

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1201 Elm Street, Suite 500

Dallas, Texas 75270

FILED

21 OCT -5 AM 9:50

REGIONAL HEARING CLERK  
EPA REGION VI

In the Matter of

Axiall, LLC,

Respondent.

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Docket No. CAA-06-2021-3351

**CONSENT AGREEMENT AND FINAL ORDER**

**Preliminary Statement**

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

**Jurisdiction**

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

2. This Consent Agreement and Final Order serves as notice that the EPA has reason to believe that Respondent has violated the Chemical Accident Prevention Provisions in

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

### **Parties**

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

4. Respondent is Axiall, LLC, a company formed 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 minimize the consequences of any such release of any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance.

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

substances and respective threshold quantities is codified at 40 C.F.R. § 68.130.

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

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

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

10. The regulations at 40 C.F.R. § 68.10 set forth how the Chemical Accident Prevention Provisions of 40 C.F.R. Part 68 apply to each program level of covered processes. Pursuant to 40 C.F.R. § 68.10(i), a covered process is subject to Program 3 requirements if the process does not meet the requirements of Program 1, as described in 40 C.F.R. § 68.10(g), and if it is in a specified North American Industrial Classification System code or is subject to the Occupation Safety and Health Administration OSHA process safety management standard, 29

C.F.R. 1910.119.

11. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to \$25,000 per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and its implementing regulations. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred before November 2, 2015, and to \$48,762 for violations that occur after November 2, 2015, and are assessed after January 13, 2020.

#### **Definitions**

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

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

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

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

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

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

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

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

**EPA Findings of Fact and Conclusions of Law**

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

20. Respondent is the owner and operator of a facility located at: 1600 VCM Plant Road, Westlake, Louisiana 70669 (the Facility).

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

inspection of the Facility on February 27 through March 8, 2018, to determine Respondent's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68 (the "Inspection").

22. On November 12, 2020, the EPA sent Respondent a Notice of Potential Violation and Opportunity to Confer letter. On January 6, 2021, the EPA responded to the documentation and information received from Respondent as a result of the opportunity to confer and articulated the EPA's position concerning Respondent's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

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

24. Respondent operates a petrochemical manufacturing process at the Facility, utilizing regulated substances to produce vinyl chloride monomer, meeting the definition of "process", as defined by 40 C.F.R. § 68.3.

25. Sulfur dioxide, hydrogen chloride, vinyl chloride and propylene (collectively, "regulated substances") are each a "regulated substance" pursuant to Section 112(r)(2)(B) of the CAA, 42 U.S.C. § 7412(r)(2)(B), and the regulation at 40 C.F.R. § 68.3. The threshold quantity for sulfur dioxide and hydrogen chloride, as listed in 40 C.F.R. § 68.130 is 5,000 pounds. The threshold quantity for vinyl chloride and propylene, as listed in 40 C.F.R. § 68.130 is 10,000 pounds.

26. Respondent has greater than a threshold quantity of each of the regulated substances, in a process at the Facility, meeting the definition of "covered process" as defined by 40 C.F.R. § 68.3.

27. From the time Respondent first had on-site greater than a threshold quantity of the

regulated substances in a process, Respondent was subject to the requirements of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68 because it was the owner or operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

28. From the time Respondent first had on-site greater than a threshold quantity of regulated substances in a process, Respondent was required to submit an RMP pursuant to 40 C.F.R. § 68.12(a) and comply with the Program 3 prevention requirements because, pursuant to 40 C.F.R. § 68.10(i), the covered process at the Facility did not meet the eligibility requirements of Program 1, is in North American Industry Classification System code 32511, and is subject to the OSHA process safety management standard, 29 C.F.R. § 1910.119.

**EPA Findings of Violation**

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

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

**Count 1 – Mechanical Integrity Inspections and Tests**

31. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.73(d)(1), the owner or operator shall perform inspections and tests on process equipment. Pursuant to 40 C.F.R. § 68.73(d)(2), the inspection and testing procedures shall follow recognized and generally accepted good engineering practices.

32. At the time of the inspection, Respondent failed to perform sufficient inspections

and tests following recognized and generally accepted good engineering practices on the closed vent fiberglass wet vent piping line system located on the east side of the Facility, a piece of process equipment at the Facility.

33. Respondent's failure to perform sufficient inspections and tests on the fiberglass wet vent piping line following recognized and generally accepted good engineering practices pursuant to 40 C.F.R. § 68.73(d)(2), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

**Count 2 – Mechanical Integrity Documentation**

34. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.73(d)(4), the owner shall document each inspection and test that has been performed on process equipment. The documentation shall identify the date of the inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test.

35. Respondent failed to include a description of the inspection or test performed and the results of the inspection or test on the inspection and test documentation for an inspection performed on vinyl transfer pump P-401B, which is a piece of process equipment at the Facility.

36. Respondent failed to identify the date of the inspection or test and the name of the person who performed the inspection or test on the inspection and test documentation for an inspection performed on the Safety System Check Procedure, which is process equipment at the Facility.



37. Respondent's failure to identify the date of the inspection or test, the name of the person who performed the inspection or test, a description of the inspection or test performed, and the results of the inspection or test for each inspection and test performed on process equipment at the Facility, pursuant to 40 C.F.R. § 68.73(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 3 – Process Safety Information**

38. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.65(d)(1)(ii), the owner or operator shall complete a compilation of written process safety information before conducting any process hazard analysis required by 40 C.F.R. Part 68. The process safety information shall include information pertaining to the equipment in the process; and specifically, piping and instrument diagrams (P&ID's).

39. Respondent failed to update its compilation of written process safety information to include accurate P&IDs of the sulfur dioxide system before conducting a process hazard analysis. Specifically, a number of valves and pieces of equipment for the sulfur dioxide system were not included on the related P&ID prior to the process hazard analysis conducted during July – August 2017.

40. Respondent's failure to include an accurate P&ID for the sulfur dioxide system for the compilation of written process safety information before conducting a hazard analysis pursuant to 40 C.F.R. § 68.65(d)(1)(ii), 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 – Operating Procedures**

41. 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)(2), the owner and 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 operating limits.

42. Respondent's operating procedure titled "Loading VCM Tank Cars" did not have operating limits for safely conducting activities involved in that area of the covered process.

43. Respondent's failure to develop a written operating procedure that addressed operating limits for safely conducting activities in the tank car area of the covered process pursuant to 40 C.F.R. § 68.69(a)(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 – Operating Procedures**

44. 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(b), operating procedures shall be readily accessible to employees who work in or maintain a process.

45. Respondent failed to ensure that the operating procedure titled "Loading VCM Tank Cars" was readily accessible to employees working in or maintaining the process. Specifically, at the time of the inspection, two versions of the operating procedure were provided. The version of the operating procedure provided by an employee working in and maintaining the process in the field was dated March 16, 2017; whereas, the version of the

operating procedure provided by environmental staff was dated November 29, 2017.

46. Respondent's failure to ensure the updated operating procedure titled "Loading VCM Tank Cars" was readily accessible to the employee working in and maintaining the process pursuant to 40 C.F.R. § 68.69(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 6 – Management of Change**

47. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.75(a), 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 the stationary sources that affect a covered process. Pursuant to 40 C.F.R. § 68.75(b), the management of change procedures shall assure that authorization requirements for the proposed change are addressed prior to any change; and pursuant to 40 C.F.R. § 68.75(c), employees involved in operating a process and maintenance and contract employees whose job tasks will be affected by a change in the process shall be informed of, and trained in, the change prior to start-up of the process or affected part of the process.

48. Respondent failed to implement its written procedures to manage a change to the stationary source that assured authorization requirements were addressed and training conducted for employees affected by the change prior to start-up of the process. Specifically, authorization requirements for a temporary change made to the normal operation and startup procedures for certain process equipment were addressed after the change, and training for employees involved in operating and maintaining the process was completed after the start-up of the process affected

by the change.

49. Respondent's failure to implement its written procedures to manage a change to the stationary source that assured authorization requirements were addressed and training conducted for employees affected by the change prior to start-up of the process pursuant to 40 C.F.R. § 68.75, 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**

50. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.75(a), 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 the stationary sources that affect a covered process.

51. Respondent failed to implement its written procedures for managing changes to the Facility when it did not complete the required changes to process equipment.

52. Respondent's failure to implement written procedures to manage changes to process equipment affecting the covered process pursuant to 40 C.F.R. § 68.75(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 8 – Emergency Response Program**

53. The regulation at 40 C.F.R. § 68.12(d)(5) requires the owner or operator of a stationary source with a process subject to Program 3 to develop and implement an emergency response program, and conduct exercises, as provided in 40 C.F.R. §§ 68.90 to 68.96. Pursuant to 40 C.F.R. § 68.95(a)(2), the owner or operator shall develop and implement an emergency

response program for the purpose of protecting public health and the environment and shall include procedures for the use of emergency response equipment and for its inspection, testing, and maintenance.

54. Respondent failed to develop and implement an emergency response program that included procedures for the use, inspection, and maintenance of all its emergency response equipment. Specifically, Respondent's emergency response program did not include procedures for the use, inspection, and maintenance of emergency escape respirators located in mailboxes throughout the Facility.

55. Respondent's failure develop and implement an emergency response program that included procedures for the use, inspection, testing, and maintenance of all emergency response equipment at the Facility, pursuant to 40 C.F.R. § 68.95(a)(2), as required by 40 C.F.R. § 68.12(d)(5), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

#### **Count 9 – RMP Required Corrections**

56. The regulation at 40 C.F.R. § 68.12(a) requires the owner or operator of a stationary source subject to Part 68 shall submit a single RMP, as provided in 40 C.F.R. §§ 68.150 to 68.185. Pursuant to 40 C.F.R. § 68.150(d), RMPs submitted under 40 C.F.R. § 68.150 shall be updated and corrected in accordance with §§ 68.190 and 68.195. Pursuant to 40 C.F.R. § 68.195(a), the owner or operator of a stationary source for which a RMP was submitted shall correct the RMP to include any accidental release meeting the five-year accident history reporting criteria of 40 C.F.R. § 68.42 and occurring after April 9, 2004, the owner or operator shall submit the data required under 40 C.F.R. §§ 68.168, 68.170(j), and 68.175(1) with respect to that accident within six months of the release or by the time the RMP is updated under 40 C.F.R. § 68.190, whichever is earlier.

57. Pursuant to the regulation at 40 C.F.R. § 68.42(a), the owner or operator shall include in the five-year accident history all accidental releases from covered processes that resulted in deaths, injuries, or significant property damage on site, or known as offsite deaths, injuries, evacuations, sheltering in place, property damage, or environmental damage.

58. On June 10, 2015, an accidental release occurred at the facility that resulted in a shelter-in-place, meeting the five-year accident history reporting criteria of 40 C.F.R. § 68.42(a).

59. Respondent failed to update the RMP within six months of the release pursuant to 40 C.F.R. § 68.195(a).

60. Respondent's failure to update the RMP pursuant to 40 C.F.R. § 68.195(a), to include the June 10, 2015 accidental release meeting the five-year accident history reporting criteria of 40 C.F.R. § 68.42(a), as required by 40 C.F.R. §§ 68.12(d)(a) and 68.150(d) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

#### **CONSENT AGREEMENT**

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

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

h. waives its rights to appeal the Final Order accompanying this Consent Agreement.

62. 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.

63. 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**

64. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of four hundred forty-seven thousand four hundred eight dollars (\$447,408.00), as set forth below.

65. 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>.

66. A copy of the check or other information confirming payment shall simultaneously be sent to the following:

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

Kayla Buchanan

Enforcement and Compliance Assurance Division  
Air Enforcement Branch  
U.S. Environmental Protection Agency, Region 6  
1201 Elm Street, Suite 500 (ECDAC)  
Dallas, Texas 75270-2101  
buchanan.kayla@epa.gov

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

**Effect of Settlement and Reservation of Rights**

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

69. 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.

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



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

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

### **General Provisions**

73. 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.

74. 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.

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

76. 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.

77. 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: *mills.clarissa@epa.gov*

To Respondent: *maureen.harbourt@keanmiller.com*

**RESPONDENT:  
AXIALL, LLC**

Date: 9/28/2021

DocuSigned by:  
  
1B182CE26703471...

Signature

Curtis Brescher

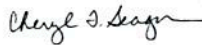
Print Name

Director - Operations, Region 1

Title

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

Date: September 28, 2021



Digitally signed by CHERYL  
SEAGER  
DN: c=US, o=U.S. Government,  
ou=Environmental Protection  
Agency, cn=CHERYL SEAGER,  
0.9.2342.19200300.100.1.1=680010  
03651793  
Date: 2021.09.28 14:10:32 -05'00'

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

**FINAL ORDER**

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

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

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

IT IS SO ORDERED.

**THOMAS  
RUCKI**

Digitally signed by THOMAS RUCKI  
DN: c=US, o=U.S. Government,  
ou=Environmental Protection Agency,  
cn=THOMAS RUCKI,  
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Date: 2021.10.05 09:38:49 -05'00'

Thomas Rucki  
Regional Judicial Officer

\_\_\_\_\_  
Date

**CERTIFICATE OF SERVICE**

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

Copy via Email to Complainant:

*mills.clarissa@epa.gov*

Copy via Email to Respondent:

*maureen.harbourt@keanmiller.com*

Attorney for Axiall, LLC  
Kean Miller LLP  
400 Convention Street, Suite 700  
Baton Rouge, Louisiana 70820

Copy via Email to Regional Hearing Clerk:

*Vaughn.lorena@epa.gov*

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