



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

12 JAN 2017

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7006 0810 0005 9535 9042

Paul Bork
Legal Department
2030 Building
The Dow Chemical Company
Midland, MI 48674

RE: Complaint and Consent Agreement and Final Order - Docket Number CAA-06-2017-3329

Dear Mr. Bork

Please find enclosed the above referenced finalized Consent Agreement and Final Order (CAFO) regarding Rohm and Haas Chemical Company's (RHC) facility in Deer Park, Texas

RHC will have thirty (30) calendar days from the effective date of the CAFO to pay the civil penalty of four hundred thousand dollars (\$400,000).

If you have any questions, please feel free to contact me at (214) 665-7166. Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Schilling Jr.", written over a horizontal line.

Leonard E. Schilling Jr.
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 6

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
2017 JAN 12 PM 4:28
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:

ROHM AND HAAS COMPANY

RESPONDENT

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DOCKET NO. CAA-06-2017-3329

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is an administrative penalty assessment proceeding brought under Section 113(d) of the Clean Air Act, (the "CAA" or "Act"), 42 U.S.C. § 7413(d), and Sections 22.13, 22.18, and 22.34 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permit ("Consolidated Rules"), as codified at 40 C.F.R. Part 22.

2. Complainant is the United States Environmental Protection Agency, Region 6 (the "EPA"). On the EPA's behalf, the Director of the Compliance Assurance and Enforcement Division has been delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the Act.

3. Respondent is a corporation doing business in the state of Texas. Respondent is a "person" as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this Consent Agreement along with the corresponding Final Order hereinafter known together as "CAFO" without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this CAFO.

B. JURISDICTION

5. This CAFO is entered into under Section 113(d) of the Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules, 40 C.F.R. Part 22. The alleged violations in this CAFO are pursuant to Section 113(a)(3)(A).

6. The EPA and the United States Department of Justice jointly determined that this matter, although it involves a penalty assessment above \$200,000¹ and alleged violations that occurred more than a year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

7. The Regional Judicial Officer is authorized to ratify this CAFO which memorializes a settlement between Complainant and Respondent. 40 C.F.R. § 22.4(b) and 22.18(b).

8. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

C. GOVERNING LAW

New Source Performance Standards

9. Section 111(b)(1)(A) of the CAA, 42 U.S.C. § 7411(b)(1)(A), requires EPA to publish and periodically revise a list of categories of stationary sources including those

¹ 40 C.F.R. § 19.4 contains the monetary adjustment from \$200,000 to \$220,000 for violations that occurred after 1/30/1997 through 3/15/2004; to \$270,000 for violations that occurred after 3/15/2004 through 1/12/2009; to \$295,000 for violations that occurred after 1/12/2009 through 12/6/13; to \$320,000 for violations that occurred after 12/6/13 through 11/2/15; and to \$356,312 for violations that occurred after 11/2/15.

categories that, in EPA's judgment, cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.

10. Once a category is included on the list, Section 111(b)(1)(B) of the CAA, 42 U.S.C. § 7411(b)(1)(B), requires EPA to promulgate a federal standard of performance for new sources within the category, also known as a New Source Performance Standard ("NSPS"). Section 111(e) of the CAA, 42 U.S.C. § 7411(e), prohibits an owner or operator of a new source from operating that source in violation of an NSPS after the effective date of the NSPS applicable to such source.

11. The New Source Performance Standards are located in Part 60 of Title 40 of the Code of Federal Regulations.

12. Pursuant to Section 111(b)(1)(B) of the CAA, 42 U.S.C. § 7411(b)(1)(B), EPA promulgated regulations that contain general provision applicable to all NSPS sources. 40 C.F.R. Part 60, Subpart A, §§ 60.1-60.19 ("NSPS Subpart A").

13. Under NSPS Subpart A, the provisions of 40 C.F.R. Part 60 "apply to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after publication [in Part 60] of any standard (or, if earlier, the date of publication of any proposed standard) applicable to that facility." 40 C.F.R. § 60.1.

14. NSPS Subpart A requires, among other things, that "[f]lares shall be used only with the net heating value of the gas being combusted being 11.2 MJ/scm (300 Btu/scf) or greater if the flare is steam-assisted; or with the net heating value of the gas being combusted being 7.45 MJ/scm (200 Btu/scf) or greater if the flare is nonassisted." 40 C.F.R. § 60.18(c)(3)(ii).

National Emission Standards for Hazardous Air Pollutants

15. Section 112 of the Clean Air Act sets forth a national program for the control of hazardous air pollutants ("HAPs"). 42 U.S.C. § 7412. Under Section 112(b), Congress listed 188 HAPs believed to cause adverse health or environmental effects. 42 U.S.C. § 7412(b)(1).

16. Congress directed EPA to publish a list of all categories and subcategories of, inter alia, major sources of HAPs. 42 U.S.C. § 7412(c).

17. Congress further directed EPA to promulgate regulations establishing emission standards for each category or subcategory of, inter alia, major sources of HAPs. 42 U.S.C. § 7412(d)(1). These emission standards must require the maximum degree of reduction in emissions of HAPs that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for the new or existing sources in the category or subcategory to which the emission standard applies. 42 U.S.C. § 7412(d)(2).

18. To the extent that it is not feasible to prescribe or enforce an emission standard for the control of a HAP, Congress authorized EPA to promulgate "design, equipment, work practice, or operational" standards, which are to be treated as emission standards. 42 U.S.C. § 7412(h).

19. The emission standards promulgated under Section 112 of the 1990 Amendments of the CAA, 42 U.S.C. § 7412, are known as the National Emission Standards for Hazardous Air Pollutants ("NESHAPs") for Source Categories or "MACT" ("maximum achievable control technology") standards. These emission standards are found in Part 63 of Title 40 of the Code of Federal Regulations.

20. After the effective date of any emission standard, limitation, or regulation promulgated pursuant to Section 112 of the CAA, no person may operate a source in violation of such standard, limitation, or regulation. 42 U.S.C. § 7412(i)(3).

21. Pursuant to Section 112 of the CAA, 42 U.S.C. § 7412, EPA promulgated regulations that contain general provisions applicable to sources that are subject to the MACT standards. 40 C.F.R. Part 63, Subpart A, §§ 63.1–63.16 (“NESHAPs Subpart A”).

22. NESHAPs Subpart A requires, among other things, that “[f]lares shall be used only with the net heating value of the gas being combusted at 11.2 MJ/scm (300 Btu/scf) or greater if the flare is steam-assisted or air-assisted; or with the net heating value of the gas being combusted at 7.45MJ/scm (200 Btu/scf) or greater if the flare is non-assisted.” 40 C.F.R. § 63.11(b)(6)(ii).

D. FINDINGS OF FACT AND CONCLUSIONS OF LAW

23. Respondent Rohm and Haas Company (“RHC”) owns and/or operates the Rohm and Haas Lone Star Plant and the Rohm and Haas Texas Deer Park Plant, which are chemical manufacturing facilities located at 1800 and 1900 Tidal Road, respectively, in Deer Park, Texas 77536 (collectively, the “Facility”).

24. At all times relevant to this proceeding, RHC or its predecessor-in-interest has owned and/or operated the Facility.

25. RHC is the owner and/or operator of the Facility within the meaning of Sections 111(a)(5) and 112(a)(9), 42 U.S.C. §§ 7411(a)(5) and 7412(a)(9), of the Act and 40 C.F.R. §§ 60.2 and 63.2.

26. At all times relevant to this proceeding, RHC owned and/or operated units at the Facility that emit hazardous air pollutants and/or volatile organic compounds including toluene, styrene, acrolein, benzene, acrylonitrile, vinyl acetate, and formaldehyde.

27. The Facility is a "stationary source" as that term is defined in Sections 111(a)(3) and 112(a)(3) of the Act, 42 U.S.C. §§ 7411(a)(3) and 7412(a)(3), and 40 C.F.R. §§ 60.2 and 63.2.

28. At all times relevant to this proceeding, the Facility was a "major source" within the meaning of the Act's Title V program, Section 501(2) of the Act, 42 U.S.C. § 7661(2), 40 C.F.R. § 70.2, and 30 Tex. Admin. Code § 122.10(14).

29. The Facility is subject to the CAA Title V Federal Operating Permit program.

30. On or about March 7, 2003, RHC was issued Federal Operating Permit No. O2237. Permit No. O2237 covers various emissions units at the Facility, including flare LU-1.

31. On or about April 4, 2003, RHC was issued Federal Operating Permit No. O2232. Permit No. O2232 covers various emissions units at the Facility, including flares ACET-3 and ACET-7.

32. On or about April 4, 2003, RHC was issued Federal Operating Permit No. O2233. Permit No. O2233 covers various emissions units at the Facility, including flares N-6 and N-17.

33. On or about July 18, 2005, RHC was issued Federal Operating Permit No. O2236. Permit No. O2236 covers various emissions units at the Facility, including flares HT-4, HT-31, and HT-50.

34. In 2009, EPA issued an information request to RHC under Section 114 of the Act, 42 U.S.C. § 7414. As part of its 2009 response and 2011 clarifications, RHC provided various information regarding the Facility's flaring operations, including vent gas net heating values.

35. RHC operates the following five (5) flares with constant air assist: HT-4, HT-31, HT-50, N-6, and N-17. These flares are equipped with specialized "RIMFIRE" flare tips that deliver low-pressure forced air in plenums at the top of the flare stacks. Blowers located near the flare stack bases deliver forced air to the RIMFIRE tips. In addition, RHC operates flares HT-4, HT-31, HT-50 using steam assist at least some of the time.

36. RHC operated flares ACET-3 and ACET-7 using steam assist at least some of the time, until November 20, 2008, when the Acetylene Plant, which produced all of the feeds for ACET-3 and ACET-7, was permanently shut down. Flares ACET-3 and ACET-7 have been inactive since November 20, 2008 and have been removed from Permit No. O2232

37. RHC operates the LU-1 flare as a non-assisted flare.

E. ALLEGED VIOLATIONS

38. Flares HT-4, HT-31, and HT-50, N-6, and N-17 are subject to 40 C.F.R. § 60.18(c)(3)(ii) and/or 40 C.F.R. § 63.11(b)(6)(ii). Under these regulations, RHC was and is required, to maintain the net heating value of the gas being combusted in the flares at 300 British Thermal Units ("BTU") per standard cubic foot ("scf") or greater.

39. On information and belief, at various times from 2007 to 2012, over approximately 2,137 combined days, RHC combusted gas in flares HT-4, HT-31, and HT-50, N-6, and N-17 that had a net heating value of less than 300 BTU/scf. Further, during the same time period, over approximately 1,816 combined days, RHC combusted gas in flares HT-4, HT-31, and HT-50, N-6, and N-17 that had a net heating value of less than 200 BTU/scf.

40. Flares ACET-3 and ACET-7 are subject to 40 C.F.R. § 60.18(c)(3)(ii) and/or 40 C.F.R. § 63.11(b)(6)(ii). Under these regulations, RHC was and is required, to maintain the net heating value of the gas being combusted in the flares at 300 BTU/scf or greater.

41. On information and belief, at various times from 2007 to 2009, over approximately 899 combined days, RHC combusted gas in flares ACET-3 and ACET-7 that had a net heating value of less than 300 BTU/scf. Further, during the same time period, over approximately 423 combined days, RHC combusted gas in flares ACET-3 and ACET-7 that had a net heating value of less than 200 BTU/scf.

42. Flare LU-1 is subject to 40 C.F.R. § 60.18(c)(3)(ii) and/or 40 C.F.R. § 63.11(b)(6)(ii). Under these regulations, RHC was and is required, to maintain the net heating value of the gas being combusted in the flare at 200 BTU/scf or greater.

43. On information and belief, at various times from 2007 to 2012, over approximately 287 days, RHC combusted gas in Flare LU-1 that had a net heating value of less than 200 BTU/scf.

F. CIVIL PENALTY AND CONDITIONS OF SETTLEMENT

General

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

Respondent:

- a. admits that the EPA has jurisdiction over the subject matter alleged in this CAFO;
- b. neither admits nor denies the specific factual allegations contained in the CAFO;
- c. consents to the assessment of a civil penalty as stated below;
- d. consents to the issuance of any specified compliance or corrective action order;
- e. consents to the conditions specified in this CAFO;

- f. consents to any stated Permit Action;
- g. waives any right to contest the alleged violations set forth in Section F of this CAFO; and
- h. waives its rights to appeal the Final Order included in this CAFO.

45. For the purpose of this proceeding, Respondent:

- a. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- b. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);
- c. consents to personal jurisdiction in any action to enforce this CAFO in the United States District Court for the Southern District of Texas;
- d. waives any right it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with this CAFO and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action; and
- e. agrees that in any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other relief relating to this Facility, Respondent shall not

assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim splitting, or other defenses based on any contention that the claims raised by the Complainant or the United States were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to this CAFO.

Penalty Assessment and Collection

46. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business, the Respondent's full compliance history and good faith efforts to comply, the duration of the violation, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and other factors as justice may require, including Respondent's agreement to perform the additional conditions of settlement and the Supplemental Environmental Project ("SEPs") set forth below, EPA has assessed a civil penalty in the amount of **Four Hundred Thousand Dollars (\$400,000)** ("EPA Penalty"). The EPA Penalty has been determined in accordance with the Section 113 of the Act, 42, U.S.C. § 7413 and at no time exceeded EPA's statutory authority.

47. Respondent agrees to:

- a. pay the EPA Penalty within thirty (30) calendar days of the effective date of this CAFO, and
- b. pay the EPA Penalty by cashier's check, certified check, or wire transfer made payable to "Treasurer, United States of America, EPA – Region 6."

Re: Rohm and Haas Company
Docket No. CAA-06-2017-3329

Payment shall be remitted in one of five (5) ways: (1) regular U.S. Postal Service mail including certified mail; (2) overnight mail; (3) wire transfer; (4) Automated Clearinghouse for receiving US currency; or (5) On Line Payment.

For regular U.S. Postal Service mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, payment should be remitted to:

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

For overnight mail (non-U.S. Postal Service, e.g. FedEx), payment should be remitted to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Contact: Natalie Pearson
(314) 418-4087

For wire transfer, payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

Re: Rohm and Haas Company
Docket No. CAA-06-2017-3329

For Automated Clearinghouse (also known as REX or remittance express):

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact – Jesse White (301) 887-6548

For On Line Payment:

<https://www.pay.gov/paygov/>
Enter sfo 1.1 in search field
Open form and complete required fields.

PLEASE NOTE: The docket number CAA-06-2017-3329 should be clearly typed on the check to ensure proper credit. The payment shall also be accompanied by a transmittal letter that shall reference RHC's name and address, the case name, and docket number CAA-06-2017-3329. RHC's adherence to this request will ensure proper credit is given when penalties are received for the Region. RHC shall also send a simultaneous notice of such payment, including a copy of the money order, or check, and the transmittal letter to the following addresses:

Margaret Osborne
Chief, Air Toxics Section (6EN-AT)
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue Suite 1200
Dallas, TX 75202-2733

And

Region 6 Hearing Clerk (6RC-D)
U.S. EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

48. Respondent agrees to pay the following on any overdue EPA Penalty:

- a. Interest. Pursuant to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5), any unpaid portion of a civil penalty must bear interest at the rates established pursuant to 26 U.S.C. § 6621(a)(2).
- b. Nonpayment Penalty. On any portion of a civil penalty more than 90 calendar days delinquent, Respondent must pay a nonpayment penalty, pursuant to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5), which shall accrue from the date the penalty payment became delinquent, and which shall be in addition to the interest which accrues under subparagraph a. of this paragraph.

49. Respondent shall pay a charge to cover the cost of processing and handling any delinquent penalty claim, pursuant to 42 U.S.C. § 7413(d)(5), including but not limited to attorneys' fees incurred by the United States for collection proceedings.

50. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, the EPA may:

- a. refer the debt to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court (in which the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review) to secure payment of the debt, which may include the original penalty, enforcement and collection expenses, nonpayment penalty and interest, 42 U.S.C. § 7413(d)(5) and 40 C.F.R. §§ 13.13, 13.14, and 13.33;

- b. collect the above-referenced debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and
- c. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17.

Conditions of Settlement

Flares HT-4, HT-31, HT-50, N-6, and N-17

51. As soon as practicable, but in any case no more than one year from the effective date of this CAFO (the "Deadline"), RHC shall meet one of the following compliance options for flares HT-4, HT-31, HT-50, N-6, and N-17: 1) maintain the net heating value of the gas being combusted in the flares at 300 BTU/scf or greater, 2) cease using all air and/or steam in the operation of the flares and maintain the net heating value of the gas being combusted in the flares at 200 BTU/scf or greater, or 3) comply with an applicable net heating value standard prescribed by EPA's Office of Air Quality Planning and Standards and codified in the Code of Federal Regulations. Until such time as one of these compliance options is met, RHC shall maintain the net heating value of the gas being combusted in the flares at 200 BTU/scf or greater.

Flare LU-1

52. By the effective date of this CAFO, RHC shall maintain the net heating value of the gas being combusted in flare LU-1 at 200 BTU/scf or greater.

Mitigation Project

53. RHC shall implement the Mitigation Project as set forth in Paragraphs 54 through 55 below and in Appendix A.

54. The purpose of the Mitigation Project is to remediate prior rule violations and/or emissions that EPA contends were in violation of the Clean Air Act. The Mitigation Project is not in lieu of penalties.

55. RHC shall maintain for a period of five (5) years from the effective date of the CAFO (or longer if required by applicable laws), and present to EPA upon request, all documents to substantiate the emissions reduced, dollars expended, and work completed to implement the Mitigation Project described in Appendix A, and shall provide these documents to EPA within thirty (30) days of request of the documents.

56. At such time as the Respondent believes that it has complied with all terms and conditions of this CAFO, Respondent agrees to certify to EPA completion of the Conditions of Settlement in Paragraphs 51-55 and Appendix A and the Supplemental Environmental Projects in Paragraphs 63-70 and Appendices B and C and provide any necessary documentation. Respondent represents that the signing representative will be fully authorized by Respondent to certify that the terms and conditions of this CAFO have been met. The certification should include the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and that, based on my inquiry of those

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individuals immediately responsible for obtaining the information, I believe that the information is, to the best of my knowledge, true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fines and imprisonment.

The certification required above shall be sent to:

Margaret Osborne
Chief, Air Toxics Section (6EN-AT)
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue Suite 1200
Dallas, TX 75202-2733

EPA has 90 days to respond with questions or disagreement that the conditions of the CAFO have been satisfied.

57. Respondent agrees that the time period from the effective date of this CAFO until all the conditions specified in Paragraph 51-55 and Appendix A and the Supplemental Environmental Projects in Paragraphs 63-70 and Appendices B and C have been completed (the "Tolling Period") shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by Complainant on any claims set forth in Section E of this CAFO (the "Tolled Claims"). Respondent shall not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolled Claims.

58. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors and assigns. From the effective date of this CAFO until the end of the Tolling Period, as set out in Paragraph 57, Respondent must give written notice and a copy of this

CAFO to any successors in interest prior to transfer of ownership or control of any portion or interest in the Facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment or delegation, Respondent shall continue to be bound by the obligations or liabilities of this CAFO until the EPA has provided written approval.

59. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information.

60. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has legal capacity to bind the party he or she represents to this CAFO.

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

62. Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17. Except as qualified by Paragraph 49, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

G. SUPPLEMENTAL ENVIRONMENTAL PROJECTS

63. Respondent shall implement the Supplemental Environmental Projects ("SEPs") described in Paragraphs 64 and 65 below, which the parties agree are intended to secure significant environmental or public health protection and improvements.

San Jacinto College Energy Efficiency SEP

64. In accordance with this Paragraph and the criteria, terms and procedures in Appendix B of this CAFO, RHC shall install energy efficient technologies at several San Jacinto College campuses for the purpose of reducing air pollutants associated with electric power generation. RHC shall spend no less than One Million Two Hundred Thousand Dollars (\$1,200,000) to implement this SEP and shall complete the SEP within two years of the effective date of the CAFO.

San Jacinto College Air Quality Monitor SEP

65. In accordance with this Paragraph and the criteria, terms and procedures in Appendix C of this CAFO, RHC shall construct at least one, but no more than three, park benches at San Jacinto College campuses. The park benches shall also function as ambient air quality monitoring stations for the purpose of monitoring air quality and making the monitoring data available to the public. RHC shall spend no less than One Hundred Thousand Dollars (\$100,000) and no more than One Hundred Twenty-Five Thousand Dollars (\$125,000) per park bench to implement this SEP and shall complete the SEP within three years of the effective date of the CAFO.

66. The total expenditure for the SEPs described in Paragraphs 64 and 65 shall be no less than One Million Five Hundred Thousand Dollars (\$1,500,000).

67. With regard to the SEPs, Respondent certifies the truth and accuracy of each of the following:

- a. That all cost information provided to the EPA in connection with EPA's approval of the SEPs is complete and accurate and that Respondent in good faith estimates that its costs to implement the SEPs is One Million Five Hundred Thousand Dollars (\$1,500,000).
- b. That, as of the effective date of this CAFO, Respondent is not required to perform or develop any component of the SEPs 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 any component of the SEPs is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;
- d. That Respondent has not received and will not receive credit for any component of the SEPs in any other enforcement action;
- e. That Respondent will not receive reimbursement for any portion of any component 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 any component of the SEPs;

g. That Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as any component of the SEPs;

68. If Respondent fails to comply with any of the terms or provisions of this CAFO relating to performance of the SEPs and/or to the extent the actual expenditures for the SEPs do not equal or exceed the cost of the total spending requirement on the SEPs set forth in paragraph 66 above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- a. Except as provided in subparagraph (b) immediately below, if RHC fails to make good faith, timely effort to implement the SEPs, RHC shall pay a stipulated penalty to the United States in the amount of One Million Five Hundred Fifty Thousand Dollars (\$1,550,000).
- b. If RHC installs at least three thousand (3,000) LED lighting fixtures in accordance with Paragraph 64 and Appendix B and completes the San Jacinto College Campus Air Quality Monitor SEP (one or more monitors) in accordance with Paragraph 65 and Appendix C, but does not expend the entire amount specified in Paragraph 66, RHC shall pay the difference between the amount expended and the amount specified in Paragraph 66.
- c. For failure to submit the SEP Final Completion Reports required in Appendices B and C, RHC shall pay a stipulated penalty in the amount of five hundred dollars (\$500.00) for each day after the report was originally due, until the report is submitted.

69. 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 at the sole, reasonable discretion of EPA.

70. Nothing herein shall obligate Respondent to publicize its involvement in the SEP; however, any public statement, oral, or written, made by Respondent to publicize its participation in SEP activities shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of the Clean Air Act and the regulations promulgated thereunder."

H. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

71. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in Section F and the facts that form the basis for those alleged violations.

72. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

73. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

74. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

75. Any violation of the included Final Order may result in a civil judicial action for an injunction or civil penalties of up to \$37,500 per day of violation, or both, as provided in

Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

76. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit.

77. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

I. EFFECTIVE DATE

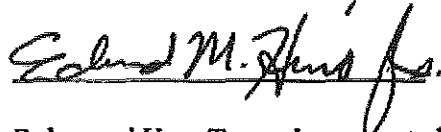
78. Respondent and Complainant agree to the issuance of the included Final Order. Upon filing the EPA will transmit a copy of the filed CAFO to the Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Hearing Clerk.

Re: Rohm and Haas Company
Docket No. CAA-06-2017-3329

The foregoing Consent Agreement In the Matter of Rohm and Haas Company, Docket No. CAA-06-2017-3329, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Date: 01/11/2017

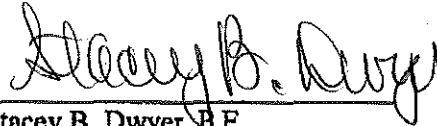


Rohm and Haas Texas, Incorporated

Edward M. Heins Jr.
President

FOR COMPLAINANT:

Date: 01/11/2017



Stacey B. Dwyer, P.E.
Acting Director
Compliance Assurance and
Enforcement Division

Re: Rohm and Haas Company
Docket No. CAA-06-2017-3329

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF:

ROHM AND HAAS COMPANY

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RESPONDENT

FINAL ORDER

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

Respondent is ORDERED to comply with all terms of the Consent Agreement. In accordance with 40 C.F.R. §22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated 1/12/17


Regional Judicial Officer
U.S. EPA, Region 6
Thomas Rucki

Re: Rohm and Haas Company
Docket No. CAA-06-2017-3329

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of January, 2017, the original and one copy of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and a true and correct copy was delivered to the following individual(s) by the method indicated below:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Edward M. Heins Jr.
President, Rohm and Haas Texas, Incorporated
Deer Park Operations
P.O Box 1000
Deer Park, TX 77536

CERTIFIED MAIL - RETURN RECEIPT REQUESTED 7006 08100005 95359042

Paul Bork
2030 Building
The Dow Chemical Company
Midland, MI 48674

Sandra Hardy
U.S. EPA, Region 6
Dallas, Texas

Appendix A - Mitigation Project

I. Purpose

The purpose of the Mitigation Project is to supplement RHC's leak detection and repair ("LDAR") program by employing infrared gas-imaging technology to locate and reduce Volatile Organic Compound fugitive emissions that may not otherwise be reduced. The monitoring requirements of this Appendix shall apply to at least 1,200 components on equipment at the Facility that is regulated under 40 C.F.R. Part 60, Subpart VV or other applicable federal, state, or local LDAR regulations ("Project Components") and which is not difficult or dangerous to monitor. RHC shall select the Project Components using its LeakDas database to target components at the Facility with the highest single overall, pre-repair emission concentration (ppm). The repair requirements of this appendix shall apply to any other components incidentally found to have a fugitive leak by IR Camera in conducting this mitigation program at the Facility, including components not regulated under 40 C.F.R. Part 60, Subpart VV or other applicable federal, state, or local LDAR regulations ("Non-Project Components"). The requirements of this Appendix are in addition to, not in lieu of, the requirements of any other LDAR regulations that may be applicable to equipment at the Facility. If there is a conflict between a federal, state, or local LDAR regulation and this Appendix, RHC shall follow the more stringent requirement.

II. Project Requirements

a. Monitoring and Repair

- i. RHC shall employ one infrared gas-imaging camera (the "IR Camera") at the Facility.
- ii. RHC shall use the IR Camera to monitor Project Components quarterly starting the first quarter of 2017 and ending the last quarter of 2019. This monitoring is in addition to and independent from all regulatory required monitoring.
- iii. If RHC determines that a Project Component is leaking using the IR Camera, RHC shall repair the Project Component or place the Project Component on delay of repair status in accordance with applicable LDAR regulations.
- iv. If, while using the IR camera to monitor the Project Components, RHC observes a leak from a Non-Project Component, RHC shall 1) make a first attempt to repair the Non-Project Component within fifteen (15) calendar days of identifying the leak and a second attempt to repair, if necessary, within forty-five (45) calendar days of identifying the leak or 2) if necessary, place the Non-Covered Equipment on a delay of repair status until the next turnaround at the Facility.
- v. In the first quarter of 2017 monitoring, RHC shall collect data to develop appropriate, site-specific emissions factors to allow the measurement of emissions reductions from the repairs of Project Components. The data

and calculations used to develop these emission factors and the emissions reduced shall be included in the Quarterly Reports described below.

b. Reports

RHC shall submit to EPA Quarterly Reports describing, among other things, all leaks identified using the IR Camera and any corrective actions taken to repair the leaks. In addition, within sixty (60) days following completion of the Mitigation Project, RHC shall submit to EPA a Final Report that documents:

- i. The date the Mitigation Project was completed;
- ii. The results achieved by implementing the Mitigation Project, including the emissions reductions or other environmental benefits realized;
- iii. The methodology and any calculations used in the derivation of such benefits, reductions, or mitigation;
- iv. The dollars expended by RHC in implementing the Mitigation Project; and
- v. Certification by an authorized representative that the Mitigation Project has been completed in full satisfaction of the requirements of the CAFO and this appendix.

APPENDIX B – San Jacinto College Energy Efficiency Project

Supplemental Environmental Project

Summary

This Scope of Work describes a Supplemental Environmental Project (“SEP”) to be performed by Rohm and Haas Company (“RHC”) for the purpose of reducing air pollutants associated with electric power generation. As part of this SEP, RHC will implement energy efficiency projects at San Jacinto College (“SJC”) campuses. SJC has three campuses which will be upgraded by this SEP – Central Campus located in Pasadena, Texas (about 5 miles South of RHC), North Campus, located in Houston, Texas (about 7 miles Northwest of RHC) and South Campus, also in Houston, Texas (about 12 miles Southwest of RHC).

Project Description

SJC evaluated the impact of the installation of energy efficient technologies that would result in the reduction of electrical energy consumption at SJC buildings. Based on this evaluation, RHC will conduct the energy efficient projects at SJC:

- Replacement of approximately six thousand (6,000) existing lighting fixtures with Lithonia Lighting BLT Series LED lighting fixtures.¹

LED (light emitting diode) is a highly energy efficient lighting technology, and in some cases can use at least 75% less energy, and last 25 times longer, than incandescent lighting.

Project Cost Estimate

The table below sets forth RHC’s estimate of the cost to replace 6,000 lighting fixtures as part of the San Jacinto College Energy Efficiency Project SEP.

Description	Estimated Cost
Materials	\$1,050,000 (75%)
Labor	\$350,000 (25%)
TOTAL PROJECT ESTIMATE	\$1,400,000

However, in any event, RHC shall spend no less than One Million Two Hundred Thousand Dollars (\$1,200,000) to implement the San Jacinto College Energy Efficiency Project SEP.

Project Timeline

RHC shall complete the SEP no later than two (2) years after the Effective Date of the CAFO and in accordance with the following timeline:

¹ RHC may substitute the Lithonia Lighting BLT Series LED lighting fixtures with comparable LED lighting with an efficiency rating greater than greater than 100 Lumens Per Watt (LPW).

Milestone	Date
Replace approximately two thousand (2,000) light fixtures	4Q17
Replace remaining light fixtures	4Q18

Final SEP Completion Report

No later than sixty (60) days after RHC has completed the SEP, Respondent shall submit a Final SEP Completion Report. The Final SEP Completion Report shall contain the following information: (i) a detailed description of the SEP as implemented, (ii) a certification that the SEP has been fully implemented pursuant to the provisions of this CAFO with itemized final costs and copies of receipts for all expenditures, (iii) a certification upon completion of the SEP that the RHC has not deducted the SEP from its income taxes, and (iv) a description of the environmental, emergency preparedness, and/or public health benefits resulting from implementation of the SEP.

In itemizing its costs in the Final SEP Completion Report, RHC shall clearly identify and provide acceptable documentation for all eligible costs. 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.

RHC shall, by its representative who is fully authorized by RHC to legally commit and bind RHC, sign and certify under penalty of law that the information contained in the Final SEP Completion Report is true, accurate, and complete, by signing the following statement:

“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.”

The Final SEP Completion Report shall be sent to:
 Margaret Osborne
 Chief, Air Toxics Section (6EN-AT)
 Compliance Assurance and Enforcement Division
 U.S. EPA, Region 6
 1445 Ross Avenue Suite 1200
 Dallas, TX 75202-2733

After receipt of the Final SEP Completion Report described above, EPA will notify RHC, in writing within ninety (90) days, regarding: (a) any deficiencies in the SEP Completion Report itself along with a grant of an additional thirty (30) days, from receipt of that notification, for Respondent to correct any deficiencies in the SEP Completion Report; or (b) indicate that EPA concludes that the project has been completed satisfactorily; or (c) determine that the project has not been completed satisfactorily.

APPENDIX C – San Jacinto College Air Quality Monitor

Supplemental Environmental Project Scope of Work

Summary

This Scope of Work describes a Supplemental Environmental Project (“SEP”) to be performed by Rohm and Haas Company (“RHC”) for the purpose of monitoring air quality and making the monitoring data available to the public. As part of the SEP, RHC shall install and maintain at least one, but no more than three, park bench structures which also will function as ambient air quality monitoring stations that will provide minute-to-minute air measurements for ozone, particle pollution and weather conditions (the “San Jacinto College Air Quality Monitors” or “AQMs”). The AQMs shall monitor at least ninety percent (90%) of the minutes during the duration of this CAFO. RHC shall create a publicly-accessible web site to which data from the AQM will be automatically uploaded. The goal of the project is to provide the public with information previously not available about local air quality and engage communities in air pollution awareness. As park benches may attract inadvertent pollution producing activities, a statement similar to this may be attached to each AQM and the web site, “The monitoring is of the air at this park bench and if someone is near the bench smoking or wearing perfume or carrying a nice smelling snack, the reported concentrations may be higher than at areas further from the park bench, where these sources of air pollution originate.”

Project Description

RHC shall install the AQMs at one or more San Jacinto College (“SJC”) campuses and shall install no more than one AQM at a particular campus. The following SJC campuses shall be part of the SEP: Central Campus located in Pasadena, Texas (about 5 miles South of RHC), North Campus, located in Houston, Texas (about 7 miles Northwest of RHC) and South Campus, also in Houston, Texas (about 12 miles Southwest of RHC). RHC shall construct the AQM preferably from recycled materials and include instrumentation to measure two common air pollutants—fine particle pollution (also known as PM_{2.5}) and ozone—and meteorological conditions such as wind speed, temperature, and humidity. The AQM shall also include miniaturized, low-power computer technology and communications equipment to wirelessly transmit the air quality and meteorological data in real time to a publicly-accessible website, which RHC will create specifically to host the data. RHC shall post prominent signage on the AQM to advertise to the public the name and location of the website and the function of the AQM. The AQM may include one or more solar panels, which will be coupled with and charge a battery to power the entire system. In the alternative, RHC may power the AQM by tying the unit directly to the electrical grid. At a minimum, the AQM shall include the following components:

1. Particulate Monitor
2. Ozone Monitor
3. Wind Sensor

4. Humidity and Temperature Sensor
5. Power Controller
6. Absorbed Glass Mat Battery (optional)
7. Solar Panel (optional)
8. Microprocessor
9. Cellular Router
10. Bench Structure

Project Cost

As set forth in the table below, RHC shall spend no less than One Hundred Thousand Dollars (\$100,000), but no more than One Hundred Twenty-Five Thousand Dollars (\$125,000), on each AQM to implement this SEP.

Description	Estimated Cost
Project Management	\$8,000
Hardware Procurement	\$43,000
Assembly, Testing and Installation	\$26,000
Operations	\$23,000
TOTAL PROJECT ESTIMATE	\$100,000
Per Structure	

Project Timeline

The AQM shall be operational before the first annual anniversary of the effective date of the CAFO. RHC shall operate the AQM and post the air quality and meteorological data to a publicly-accessible website for at least two years. The SEP shall be deemed completed when RHC has operated the AQM and posted the data for at least two years. RHC may continue to operate the AQM after the completion of this SEP.

Final SEP Completion Report

No later than sixty (60) days after RHC has completed the SEP, Respondent shall submit a Final SEP Completion Report. The Final SEP Completion Report shall contain the following information: (i) a detailed description of the SEP as implemented, (ii) a certification that the SEP has been fully implemented pursuant to the provisions of this CAFO with itemized final costs and copies of receipts for all expenditures, (iii) a certification upon completion of the SEP that the RHC has not deducted the SEP from its income taxes, and (iv) a description of the environmental, emergency preparedness, and/or public health benefits resulting from implementation of the SEP.

In itemizing its costs in the Final SEP Completion Report, RHC shall clearly identify and provide acceptable documentation for all eligible costs. 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.

RHC shall, by its representative who is fully authorized by RHC to legally commit and bind RHC, sign and certify under penalty of law that the information contained in the Final SEP Completion Report is true, accurate, and complete, by signing the following statement:

"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."

The Final SEP Completion Report shall be sent to:
Margaret Osborne
Chief, Air Toxics Section (6EN-AT)
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue Suite 1200
Dallas, TX 75202-2733

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