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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 6**

**1201 Elm Street, Suite 500**

**Dallas, Texas 75270**

**REGIONAL HEARING CLERK  
EPA REGION 6**

**In the Matter of**

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**Sasol Chemicals USA, LLC**

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**Docket No. CAA-06-2024-3325**

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**Respondent.**

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**CONSENT AGREEMENT AND FINAL ORDER**

**Preliminary Statement**

The U.S. Environmental Protection Agency, Region 6 (“EPA” or “Complainant”), and Sasol Chemicals USA, LLC (“Respondent”) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

**Jurisdiction**

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that this matter, in which the first date of alleged violation occurred more than twelve months prior to the initiation of the administrative action, was appropriate for administrative penalty action.

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

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

### **Parties**

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

4. Respondent is Sasol Chemicals USA, LLC, a corporation incorporated in the state of Delaware and authorized to conduct 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 Amendments added Section 112(r) to Title I of the CAA, 42 U.S.C. § 7412(r). The objective of Section 112(r) is to prevent the accidental release and to minimize the consequences of any such release of any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance.

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

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 \$51,796 for violations that occur after November 2, 2015, and are assessed after January 12, 2022.

### **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 term “extremely hazardous substance” means an extremely hazardous substance within the meaning of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1). Such substances include any chemical which may, as a result of short-term exposures associated with releases to the air, cause death, injury, or property damage due to its toxicity, reactivity, flammability or corrosivity.<sup>1</sup> The term includes, but is not limited to, regulated substances listed in Section 112(r)(3), 42 U.S.C. § 7412(r)(3), and 40 C.F.R. 68.130. Also, the release of any

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<sup>1</sup> Senate Committee on Environment and Public Works, Clean Air Act Amendments of 1989, Sen. Report No. 228, 101st Congress, 1st Session 211 (1989).

substance that causes death or serious injury because of its acute toxic effect or as a result of an explosion or fire or that causes substantial property damage by blast, fire, corrosion, or other reaction would create a presumption that such substance is extremely hazardous.<sup>2</sup>

18. 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.

19. 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**

20. 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).

21. Respondent is the owner and operator of the facility located at: 2201 Old Spanish Trail, Westlake, Louisiana 70669 (“the Facility”).

22. Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, the EPA conducted a Virtual Partial Compliance Evaluation of the Facility from January 26, 2021, to July 19, 2021, 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”).

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<sup>2</sup> Id.

23. On January 24, 2022, the EPA sent the Respondent a Notice of Potential Violation and Opportunity to Confer letter.

24. On June 23, 2022, the EPA met with the Respondent as a result of the opportunity to confer and articulated the EPA's position concerning the Respondent's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r) regarding the Inspection.

25. On October 15, 2022, there was an incident at the Facility that resulted in an accidental release of approximately 17,598 pounds of Aluminum Triethyl (ATE) ("Incident").

26. The Incident resulted in an on-site chemical fire at the Facility and a shelter-in-place for the surrounding community.

27. Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, on multiple occasions, the EPA requested, and the Respondent provided, further documentation and information concerning the Incident and the Respondent's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68.

28. 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.

29. The Respondent's facility uses natural gas and by-products from refinery operations to produce specialty chemicals for detergents and cosmetics. The facility uses or produces several regulated flammables such as ethylene, propane, butane, propylene, ethane, hydrogen, methane, and pentane. The Respondent's processes meet the definition of "process" and "covered process", as defined by 40 C.F.R. § 68.3. The Respondent's RMP program level 3 covered processes store or otherwise use a regulated substance in an amount exceeding the applicable threshold.

30. Ethylene Oxide, Hydrogen Flouride, and Chlorine are “regulated substances” pursuant to Section 112(r)(2)(B) of the CAA, and the regulation at 40 C.F.R. § 68.3. The threshold quantity for the regulated substance, Ethylene Oxide, as listed in 40 C.F.R. § 68.130 is 10,000 pounds. The threshold quantity for the regulated substance, Hydrogen Flouride, as listed in 40 C.F.R. § 68.130 is 1,000 pounds. The threshold quantity for the regulated substance, Chlorine, as listed in 40 C.F.R. § 68.130 is 2,500 pounds.

31. Respondent has greater than a threshold quantity of Ethylene Oxide, Hydrogen Flouride, and Chlorine in processes at the Facility, meeting the definition of “covered process” as defined by 40 C.F.R. § 68.3.

32. From the time Respondent first had on-site greater than a threshold quantity of Ethylene Oxide, Hydrogen Flouride, and Chlorine, in its processes, 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.

33. From the time Respondent first had on-site greater than a threshold quantity of Ethylene Oxide, Hydrogen Flouride, and Chlorine, in its processes, 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 32511 (petrochemical manufacturing) and is subject to the OSHA process safety management standard, 29 C.F.R. § 1910.119.

**EPA Findings of Violation**

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

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

**Count 1 – Process Hazard Analysis**

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

37. At the time of the Inspection, Respondent failed to assure that nineteen (19) recommendations of the 2016 Process Hazard Analysis were resolved in a timely manner and the actions were completed as soon as possible.

38. Respondent's failure to assure that the nineteen (19) recommendations of the 2016 Process Hazard Analysis were resolved in a timely manner, pursuant to 40 C.F.R. § 68.67(e), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

### **Count 2 – Mechanical Integrity**

39. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. The regulation at 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.

40. At the time of the Inspection, Respondent failed to implement the inspection schedule required of its written procedures to maintain the on-going integrity of various process equipment (mixing tees, injection points, the corrosion under insulation inspection, dead leg inspection, the soil/air interface system).

41. Respondent's failure to implement written procedures to maintain the on-going integrity of process equipment, pursuant to 40 C.F.R. § 68.73(b), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

### **Count 3 – Mechanical Integrity**

42. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. The regulation at 40 C.F.R. § 68.73(d)(1) provides that inspections and tests shall be performed on process equipment.

43. At the time of the Inspection, Respondent failed to perform external visual inspections and thickness examinations on various process equipment (circuits and piping lines).

44. Respondent's failure to perform inspections and tests on various process

equipment, pursuant to 40 C.F.R. § 68.73(d)(1), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

#### **Count 4 – Mechanical Integrity**

45. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. The regulation at 40 C.F.R. § 68.73(d)(2) provides that inspection and testing procedures shall follow recognized and generally accepted good engineering practices (RAGAGEP).

46. At the time of the Inspection, Respondent failed to perform and complete external piping inspections on Class 1 and Class 2 piping in the Alcohol and Ethoxylate (ETO) units as required by American Petroleum Institute (API) 570, failed to complete all Corrosion Under Insulation and Soil-Interface inspections for pressure vessels in the Alcohol Unit in accordance with API 510, and failed to perform internal inspections of pressure vessels T6-677-FB-613A, T6-663-FB-805, and D7-324-FA-410, in accordance with API 510 and API 653.

47. Respondent's failure to perform and complete inspections that follow RAGAGEP, pursuant to 40 C.F.R. § 68.73(d)(2), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

#### **Count 5 – Mechanical Integrity**

48. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. The regulation at 40 C.F.R. § 68.73(d)(3) provides that 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.

49. At the time of the Inspection, Respondent failed to conduct the frequency of inspections and testing of process equipment consistent with applicable manufacturers' recommendations and good engineering practices (various piping lines, piping circuits, and pumps were overdue for testing and inspections).

50. Respondent's failure to conduct the frequency of inspections and tests of process equipment consistent with applicable manufacturers' recommendations and good engineering practices, pursuant to 40 C.F.R. § 68.73(d)(3), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

#### **Count 6 – Mechanical Integrity**

51. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. The regulation at 40 C.F.R. § 68.73(e) provides that the owner or operator shall correct deficiencies in equipment that are outside acceptable limits (defined by the process safety information in 40 C.F.R. § 68.65) before further use or in a safe and timely manner, when necessary, means are taken to assure safe operation.

52. At the time of the Inspection, Respondent failed to correct deficiencies in the piping circuit equipment and the leaking flange located on the condensate line in the process unit, before further use or in a safe and timely manner, when necessary, means are taken to assure safe operation.

53. Respondent's failure to correct deficiencies in the piping circuit equipment and the

leaking flange located on the condensate line in the process unit, before further use or in a safe and timely manner, pursuant to 40 C.F.R. § 68.73(e), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

### **Count 7 – Management of Change**

54. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. The regulation at 40 C.F.R. § 68.75(a) provides that the owner or operator shall establish and implement written procedures to manage changes (except for “replacements in kind”) to process chemicals, technology, equipment, and procedures; and changes to stationary sources that affect a covered process. The regulation at 40 C.F.R. § 68.75(b) provides that the procedures shall assure that the following considerations are addressed prior to any change:

- (1) The technical basis for the proposed change;
- (2) Impact of change on safety and health;
- (3) Modifications to operating procedures;
- (4) Necessary time period for the change; and,
- (5) Authorization requirements for the proposed change.

55. At the time of the Inspection, Respondent failed to implement written procedures to manage changes to process equipment in that a management of change was not performed for the installation of a pipe clamp, failing to assure that the following considerations were addressed: the technical basis for the proposed change; the impact of change on safety and health; modifications to operating procedures; and the necessary time period for the change.

56. Respondent’s failure to implement written procedures to manage changes to process equipment, and failing to assure that the following considerations were addressed: the

technical basis for the proposed change; the impact of change on safety and health; modifications to operating procedures; and the necessary time period for the change to the stationary source that affected the covered process, pursuant to 40 C.F.R. §§ 68.75(a) & 68.75(b), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

### **Count 8 – Compliance Audits**

57. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. The regulation at 40 C.F.R. § 68.79(d) provides that the owner or operator shall promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected.

58. At the time of the Inspection, Respondent failed to promptly determine an appropriate response for finding number thirty-five (35) and finding number thirty-eight (38) for the 2016 Compliance Audit and failed to document that the deficiencies had been corrected for the 2019 Compliance Audit findings.

59. Respondent's failure to promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that the deficiencies have been corrected, pursuant to 40 C.F.R. § 68.79(d), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

### **Count 9 – Incident Investigation**

60. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a

stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. The regulation at 40 C.F.R. § 68.81(c) provides that an incident investigation team shall be established and consist of at least one person knowledgeable in the process involved, including a contract employee if the incident involved work of the contractor, and other persons with appropriate knowledge and experience to thoroughly investigate and analyze the incident.

61. At the time of the Inspection, Respondent failed to establish an incident investigation team, that consisted of at least one person knowledgeable in the process involved for the incident investigations that took place on July 27, 2019, December 20, 2019, December 26, 2019, December 27, 2019, and February 2, 2020.

62. Respondent's failure to establish an incident team that consisted of at least one person knowledgeable in the process involved, pursuant to 40 C.F.R. § 68.81(c), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

#### **Count 10 – Incident Investigation**

63. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. The regulation at 40 C.F.R. § 68.81(d)(4) provides that a report shall be prepared at the conclusion of the investigation which includes the factors that contributed to the incident.

64. At the time of the Inspection, Respondent failed to prepare an incident investigation report that included the factors that contributed to the incident, for the incident investigation report completed on December 20, 2019.

65. Respondent's failure to prepare an incident investigation report that included the factors that contributed to the incident, pursuant to 40 C.F.R. § 68.81(d)(4), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

**Count 11 – Incident Investigation**

66. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. The regulation at 40 C.F.R. § 68.81(d)(5) provides that a report shall be prepared at the conclusion of the investigation which includes any recommendations resulting from the investigation.

67. At the time of the Inspection, Respondent failed to prepare an incident investigation report that included any recommendations resulting from the investigation, for the incident investigation reports completed on July 27, 2019, December 20, 2019, December 26, 2019, December 27, 2019, and February 2, 2020.

68. Respondent's failure to prepare an incident investigation report that included any recommendations resulting from the investigation, pursuant to 40 C.F.R. § 68.81(d)(5), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

**Count 12 – Incident Investigation**

69. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. The regulation at 40 C.F.R. § 68.81(f) provides that the report shall be reviewed with all affected personnel whose job tasks are

relevant to the incident findings including contract employees where applicable.

70. At the time of the Inspection, Respondent failed to review the incident investigation reports with all affected personnel whose job tasks were relevant to the incident findings, for the incident investigation reports completed on July 27, 2019, December 26, 2019, December 27, 2019, and February 2, 2020.

71. Respondent's failure to review the incident investigation report with all affected personnel whose job tasks are relevant to the incident findings including contract employees where applicable, pursuant to 40 C.F.R. § 68.81(f), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

### **Count 13 – Mechanical Integrity**

72. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. The regulation at 40 C.F.R. § 68.73(f)(2) provides that appropriate checks and inspections shall be performed to assure that equipment is installed properly and consistent with design specifications and the manufacturer's instructions.

73. At the time of the Inspection, Respondent failed to perform the appropriate checks and inspections to assure that the XV-50272 valve was consistent with design specifications and the manufacturer's instructions, which resulted in a valve bonnet leak.

74. Respondent's failure to perform appropriate checks and inspections to assure that equipment is installed properly and consistent with design specifications and the manufacturer's instructions, pursuant to 40 C.F.R. § 68.73(f)(2), as required by 40 C.F.R. §

68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

#### **Count 14 – Operating Procedures**

75. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.69(a), that 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.

76. At the time of the Inspection, Respondent failed to implement written operating procedures that provided clear instructions for safely conducting activities involved in the nitrogen purging process, as on January 11, 2020, only a single valve was closed, but the nitrogen purging process operating procedure requires double block isolation from atmosphere.

77. Respondent's failure to implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information, pursuant to 40 C.F.R. § 68.69(a), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

#### **Count 15 – Mechanical Integrity**

78. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. The regulation at 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.

79. At the time of the Incident, Respondent failed to establish a written maintenance procedure for the drying of equipment after cleaning and hydrotesting of a trombone cooler and associated piping using water, which would maintain the on-going integrity of the process equipment.

80. Respondent's failure to establish a written maintenance procedure for the drying of equipment after cleaning and hydrotesting of a trombone cooler and associated piping using water, which would maintain the on-going integrity of the process equipment, pursuant to 40 C.F.R. § 68.73(b), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

#### **Count 16 – Operating Procedures**

81. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.69(a)(1)(vii), 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: (vii) startup following a turnaround.

82. At the time of the Incident, Respondent failed to develop and implement an operating procedure, prior to, and during startup following a turnaround, which provided clear instructions and the steps necessary for drying of equipment before safely introducing aluminum triethyl into regulated process.

83. Respondent's failure to develop and implement an operating procedure, prior to, and during startup following a turnaround, which provided clear instructions and the steps necessary for drying of equipment before safely introducing aluminum triethyl into regulated process, pursuant to 40 C.F.R. § 68.69(a)(1)(vii), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

**Count 17 – Operating Procedures**

84. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.69(d), 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.

85. At the time of the Incident, Respondent failed to develop and implement safe work practices relating to the drying of equipment to provide for the control of hazards associated with aluminum triethyl following the opening of process equipment and the subsequent introduction of aluminum triethyl to the process.

86. Respondent's failure to develop and implement safe work practices relating to the drying of equipment in this regard, pursuant to 40 C.F.R. § 68.69(d), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

**Count 18 – Operating Procedures**

87. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.69(a)(1)(vii), 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: (vii) startup following a turnaround.

88. At the time of the Incident, Respondent failed to develop and implement an operating procedure, prior to startup following a turnaround, which provided clear instructions and the steps necessary for safely drying the trombone cooler following hydrotesting and prior to start-up of the olefin system.

89. Respondent's failure to develop and implement an operating procedure, prior to startup following a turnaround, which provided clear instructions and the steps necessary for safely drying the trombone cooler following hydrotesting and prior to start-up of the olefin system, pursuant to 40 C.F.R. § 68.69(a)(1)(vii), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

#### **Count 19 – Availability of Information to the Public**

90. The regulation at 40 C.F.R. § 68.210(b), requires the owner or operator of a stationary source shall hold a public meeting to provide information required under § 68.42(b), no later than 90 days after any RMP reportable accident at the stationary source with any known offsite impact specified in § 68.42(a).

91. After the Incident, Respondent failed to hold a public meeting to provide

information required under § 68.42(b), no later than 90 days after any RMP reportable accident at the stationary source with any known offsite impact specified in § 68.42(a), i.e., sheltering in place.

92. Respondent's failure to hold a public meeting to provide information required under § 68.42(b), no later than 90 days after any RMP reportable accident at the stationary source with any known offsite impact specified in § 68.42(a), i.e., sheltering in place, as required by 40 C.F.R. § 68.210(b), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

### **CONSENT AGREEMENT**

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

Respondent:

- (a) admits the jurisdictional allegations set forth herein;
- (b) neither admits nor denies the specific factual allegations stated herein;
- (c) consents to the assessment of a civil penalty, as stated herein;
- (d) consents to any conditions specified herein;
- (e) waives any right to contest the allegations set forth herein; and
- (f) waives its rights to appeal the Final Order accompanying this Consent Agreement.

94. 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.

95. 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**

96. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of **one million, four hundred and forty-one thousand, seven-hundred and twelve dollars (\$1,441,712.00)**, as set forth below.

97. 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>.

98. 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.loreana@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

99. 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).

100. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service (“IRS”) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at

<https://www.irs.gov/pub/irs-pdf/fw9.pdf>;

- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN; Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at [chalifoux.jessica@epa.gov](mailto:chalifoux.jessica@epa.gov) within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- c. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the effective date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
  - i. Notify EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the effective date of this Order; and
  - ii. Provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

**Notification**

101. Unless otherwise specified elsewhere in this Consent Agreement and Final Order, whenever notice is required to be given, whenever a report or other document is required to be forwarded by one party to another, or whenever a submission or demonstration is required to be made, it shall be directed to the individuals specified below at the addresses

given (in addition to any action specified by law or regulation), unless these individuals or their successors give notice in writing to the other parties that another individual has been designated to receive the communication:

EPA: 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

Respondent: Heather Kress  
Senior Manager Legal - Americas  
Sasol Chemicals USA, LLC  
12120 Wichchester Lane  
Houston, Texas 77079  
Heather.Kress@us.sasol.com

Scott Janoe  
910 Louisiana Street, Suite 2900  
Houston, Texas 77002  
Scott.Janoe@BakerBotts.com

#### **Modification**

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

#### **Termination**

103. At such time as Respondent believes that it has complied with all terms and conditions of this Consent Agreement and Final Order, Respondent may request that EPA advise whether this Consent Agreement and Final Order has been satisfied and terminated. EPA will respond to said request as expeditiously as possible. This Consent Agreement and

Final Order shall terminate when all actions required to be taken by this Consent Agreement and Final Order have been completed, and Respondent has been notified by the EPA in writing that this Consent Agreement and Final Order has been satisfied and terminated.

**No EPA Liability**

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

**Effect of Settlement and Reservation of Rights**

105. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein.

106. 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.

107. Full payment of the penalty proposed in this Consent Agreement shall not affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for violations of law not addressed in the Consent Agreement and Final Order. 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.

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

**General Provisions**

109. 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.

110. 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.

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

112. 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.

113. 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:                   pittman.lawrence@epa.gov

                                  buchanan.kayla@epa.gov

To Respondent:       scott.janoe@bakerbotts.com

                                  heather.kress@us.sasol.com

**RESPONDENT:  
SASOL CHEMICALS USA, LLC**

Date: March 7, 2024

\_\_\_\_\_  
Signature

Pieter Potgieter  
Print Name

Vice President, SHE and Risk  
Title

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

Date: \_\_\_\_\_

\_\_\_\_\_  
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  
Regional Judicial Officer

\_\_\_\_\_  
Date

**CERTIFICATE OF SERVICE**

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

Copy via Email to Complainant:

pittman.lawrence@epa.gov

buchanan.kayla@epa.gov

Copy via Email to Respondent:

scott.janoe@bakerbotts.com

heather.kress@us.sasol.com  
Sasol Chemicals USA, LLC  
12120 Wichchester Lane  
Houston, Texas 77079

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Regional Hearing Clerk  
EPA Region 6