



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

DEC - 20 2016

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ms. Tammy Little  
General Manager  
Shell Chemical LP  
400 Industrial Parkway  
Saraland, Alabama 36571

Re: Shell Chemical LP – Saraland, Alabama  
Consent Agreement and Final Order  
Docket Number: EPCRA-04-2016-2026(b)

Dear Ms. Little:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

To ensure proper processing, the Respondent's Name and Docket Number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

Also, enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Shell Chemical LP on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U. S. Environmental Protection Agency Region 4. Where used in the document "SEC" refers to the Securities and Exchange Commission.

Should you have any questions concerning this matter or Shell Chemical LP's compliance status in the future, please contact Ms. Michiko Kono at (404) 562-9558.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony G. Toney".

Anthony G. Toney  
Chief

Chemical Safety and Enforcement Branch

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF:

Shell Chemical LP

Respondent.

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) **Docket Number:** EPCRA-04-2016-2026(b)  
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HEARING CLERK

2016 DEC 20 PM 4: 53

USEPA REGION 4  
OFFICE OF REGIONAL  
COUNSEL

**CONSENT AGREEMENT AND FINAL ORDER**

**I. Nature of the Action**

1. This is a civil penalty proceeding pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045, and pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Shell Chemical LP.

2. The authority to take action under Section 325 of EPCRA, 42 U.S.C. § 11045, is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under EPCRA to the Regional Administrators by the EPA's Delegation 22-3-A, dated May 11, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by the EPA's Region 4 Delegation 22-3-A, dated November 8, 1994. Pursuant to that delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

**II. Preliminary Statements**

4. Respondent, Shell Chemical LP, is a corporation doing business in the State of Alabama.

5. Respondent is a “person” and is the “owner or operator” of a “facility” as those terms are defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7) and Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

6. Respondent’s facility is located at 400 Industrial Parkway, Saraland, Alabama 36571.

### **III. EPA’s Allegations of Violations**

#### **Violations of Section 304(a) EPCRA**

7. Section 304(a) of EPCRA, 42 U.S.C. §11004(a) and the regulations found at 40 C.F.R. § 355, Subpart C, require the owner or operator of a facility at which a hazardous chemical is produced, used or stored, to immediately provide notice to the State Emergency Response Commission (SERC) and Local Emergency Planning Committee (LEPC) as described in Section 304(b) of EPCRA, 42 U.S.C. § 11004(b), when there has been a release of an EPCRA extremely hazardous substance in an amount equal to or greater than the reportable quantity (RQ) from a facility. Section 304(a) does not apply to any release which results in exposure to persons solely within the site or sites on which a facility is located.

8. Respondent was the owner or operator of the facility during the relevant periods described herein.

9. At all times relevant to this matter, the facility produced, used, or stored a “hazardous chemical” as defined under Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and under 29 C.F.R. § 1910.1200(c).

10. Sulfur dioxide is an “extremely hazardous substance” as that term is defined by Section 329(3) of EPCRA, 42 U.S.C. § 11049(3), with an RQ of 500 pounds, as specified in 40 C.F.R. § 355.33 Appendices A & B.

11. On April 12, 2015, there was a release of sulfur dioxide above the RQ into the environment from Respondent’s facility. The EPA alleges that the release resulted in the potential for exposure to persons beyond the site on which the facility is located.

12. The EPA alleges that Respondent violated the notification requirements of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), and the applicable EPCRA regulations of 40 C.F.R. § 355, Subpart C, by failing to immediately notify the SERC and LEPC of the release of sulfur dioxide in an amount equal to or greater than the RQ at Respondent’s facility, and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. §11045.

13. Pursuant to Section 325(b) of EPCRA, 42 U.S.C. § 11045(b), and 40 C.F.R. Part 19, the EPA may assess a penalty of not more than \$37,500 for each violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), that occurred after December 6, 2013. Civil penalties under Section 325(b) of EPCRA, 42 U.S.C. § 11045(b), may be assessed by Administrative Order.

#### **IV. Consent Agreement**

14. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.

15. Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying the Consent Agreement.

16. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

17. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of EPCRA.

18. Respondent has agreed to undertake and complete a Supplemental Environmental Project (SEP) in accordance with Section VI of this CAFO.

19. Compliance with this CAFO shall resolve the allegations of violations contained herein. In accordance with 40 C.F.R. § 22.18(c), compliance with this CAFO only resolves Respondent's liability for federal civil penalties for the allegations in Section III of this CAFO and does not affect the right of the EPA or U.S. to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. This CAFO does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of EPCRA, CERCLA or other applicable laws and regulations.

20. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of EPCRA.

#### **V. Final Order**

21. Respondent shall pay a civil penalty of **FOUR THOUSAND, THREE HUNDRED TWENTY-THREE DOLLARS (\$4,323)** for the EPCRA violations which shall be paid within thirty (30) days of the effective date of this CAFO.

22. Respondent shall pay the EPCRA penalty by forwarding a cashier's or certified check payable to "Treasurer, United States of America," to one of the following addresses:

**BY MAIL**

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

**BY OVERNIGHT**

U.S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, Missouri 63101  
(314) 425-1819

The check shall reference on its face the name and the Docket Number of the CAFO.

23. At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Eddie Chow  
U.S.EPA Region 4  
Chemical Management and Emergency Planning Section  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Saundi Wilson  
U.S. EPA Region 4  
Office of Regional Counsel  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

24. For the purposes of state and federal income taxes, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.

#### **VI. Supplemental Environmental Project**

25. Respondent shall complete a SEP in the category of an Emergency Planning and Preparedness project designed to protect the environment and the people that could be harmed by chemical accidents by providing assistance (such as, response equipment or training) to responsible state or local emergency response or planning entities as follows (hereinafter referred to as the SEP):

- a. Respondent must purchase and donate the following to the recipients selected by the Respondent as identified below:

Recipient: Chickasaw Fire Department, Chickasaw, Alabama

<u>Quantity</u>	<u>Description</u>
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3	Akron Nozzle, Avenger PG, 1.5", Fixed, PG, 150@100, Item# 4116
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- 10 Streamlight 4AA Propolymer LED No Batteries Yellow, Item# 68200
- 5 Key Fire Hose, 1.75" x 50' White, DJ, ECO, 800 PSI, 1.5" NH, Item# DP17WX50-800ECO
- 9 Key Fire Hose, 2.5" x 50' White, DJ, ECO, 800 PSI, 2.5" NH, Item# DP25WX50-800ECO
- 1 Wehr Glas-Master Glass Removal Tool, Item# GMM1
- 2 Firehooks Bolt Cutter, 30", Item# BC30
- 2 Council Tool Sledge Hammer, 8 lb Fiberglass, Item# PR800FG
- 4 Fireade2000 Class A Foam, 5 Gallon Pail, Item# FA2-A005
- 2 Pop-up Cone, 28" w/ Reflexite Set of 5 w/ Bag, Item# AV-PU28-5

Recipient: Prichard Fire Department, Prichard, Alabama

<u>Quantity</u>	<u>Description</u>
3	Draeger X-AM 2500 Multi Gas Monitor, Ex,O2,CO,H2S, Item# 4542262
3	Streamlight Fire Vulcan Orange LED with 12 Volt Vehicle Mount, Item# 44451
3	Streamlight Survivor LED, Alkaline, Orange, Item# 90540
3	Akron Axe, Pick Head, 36", Hickory Handle, 6 LB, Item# WP-6
3	Akron Axe, Flat Head, 36", Hickory Handle, 6 LB, Item# WF-6
3	K-Tool Pro Bar, 30" Length, Item# PB-30
3	Firehooks Pike Pole, 6' New York Hook, Solid White Ash, Item# NY-6
1	Akron Rake. Wooden Handle 60", Item# FR12
1	Akron Firefighting Broom, Item# FIRE-BROOM
1	Akron Fire Beater, 60" Wooden Handle, Item# FB15
1	Superior Flamefighter Bolt Cutter, 36", Item# BC-36
1	Crestar Inline Eductor, 95GPM 1.5" Inlet x 1.5" Outlet, Item# ILE095
1	TFT Nozzle, 1.5" Bubble Cup PG, Item# FS2095BCP

Recipient: Saraland Fire Department, Saraland, Alabama

<u>Quantity</u>	<u>Description</u>
1	Rosco Vapour Smoke Machine 120 VAC, Item# 8222
1	CMC Adult Water Rescue Mankin, Item# 781326-870057
3	OTS Guardian FFM Black Skirt/Black Frame, Item# OTS-870057

Recipient: Satsuma Fire Department, Satsuma, Alabama

<u>Quantity</u>	<u>Description</u>
6	Boston Leather Radio Harness 1 ¼" Wide Heavy Duty Leather, Item# 6542
8	Boston Leather Cord Keeper, w/Snap, Item# 5426
4	Boston Leather Anti Sway Strap, Item#5425-1
6	Key Fire Hose, 1.75" x 50' White, DJ, ECO, 800 PSI, 1.5" NH, Item# DP17WX50-800ECO
5	Key Fire Hose, 1.75" x 50' Red, DJ, ECO, 800 PSI, 1.5" NH, Item# DP17RX50-800ECO
6	Streamlight Vantage Tactical Helmet Light, Blue Rear LED, Item# 69140
4	Tru-Spec Flight Suit, 27-P Black, Sz XL-R, Item# 2653-XL-R
2	Tru-Spec Flight Suit, 27-P Black, Sz 2X-R, Item# 2653-2XL-R
1	Kochek Small Hose Washer up to 3" Diameter, Item# KHW3
1	Groves Hose Winder Fits 1" to 4" Hose, Item# HW-1
6	Streamlight Survivor LED, Alkaline, Orange, Item# 90540
1	Firehooks 8' New Yorker Pike Pole, Solid White Ash, Item# NY-8-870057
2	Boston Leather Shortened Anti-Sway Strap, Item# 5424-870057

- b. Respondent's total expenditure for purchase of the above equipment shall not be less than **EIGHTEEN THOUSAND EIGHTY-FOUR DOLLARS (\$18,084)**.
- c. Respondent must complete the purchase and donation of the above equipment within 45 days of the effective date of this CAFO.

26. This CAFO shall not be construed to constitute the EPA's endorsement of any product, equipment, technology or service purchased and donated by Respondent in connection with the SEP.

27. With regard to the SEP, Respondent certifies the truth and accuracy of each of the following:

- a. That all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that Respondent in good faith estimates that the cost to implement the SEP is \$18,084;
- b. That, as of the effective date of this CAFO, Respondent is not required to perform or develop the SEP by any federal, state or local law, regulation, permit, order or agreement 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 the SEP is not a project the Respondent was planning or intending to construct, perform or implement other than in settlement of the claim resolved in this CAFO;
- d. That Respondent has not received and will not receive credit for the SEP in any other enforcement action of any kind;
- e. That Respondent will not receive reimbursement for any portion of the SEP from another person or entity;
- f. That for federal income tax purposes, Respondent agrees it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP;
- g. That Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP; and
- h. That Respondent has inquired of each of the four city fire departments, Chickasaw, Prichard, Saraland and Satsuma, whether it is a party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP and has been informed by each fire department that it is not a party to such a transaction.

28. Respondent agrees that any public statement, oral or written, in print film or other media made by Respondent making any reference to the SEP under this CAFO from the effective date of this CAFO shall include the following language:

“This project was undertaken in connection with the settlement of an enforcement action taken by the U. S. Environmental Protection Agency for violation of Section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA)”.

29. Respondent shall complete and submit a SEP Completion Report for the SEP under this CAFO as follows:

- a. The SEP Completion Report shall include the following:
  - i. An affidavit from an authorized company official, certifying that the SEP has been completed or explaining in detail any failure to complete, and
  - ii. Copies of appropriate documentation, including invoices and receipts, showing that Respondent’s total expenditure for the SEP was no less than the minimum total expenditure required above.
- b. The SEP Completion Report shall be submitted to the EPA within sixty (60) days of the effective date of this CAFO to the following:



Eddie Chow  
U.S.EPA Region 4  
Chemical Management and Emergency Planning Section  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

30. Upon request, Respondent shall send EPA any additional documentation requested by EPA.

31. Respondent agrees that in order to receive credit for the SEP, Respondent must fully and timely complete the SEP in accordance with and as indicated in this CAFO. In the event that Respondent fails to comply with any of the terms or provisions of the CAFO relating to the performance of the SEP, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- a. If Respondent fails to spend the minimum amount of **EIGHTEEN THOUSAND EIGHTY-FOUR DOLLARS (\$18,084)**, Respondent shall pay to the United States, a stipulated penalty of the difference between the minimum amount noted above and the actual SEP expenditure.
- b. If Respondent fails to timely submit the SEP Completion Report as required by this CAFO, Respondent shall pay to the United States a stipulated penalty of **\$100** for each calendar day that the report is late.

The United States may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this CAFO.

32. The determination as to whether Respondent has fully and timely completed the SEP shall be in the sole discretion of the EPA.

33. Respondent shall pay any stipulated penalties that accrue under this CAFO within 15 calendar days of the receipt by Respondent of written demand from the EPA for such penalties. Such penalties shall be paid in accordance with the procedures set forth in the written demand from the EPA.

## **VII. Other Provisions**

34. Pursuant to 31 U.S.C. § 3717, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the effective date of this CAFO if the penalty is not paid by the date required. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

35. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

36. This CAFO shall be binding upon the Respondent, its successors, and assigns.

37. The following individual is authorized to receive service for EPA in this proceeding:

Robert W. Bookman  
U.S. EPA Region 4  
Chemical Management and Emergency Planning Section  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-9169

38. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

**The remainder of this page intentionally left blank**

**VIII. Effective Date**

39. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Shell Chemical LP

By: Sammy Little (Signed) Date: 11/29/16

Name: Tammy Little (Typed or Printed)

Title: General Manager (Typed or Printed)

U.S. Environmental Protection Agency

By: Carol D. Kember for Date: 12/13/16  
Jeaneanne M. Gettle

Acting Director

Air, Pesticides and Toxics Management Division

APPROVED AND SO ORDERED this 20<sup>th</sup> day of December 2016

Tanya Floyd

Tanya Floyd  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing

Consent Agreement and Final Order: In the Matter of Shell Chemical LP, Docket Number:

EPCRA-04-2016-2026(b), on the parties listed below in the manner indicated:

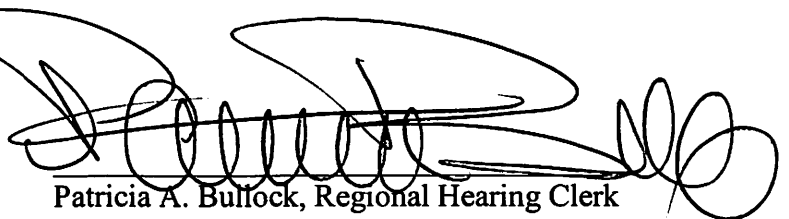
Robert W. Bookman (Via EPA's internal mail)  
U.S. EPA Region 4  
Chemical Management and Emergency Planning Section  
61 Forsyth Street  
Atlanta, GA 30303

Michi Kono (Via EPA's internal mail)  
U.S. EPA Region 4  
Office of Regional Counsel  
61 Forsyth Street  
Atlanta, GA 30303

Robert Caplan (Via EPA's internal mail)  
Senior Attorney  
U.S. EPA, Region 4  
Office of Regional Counsel  
61 Forsyth Street  
Atlanta, GA 30303

Tammy Little (Via Certified Mail - Return Receipt Requested)  
Shell Chemical LP  
400 Industrial Parkway  
Saraland, Alabama 36571

Date: 12-20-16



Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-9511