are assessed after January 13, 2020.

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 chemical manufacturing facility located at: 8318 Ashland Road, Geismar, Louisiana 70734 (“the Facility”).

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

inspection of the Facility on May 1-4, 2018, 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. 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.

23. Respondent has chemical manufacturing processes at the Facility, meeting the definition of "process", as defined by 40 C.F.R. § 68.3.

24. The following chemicals 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 the regulated substances, as listed in 40 C.F.R. § 68.130 are listed respectively:

- a. Chlorine – 2,500 pounds;
- b. Chloroform [methane, trichloro-] – 20,000 pounds;
- c. Methyl chloride [methane, chloro-] – 10,000 pounds; and
- d. Vinyl chloride – 10,000 pounds.

25. Respondent has greater than a threshold quantity of the regulated substances listed in paragraph 24, in one or more processes at the Facility, meeting the definition of "covered process" as defined by 40 C.F.R. § 68.3.

26. From the time Respondent first had on-site greater than a threshold quantity of regulated substances listed in paragraph 24 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.

27. At all relevant times, 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 in North American Industry Classification System code 325199.

EPA Findings of Violation

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

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

Count One – Failure to Design and Maintain a Safe Facility – October 29, 2015, Incident

30. Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1) provides in part that an owner or operator of a stationary source that produces, processes, handles, or stores a regulated substance (as defined in 40 C.F.R. § 68.130) or an extremely hazardous substance has a general duty in the same manner and to the same extent as [the OSHA General Duty Clause, 29 C.F.R. § 654(a)(1)] to design and maintain a safe facility, taking such steps as are necessary to prevent accidental releases.

31. The Respondent processes, handles, and/or stores hydrogen at its facility.

32. Hydrogen is a “regulated flammable substance” as set forth in 40 C.F.R. § 68.130

33. Hydrogen gas forms explosive mixtures with air in concentrations from 4 – 74% and with chlorine at 5–95%. The explosive reactions may be triggered by spark, heat, or sunlight.

34. The risk of a fire from the accidental release of hydrogen is a recognized hazard.

35. An accidental release involving hydrogen may cause death, serious injury, or substantial property damage.

36. The Respondent is subject to the requirements of Section 112(r)(1) of the CAA,

42 U.S.C. § 7412(r)(1).

37. On or about October 29, 2015, the Respondent issued a safe work permit and a hot work permit for maintenance work on an area sump line.

38. The Respondent failed to conduct initial atmospheric monitoring for flammable gases at the point of work prior to obtaining a hot work permit as required by the Respondent's hot work permit procedure.

39. The workers did not continuously monitor for flammable gases at the point of work as required by the Respondent's hot work permit procedure. The flammable gas detector remained in the man lift, ten feet away from where the work was performed.

40. The flammable gas detector used was not calibrated and bump tested correctly prior to the incident.

41. Once the contract workers were positioned in the pipe rack, one contract worker turned on a grinder. Once the grinder was activated, a hydrogen leak from a nearby hydrogen line was ignited.

42. The combination of a flammable atmosphere in the area where the grinder was activated created a fire.

43. The immediate cause of the event was the flammable ignition of an unknown hydrogen gas leak in the area of an ignition source that was not detected due to hot work procedure requirements not being followed.

44. The release of hydrogen into the ambient air was an "unanticipated emission."

45. The release of hydrogen is an "accidental release" as that term is defined in Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A).

46. There are feasible means and/or methods for eliminating or mitigating the risk of

a fire associated with a leak of hydrogen.

47. Therefore, the Respondent violated Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1) by violating its general duty to design and maintain a safe facility, taking such steps as necessary to prevent an accident release of a regulated substance.

Count Two – Failure to Design and Maintain as Safe Facility – August 1, 2016, Incident

48. Paragraphs 31 and 37 are realleged and incorporated herein.

49. The Respondent process, handles, and/or stores sulfuric acid at its facility.

50. An accidental release associated with sulfuric acid may cause death, serious injury, or substantial property damage.

51. The sulfuric acid processed, handled, and/or stored at Respondent's facility is an "extremely hazardous substance" within the meaning of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

52. At all times relevant to this CAFO, the Respondent mixed sodium sulfite and sulfuric acid.

53. A potential hazard associated with mixing sodium sulfite and sulfuric acid in a tank is if an excessive amount of sodium sulfite is mixed with sulfuric acid, an amount of sulfur dioxide gas may be produced, which may result in an elevated pressure potentially compromise a tank's integrity.

54. On August 1, 2016, at 2:40 pm, a reaction occurred elevating the pressure in the tank where sodium sulfite and sulfuric acid are mixed which compromised the tank's integrity. The elevated pressure lifted the tank approximately 70 feet vertically and it came to rest in a pipe rack approximately 40 feet away. The entire contents of the tank (sulfuric acid, sodium sulfite, sulfur dioxide, and water) were released. Two constituents exceeded the environmental

reportable quantity (RQ): sulfuric acid released was 1,276 pounds (1,000 Pound RQ) and sulfur dioxide released was 1,753 pounds (500 Pound RQ).

55. Substantial property damage in the amount of approximately \$700,000 resulted from the accidental release of sulfuric acid.

56. The Respondent made the following findings during its investigation of the incident:

- a) When another tank was bypassed on July 20, 2016, sulfuric acid and sulfite were no longer in-line mixed.
- b) When the tank was bypassed, sulfuric acid was routed through a dip tube and sulfite was routed through a side nozzle. This arrangement inhibited adequate mixing of sulfite and sulfuric acid.
- c) The sulfite metering pump was by-passed, and a larger pump was used to increase sulfite to the mixing tank (without an approved MOC).
- d) Two dip tubes were installed during the mixing tank replacement, inhibiting proper mixing.
- e) The PSV's vent discharge was blocked in because the scrubber had failed. No car seal was used to ensure the valve to the vent remained open.
- f) When the mixing tank was replaced, the PSV was vented to the scrubber rather than to the atmosphere. The previous system vented the mixing tank to the scrubber from the pipe between the tank and the PSV, allowing the mixing tank to be protected from overpressure even if the scrubber was blocked in.

57. The release of sulfuric acid into the ambient air is an "unanticipated emission".

58. The release of sulfuric acid is an "accidental release" as that term is defined in

Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A).

59. The release of sulfur dioxide gas into the ambient air is an “unanticipated emission.”

60. The sulfur dioxide gas involved in the incident is an extremely hazardous substance within the meaning of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

61. The release of sulfur dioxide gas is an “accidental release” as that term is defined in Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A).

62. There are feasible means and/or methods for eliminating or mitigating the risk of a reaction associated with mixing sodium sulfite and sulfuric acid in a tank.

63. Therefore, the Respondent violated Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1) by violating its general duty to design and maintain a safe facility, taking such steps as necessary to prevent an accident release of an extremely hazardous substance.

Count Three – Inadequate Operating Procedures

64. 40 C.F.R. § 68.69(a) provides the following: The owner or operator shall develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information and shall address at least the following elements:

3. Safety and health considerations

- i. Properties of, and hazards presented by, the chemicals used in the process;
- ii. Precautions necessary to prevent exposure, including engineering controls, administrative controls, and personal protective equipment.

65. The Respondent has implemented standard operating procedures (SOPs) as part of the Diaphragm Control Technician Startup Checklist.

66. The Chlorine process uses the Diaphragm Control Technician Startup Checklist.

67. Each of the SOPs reference the Personal Protective Equipment (PPE) Hazard Assessment to determine the required PPE to be worn while performing the SOP.

68. As of the date of the May 1 – 4, 2018, EPA inspection, the PPE Hazard Assessment does not list five of the SOPs identified in Diaphragm Control Technician Startup Checklist and three (3) SOPs identified for the Chlorine Process.

69. Therefore, the SOPs did not address the appropriate PPE to be worn while performing the corresponding SOP.

70. The Diaphragm Control Technician Startup Checklist SOPs did not address the properties of, and hazards presented by the chemicals in the process.

71. Therefore, the Respondent violated 40 C.F.R. § 68.69(a)(3) by failing to develop and implement operating procedures that provide for safely conducting activities involved in each covered process by failing to identify the appropriate PPE in certain SOPs, and by failing to address the properties of, and hazards presented by the chemicals in the process for certain SOPs.

Count Four – Failure to Implement Safe Work Practices - March 29, 2017, Incident

72. 40 C.F.R. § 68.69(d) provides that the owner or operator shall develop and implement safe work practices to provide for the control of hazards during operations such as lockout/tagout; confined space entry, opening process equipment or piping; and control over entrance into a stationary source by maintenance, contractor, laboratory, or other support personnel. These safe work practices shall apply to employees and contractor employees.

73. On March 29, 2017, a maintenance worker was exposed to chlorine, when a co-

worker accidentally bumped a valve handle on a chlorine sample system line where they were working, releasing chlorine from disassembled tubing. The exposed worker inhaled some chlorine before he was able to exit the area. He reported to the on-site medical department, where he received oxygen. A total of 0.47 pounds of chlorine was released to the atmosphere.

74. The Respondent's line break procedure requires supplied air respiratory protection for a line break involving liquid chlorine.

75. On or about March 29, 2017, maintenance workers obtained a safe work permit to conduct a line break to replace tubing in chlorine service.

76. The safe work permit allowed the use of a half-face respirator.

77. Maintenance workers made an initial line break with the incorrect respiratory protection.

78. After the initial line break, the workers were allowed to downgrade PPE to no respiratory protection.

79. The workers did not follow the proper procedure to downgrade PPE.

80. Therefore, the Respondent violated 40 C.F.R. § 68.69(d) by failing to follow safe work practices during a line break.

Count Five – Failure to Conduct Mechanical Integrity Inspections

81. 40 C.F.R. § 68.73(a) provides that the requirements of 40 C.F.R. § 68.73(d) applies to the following process equipment:

- a) Pressure vessels and storage tanks;
- b) Piping systems (including piping components and valves);
- c) Relief and vent systems and devices;
- d) Emergency shutdown systems;

- e) Controls (including monitoring devices and sensors, alarms, and interlocks); and
- f) Pumps.

82. 40 C.F.R. § 68.73(d) provides the following:

- 1) ...
- 3) The frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience. ...

83. Question 10 of EPA's Information Request required the Respondent to provide certain information regarding all overdue mechanical integrity inspections required by 40 C.F.R. § 68.73.

84. On or about April 19, 2019, the Respondent submitted its response to Question 10.

85. The Respondent failed to timely conduct certain mechanical integrity inspections (internal/external visual inspections) for the process equipment set forth in the attached Exhibit A, which is incorporated by reference.

86. The Respondent failed to conduct timely external visual mechanical integrity inspections for four (4) pressure vessels and two (2) piping circuits.

87. The Respondent failed to conduct timely thickness surveys for each piece of process equipment set forth in the attached Exhibit B, which is incorporated by reference into this CAFO.

88. Therefore, the Respondent violated 40 C.F.R. § 68.73(d) by failing to timely conduct mechanical integrity inspections on certain process equipment.

Count Six – Failure to Implement Written Procedures to Maintain the On-Going Integrity of Process Equipment - December 2, 2015, Incident

89. 40 C.F.R. § 68.73(b) provides that the owner or operator shall establish and implement written procedures to maintain the on-going integrity of process equipment.

90. On December 2, 2015, a chlorine release, from a rupture disk assembly occurred because two of the four bolts from the assembly were corroded and separated, compromising the integrity of the holder.

91. A fugitive emission of process chemicals inside the rupture disk assembly reacted with ambient moisture outside of the assembly, causing external corrosion and a leak at the rupture disk holder. To stop the leak, the absorber was by-passed, and chlorine was sent directly to the emergency knock out drum. However, the absorber's pressure control loop had failed, and the valve was closed. This began to pressure up the snift gas chiller, resulting in a secondary release from PSVs.

92. The snift compressor was shutdown to stop the release.

93. A total of 14 pounds of chlorine were released to the atmosphere.

94. The incident took place at the Chlorine process.

95. The Respondent determined that one of the root causes was that the absorber's PSV/rupture disk assembly was not inspected as required during the weekly inspection rounds.

96. Relief and vent systems and devices are "process equipment" as that term is defined by 40 C.F.R. § 68.73(a)(3).

97. Therefore, the Respondent violated 40 C.F.R. § 68.73(b) by failing to implement written procedures to maintain the ongoing integrity of process equipment by failing to properly inspect the absorbers PSV/rupture disk assembly every week.

Count Seven – Inadequate Emergency Response Plan

98. 40 C.F.R. § 68.95(a) provides the following:

a) 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 the following elements:

1) An emergency response plan, which shall be maintained at the stationary source and contain at least the following elements:

i. ...;

ii. Documentation of proper first-aid and emergency medical treatment necessary to treat accidental human exposures; and

iii. Procedures and measures for emergency response after an accidental release of a regulated substance;

....

99. As of the date of the May 1, 2018, – May 4, 2018, EPA inspection, the Respondent maintained Medical Treatment Protocols, but the protocols were not included in the Emergency Response Plan (Emergency Control Manual).

100. As of the date of the May 1, 2018, – May 4, 2018, EPA inspection, the Respondent's Emergency Response Plan (Emergency Control Manual) did not include procedures and measures for emergency response after an accidental release of a regulated substance from the 4CPe unit.

101. Therefore, the Respondent violated 40 C.F.R. § 68.95(a)(1)(ii) by failing to include all required elements in its Emergency Response Plan (Emergency Control Manual).

Count Eight – Failure to Timely Update RMP

102. 40 C.F.R. § 68.190(a) provides that the owner or operator shall review and update

the RMP as specified in 40 C.F.R. § 68.190(b) and submit it in the method and format to the central point specified by EPA as of the date of the submission.

103. 40 C.F.R. § 68.190(b)(3) provides that the owner or operator of a stationary source shall revise and update the RMP submitted under 40 C.F.R. § 68.150 no later than the date on which a regulated substance is first present in an already covered process above a threshold quantity.

104. On or about December 23, 2013, the Respondent submitted an RMP to EPA. The RMP stated that the Shipping process had chlorine, methyl chloride, and chloroform present above the threshold quantity.

105. On or about May 4, 2018, the Respondent submitted an RMP to EPA. The RMP stated that the Shipping process had chlorine, methyl chloride, chloroform, and vinyl chloride present above a threshold quantity.

106. At some time prior to May 4, 2018, the Shipping process had vinyl chloride present above a threshold quantity.

107. Therefore, the Respondent violated 40 C.F.R. § 68.190(b)(3) by failing to timely update its RMP to include vinyl chloride in the Shipping process.

Count Nine - Failure to Timely Correct RMP

108. 40 C.F.R. § 68.195(a) provides that the owner or operator of a stationary source for which an RMP was submitted shall correct the RMP for new accident history information. For any five-year accident history reporting requirements of 40 C.F.R. § 68.42 and occurring after April 9, 2004, the owner or operator shall submit the data required under 40 C.F.R. §§ 68.168, 68.170(j), and 68.175(l) with respect to that accident within six months after the release or by the time the RMP is updated under 40 C.F.R. § 68.190, whichever is earlier.

109. On or about January 28, 2014, an incident occurred which met the five-year accident history reporting requirements of 40 C.F.R. § 68.42.
110. The Respondent was required to correct its RMP no later than July 28, 2014.
111. The Respondent did not correct its RMP until May 4, 2018.
112. On or about March 29, 2017, an incident occurred which met the five-year accident history reporting requirements of 40 C.F.R. § 68.42.
113. The Respondent was required to correct its RMP no later than September 29, 2017.
114. The Respondent did not correct its RMP until May 4, 2018.
115. Therefore, the Respondent violated 40 C.F.R. § 68.195(a) by failing to correct its RMP by including two incidents that met the five-year accident history reporting requirements of 40 C.F.R. § 68.42.

CONSENT AGREEMENT

116. 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 or conclusions of law 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.

117. 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. The Parties agree that this settlement and proposed penalty are consistent with all statutory provisions of Section 113(d) of the CAA, 42 U.S.C. § 7413(d). The parties further agree that some violations are beyond the applicable statute of limitations; however, the Parties have jointly elected to resolve those violations. The statute of limitations is an affirmative defense and has not been raised in this matter. The Parties agree that the proposed penalty as calculated is appropriate to resolve the alleged violations.

118. 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

119. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of Five hundred thousand dollars (\$500,000), as set forth below.

120. 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>,

including electronic payments, such as wire transfers.

121. 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

Kayla Buchanan
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
buchanan.kayla@epa.gov

122. 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).

Effect of Settlement and Reservation of Rights

123. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil monetary 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.

124. 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.

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

126. 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 other than those violations resolved herein. 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.

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

General Provisions

128. 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.

129. 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.

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

131. 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.

132. 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: *clay.jeffery@epa.gov*

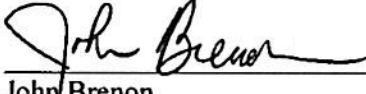
To Respondent: *scott.elliott@bakerbotts.com*

daniel_almaguer@oxy.com

RESPONDENT:

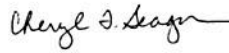
OCCIDENTAL CHEMICAL CORPORATION

Date: 4/25/2022



John Brenon
Sr. VP Manufacturing

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY



Digitally signed by CHERYL
SEAGER
Date: 2022.04.27 15:19:53
-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: c=US, o=U.S. Government, ou=Environmental
Protection Agency, cn=THOMAS RUCKI
0.9.2342.1.1.200300.100.1.1+48001003655804
Date: 2022.04.28 10:05:09 -0500

Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that 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:

Clay.jeffrey@epa.gov

Copy via Email to Respondent:

scott.elliott@bakerbotts.com

Scott A. Elliott Baker
Botts L.L.P. 910
Louisiana Street
Houston, TX 77002

Copy via Email to Regional Hearing Clerk:

vaughn.lorena@epa.gov

Jeffrey Clay May 3, 2022

Signed _____

EXHIBIT A

Equipment Type	Equipment Identification Number	Inspection Due Date
Pressure Vessels	DR0809	3/20/2016
Pressure Vessels	DR0725 NEW	10/25/2018
Pressure Vessels	TW0701	4/17/2018
Pressure Vessels	EX0700	1/30/2018
Pressure Vessels	EX0719	1/30/2018
Pressure Vessels	EX0706	1/1/2018
Pressure Vessels	TW0708	12/3/2017
Pressure Vessels	TW0704	11/16/2017
Pressure Vessels	EB1725A	12/13/2016
Pressure Vessels	EB1725B	12/13/2016
Pressure Vessels	EB1725C	7/24/2016
Pressure Vessels	EB1725D	7/24/2016
Pressure Vessels	CP0703-DISCHARGE	1/29/2016
Pressure Vessels	RE701B (NEW)	9/30/2014
Pressure Vessels	RE701A	6/29/2014
Piping Systems	G-17-011	12/9/2018
Piping Systems	G-17-012	12/9/2018
Pressure Vessels	EX0207	1/22/2019
Pressure Vessels	RE0200	11/3/2016
Pressure Vessels	EX203C	10/2/2016
Pressure Vessels	EX203B	10/14/2014
Piping Systems	G-2-099	1/19/2019
Piping Systems	G-5-053	2/27/2019
Piping Systems	G-5-050	1/11/2019
Piping Systems	G-5-054	1/11/2019
Piping Systems	G-5-258	1/10/2019
Pressure Vessels	RE0501	12/19/2018
Pressure Vessels	DR0504	12/12/2018
Pressure Vessels	DR505A	12/12/2018
Pressure Vessels	EX0595	10/9/2018
Pressure Vessels	AD0512	3/28/2018
Pressure Vessels	EX0542	3/2/2018
Pressure Vessels	DR0552	5/23/2017
Pressure Vessels	DR0584	5/17/2017
Storage Tanks	DR519D	12/18/2016
Pressure Vessels	DR0553	5/9/2016
Pressure Vessels	DR0554	5/4/2016
Pressure Vessels	EX502B	12/6/2014
Pressure Vessels	EX502A	4/11/2014
Pressure Vessels	TW0519	6/26/2011
Pressure Vessels	TW0500	6/16/2011

Equipment Type	Equipment Identification Number	Inspection Due Date
Piping Systems	G-0-091	8/2/2018
Piping Systems	G-0-004	3/25/2018
Piping Systems	G-0-103	9/13/2015
Piping Systems	G-0-125	7/1/2015
Storage Tanks	ST0065	3/24/2015
Piping Systems	G-0-294	10/21/2018
Piping Systems	G-0-294	10/21/2018
Piping Systems	G-0-217	10/3/2018
Piping Systems	G-0-297	12/10/2014

EXHIBIT B

Equipment Type	Equipment Identification Number	Inspection Due Date
Pressure Vessels	DR0809	1/7/2016
Pressure Vessels	DR0842	3/8/2017
Piping System	G-17-021	11/9/2018
Piping System	G-7-009	7/5/2018
Piping System	G-17-029	5/24/2018
Piping System	G-17-019	8/12/2016
Piping System	G-7-020	3/17/2016
Piping System	G-7-040	10/22/2015
Piping System	G-7-028	8/15/2015
Piping System	G-7-034	4/11/2015
Piping System	G-7-067	2/25/2015
Piping System	G-7-030	1/26/2015
Piping System	G-7-022	2/25/2013
Piping System	G-7-023	7/8/2011
Piping System	G-7-027	1/23/2016
Piping System	G-7-061	6/28/2015
Piping System	G-7-039	2/2/2016
Piping System	G-7-064	9/25/2015
Piping System	G-17-005	2/13/2017
Piping System	G-17-008	10/31/2018
Piping System	G-17-010	2/8/2019
Piping System	G-7-043	5/15/2009
Pressure Vessels	DR0706	10/14/2008
Pressure Vessels	DR0705	5/6/2016
Pressure Vessels	DR0720	4/8/2017
Pressure Vessels	DR0708	7/15/2018
Pressure Vessels	DR0724	10/7/2016
Pressure Vessels	DR0728	10/25/2017
Pressure Vessels	EB0002	11/1/2017
Pressure Vessels	EB0006	5/2/2018
Pressure Vessels	EX0707	1/11/2018
Pressure Vessels	EX0713	11/18/2014
Pressure Vessels	FI0700	4/17/2017
Pressure Vessels	ST700A	1/9/2016
Pressure Vessels	DR1716	7/22/2018
Pressure Vessels	DR1724-1	8/1/2015
Pressure Vessels	DR1724-2	8/26/2014
Pressure Vessels	ST1714B	6/29/2015
Pressure Vessels	TW1707	8/2/2015
Pressure Vessels	EX0709	2/24/2019
Pressure Vessels	DR1708	2/12/2019

Pressure Vessels	DR0202	10/9/2016
Pressure Vessels	DR0219	4/28/2016
Pressure Vessels	EB0200	7/18/2015
Pressure Vessels	ED201A	7/12/2014
Pressure Vessels	ED201B	11/26/2012
Pressure Vessels	EX0206	4/28/2017
Pressure Vessels	RE0200	3/27/2014
Pressure Vessels	RE200A	8/16/2014
Pressure Vessels	TW0201	3/27/2018
Pressure Vessels	TW0206	10/30/2014
Pressure Vessels	TW0209	10/5/2014
Piping System	G-5-025	10/30/2018
Piping System	G-5-106	11/15/2017
Piping System	G-5-002	6/21/2017
Piping System	G-5-040	9/26/2016
Piping System	G-5-169	1/21/2016
Piping System	G-5-003	2/6/2019
Piping System	G-5-004	2/17/2019
Piping System	G-5-026	10/9/2018
Piping System	G-5-028	9/19/2017
Piping System	G-5-058	3/17/2017
Piping System	G-5-029	8/2/2016
Piping System	G-5-249	7/5/2015
Piping System	G-5-117	6/3/2015
Piping System	G-5-146	5/13/2015
Piping System	G-5-218	7/16/2014
Piping System	G-5-031	9/14/2016
Piping System	G-5-258	11/30/2017
Pressure Vessels	DR0509	10/3/2017
Pressure Vessels	EX0553	8/11/2014
Pressure Vessels	EX0554	8/18/2014
Pressure Vessels	EX0558	9/1/2014
Pressure Vessels	EX0559	5/2/2017
Pressure Vessels	EX501A	4/14/2015
Pressure Vessels	EX501B	2/8/2015
Pressure Vessels	EX510A	5/10/2015
Pressure Vessels	EX522A	7/8/2015
Pressure Vessels	EX522B	7/8/2015
Pressure Vessels	RE0500	10/18/2014
Pressure Vessels	ST0500	11/1/2018
Pressure Vessels	ST0502	12/13/2015
Pressure Vessels	TW0501	10/14/2018
Pressure Vessels	AD504C	2/2/2016
Pressure Vessels	EB0014	1/29/2017

Pressure Vessels	EB003A	2/21/2015
Pressure Vessels	EB003B	4/11/2015
Pressure Vessels	EB004A	4/11/2015
Pressure Vessels	EB004B	4/11/2015
Pressure Vessels	EB011A	5/22/2015
Pressure Vessels	EB011B	4/11/2015
Pressure Vessels	EB0501	1/28/2017
Pressure Vessels	EB0503	2/15/2017
Pressure Vessels	EB0515	1/23/2018
Pressure Vessels	EB0516	6/21/2015
Pressure Vessels	EB505A	1/29/2017
Pressure Vessels	EB505B	1/29/2017
Pressure Vessels	EB506A	1/29/2017
Pressure Vessels	EB520A	3/16/2016
Pressure Vessels	EB520B	3/16/2016
Pressure Vessels	EB521B	3/16/2016
Storage Tanks	DR519D	7/8/2008
Piping System	G-2-095	12/7/2016
Piping System	G-2-092	8/21/2018
Piping System	G-2-034	12/17/2013
Piping System	G-2-099	10/17/2017
Piping System	G-0-099	11/30/2015
Pressure Vessels	DR0001	11/18/2015
Storage Tanks	ST0065	12/27/2018
Piping System	G-0-226	5/13/2017
Piping System	G-0-234	1/14/2014