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REGIONAL OFFICE  
EPA REGION 6

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

IN THE MATTER OF:	)	
	)	
SHINTECH LOUISIANA LLC	)	
PLAQUEMINE, LOUISIANA	)	DOCKET NO. CAA-06-2020-3303
	)	
RESPONDENT	)	
_____	)	

**CONSENT AGREEMENT AND FINAL ORDER**

The Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency (EPA), Region 6 (Complainant) and Shintech Louisiana LLC (Respondent) in the above-referenced proceeding, hereby agree to resolve this matter through the issuance of this Consent Agreement and Final Order (CAFO).

**I. PRELIMINARY STATEMENT**

1. This proceeding for the assessment of civil penalties is brought by EPA pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and is simultaneously commenced and concluded through the issuance of this CAFO pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and (3), and 22.34.

2. For the purposes of this proceeding, the Respondent admits the jurisdictional allegations contained herein; however, the Respondent neither admits nor denies the specific factual allegations contained in this CAFO. This CAFO resolves the violations observed in the October 24-26, 2017 inspection and records review.

3. The Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed Final Order set forth therein and waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.

4. Compliance with all the terms and conditions of this CAFO shall only resolve the Respondent's liability for Federal civil penalties for those violations and facts which are set forth herein.

5. The Respondent consents to the issuance of the CAFO, to the assessment and payment of the civil penalty in the amount and by the method set forth in this CAFO, and to the conditions specified in the CAFO.

6. Each undersigned representative of the parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement, to execute it, and to legally bind that party to it.

7. This CAFO shall apply to and be binding upon the Respondent, its officers, directors, servants, employees, agents, authorized representatives, successors and assigns.

## **II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

### **A. PRELIMINARY ALLEGATIONS**

8. Respondent is a limited liability corporation authorized to do business in the State of Louisiana.

9. "Person" is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), as "an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency of the United States and any officer, agent, or employee thereof."

10. The Respondent is a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

11. The Respondent operates a manufacturing facility located at 26270 Highway 405, Plaquemine, Louisiana 70764.

12. "Stationary source" is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3 as meaning:

"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."

13. The Respondent's facility identified in Paragraph 11 is a "stationary source" as that term is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3.

14. The Respondent is the owner and/or operator of the stationary source identified in Paragraph 11.

15. The following substances are each a "regulated substance", as set forth in 40 C.F.R. § 68.130:

- A. Ethylene oxide [Oxirane];
- B. Methane;
- C. Hydrogen;
- D. 1,3-Butadiene;
- E. Propane;
- F. Isopropyl chloride [Propane, 2-chloro-];
- G. Ammonia (anhydrous);
- H. 2-Butene;
- I. Acrylonitrile [2-Propenenitrile];
- J. Propylene oxide [Oxirane, methyl-];
- K. 1-Chloropropylene [1-Propene, 1-chloro-];
- L. Epichlorohydrine [Oxirane, (chloromethyl)-];

- M. Sulfur dioxide (anhydrous);
- N. Butane;
- O. 2-Chloropropylene [1-Propene, 2-chloro-];
- P. Trimethylamine [Methanamine, N-N-dimethyl-];
- Q. Isobutane;
- R. Ammonia (conc 20% or greater);
- S. Hydrogen chloride (anhydrous) [Hydrochloric acid];
- T. Chlorine;
- U. Ethylenediamine [1,2-Ethanediamine];
- V. Vinyl chloride [Ethene, chloro-];
- W. Propylene [1-Propene];
- X. 2-Butene;
- Y. Ethylene [Ethane];
- Z. Ethane;
- AA. Methyl ether [Methane, oxybis-];
- BB. Methyl chloride [Methane, chloro-];
- CC. Methylamine [Methanamine];
- DD. Propyne [1-Propyne];
- EE. 1-Butene;
- FF. Formaldehyde (solution);
- GG. Ethane;
- HH. Isoprene [1,3-Butadiene, 2-methyl-];
- II. Vinylidene chloride [Ethene, 1,1-dichloro-];
- JJ. 2-Methylpropene [1-Propene, 2-methyl-];
- KK. Phosgene [Carbonic dichloride];
- LL. Isopropyl chloride [Propane, 2-chloro-]; and
- MM. Pentane.

16. "Process" is defined in 40 C.F.R. § 68.3 as meaning any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of activities. For the purpose 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.

17. On or about October 24 – 26, 2017, representatives of EPA conducted an inspection of the Respondent's facility ("Inspection").

18. The Respondent has the following processes at the stationary source identified in

Paragraph 11:

- A. VCM 1, Storage, HAPF 1;
- B. VCM 2, Storage, HAPF 2&3;
- C. C/A Manufacturing;
- D. Tank Farm and Loading;
- E. Polyvinyl Chloride (PVC);
- F. C/A 2.

19. 40 C.F.R. § 68.130 specifies the following threshold quantities for the regulated substances listed below:

- A. Ethylene oxide [Oxirane] – 10,000 pounds;
- B. Methane – 10,000 pounds;
- C. Hydrogen – 10,000 pounds;
- D. 1,3-Butadiene – 10,000 pounds;
- E. Propane – 10,000 pounds;
- F. Isopropyl chloride [Propane, 2-chloro-] – 10,000 pounds;
- G. Ammonia (anhydrous) – 10,000 pounds;
- H. 2-Butene – 10,000 pounds;
- I. Acrylonitrile [2-Propenenitrile] – 20,000 pounds;
- J. Propylene oxide [Oxirane, methyl-] – 10,000 pounds;
- K. 1-Chloropropylene [1-Propene, 1-chloro-] – 10,000 pounds;
- L. Epichlorohydrine [Oxirane, (chloromethyl)-] – 20,000 pounds;
- M. Sulfur dioxide (anhydrous) – 5,000 pounds;
- N. Butane – 10,000 pounds;
- O. 2-Chloropropylene [1-Propene, 2-chloro-] – 10,000 pounds;
- P. Trimethylamine [Methanamine, N-N-dimethyl-] – 10,000 pounds;
- Q. Isobutane – 10,000 pounds;
- R. Ammonia (conc 20% or greater) – 20,000 pounds;
- S. Hydrogen chloride (anhydrous) [Hydrochloric acid] – 10,000 pounds;
- T. Chlorine – 10,000 pounds;
- U. Ethylenediamine [1,2-Ethanediamine] – 10,000 pounds;
- V. Vinyl chloride [Ethene, chloro-] – 10,000 pounds;
- W. Propylene [1-Propene] – 10,000 pounds;
- X. 2-Butene – 10,000 pounds;
- Y. Ethylene [Ethane] – 10,000 pounds;
- Z. Ethane – 10,000 pounds;
- AA. Methyl ether [Methane, oxybis-] – 10,000 pounds;
- BB. Methyl chloride [Methane, chloro-] – 10,000 pounds;
- CC. Methylamine [Methanamine] – 10,000 pounds;

- DD. Propyne [1-Propyne] – 10,000 pounds;
- EE. 1-Butene – 10,000 pounds;
- FF. Formaldehyde (solution) – 15,000 pounds;
- GG. Ethane – 10,000 pounds;
- HH. Isoprene [1,3-Butadiene, 2-methyl-] – 10,000 pounds;
- II. Vinylidene chloride [Ethene, 1,1-dichloro-] – 10,000 pounds;
- JJ. 2-Methylpropene [1-Propene, 2-methyl-] – 10,000 pounds;
- KK. Phosgene [Carbonic dichloride] – 500 pounds;
- LL. Isopropyl chloride [Propane, 2-chloro-] – 10,000 pounds; and
- MM. Pentane – 10,000 pounds.

20. The Respondent has exceeded the threshold quantity for one or more of the regulated substances listed in Paragraph 15 at each of the processes identified in Paragraphs 18.

21. “Covered process” is defined in 40 C.F.R. § 68.3 as meaning “a process that has a regulated substance present in more than a threshold quantity as determined under § 68.115.”

22. Each of the processes identified in Paragraph 18 is a “covered process” as that term is defined by 40 C.F.R. § 68.3.

23. The covered processes identified in Paragraphs 18 are subject to the “Program 3” requirements of the RMP regulations and must, among other things, comply with the Program 3 Prevention Program of 40 C.F.R. Part 68, Subpart D. Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d), authorizes EPA to bring an administrative action for penalties that exceed \$369,532<sup>1</sup> and/or the first alleged date of violation occurred more than twelve (12) months prior to the initiation of the action, if the Administrator and the United States Attorney General jointly determine that the matter is appropriate for administrative action.

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<sup>1</sup> The maximum penalty that can be assessed (without a waiver) under Section 113 of the Clean Air Act was increased on February 6, 2019 by the Civil Monetary Penalty Inflation Adjustment Rule codified at 40 C.F.R. Part 19 to \$369,532.

24. EPA and the U.S. Department of Justice have jointly determined that the Complainant can administratively assess a civil penalty even though the penalty exceeds the statutory amount and the alleged violations have occurred more than twelve (12) months prior to the initiation of the administrative action.

**B. VIOLATIONS**

**Count One – Failure to timely add an incident to the five-year accident history & Failure to implement an operating procedure**

25. Paragraphs 1 through 24 are incorporated by reference in full.

26. 40 C.F.R. § 68.42(a) provides that 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 offsite deaths, injuries, evacuations, sheltering in place, property damage, or environmental damage.

27. 40 C.F.R. § 68.195(a) provides the following:

“The owner or operator of a stationary source for which an RMP was submitted shall correct the RMP as follows:

(a) New accident history information—For any accidental release meeting the five-year accident history reporting criteria of §68.42 and occurring after April 9, 2004, the owner or operator shall submit the data required under §§68.168, 68.170(j), and 68.175(l) with respect to that accident within six months of the release or by the time the RMP is updated under §68.190, whichever is earlier.”

28. During the Inspection, the EPA Representative conducted a Records Review at the Respondent’s facility.

29. During the Records Review the EPA Representative determined that Respondent reported eight incidents occurring on the following dates:

- April 13, 2016;
- September 15, 2016;

- October 31, 2016;
- December 3, 2016;
- January 21, 2017;
- April 10, 2017;
- June 1, 2017 and
- July 29, 2017.

30. During the April 13, 2016 incident an operator was exposed to a chlorine release, which required medical treatment.

31. The April 13, 2016 incident mentioned in Paragraphs 29 and 30 should have been reported in the Respondent's five-year accident history pursuant to 40 C.F.R. § 68.195(a).

32. The Respondent's five-year accident history was updated on November 29, 2017, to include the April 13, 2016, incident.

33. Therefore, based on the above, the Respondent violated 40 C.F.R. §§ 68.42(a) and 68.195(a) by failing to timely add the April 13, 2016 incident to the Respondent's five-year accident history in its RMP.

34. 40 C.F.R. § 68.69(a)(1) states 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 temporary operations and normal shutdown.

35. During the Records Review of the Inspection, the EPA Representative found that the Respondent did not have a procedure to remove chlorine in the header prior to maintenance activity conducted in the plant's Area 600 and failed to implement proper safety procedures regarding the April 13, 2016 event.

36. After the Inspection, Respondent provided a procedure titled "Area 600 HCl



Synthesis Procedure” dated December 12, 2014, that included procedures for temporary operations for the nitrogen purge and normal shutdown and isolation for maintenance. However, the procedures in the Area 600 HCl Synthesis Procedure were not implemented and followed during the April 13, 2016 incident.

37. Therefore, based on the above, Respondent violated 40 C.F.R. § 68.69(a)(1) by failing to implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information.

**Count Two – Failure to timely revalidate a Process Hazard Analysis (“PHA”)**

38. Paragraphs 1 through 24 above are incorporated by reference in full.

39. 40 C.F.R. § 68.67(f) states that at least every five (5) years after the completion of the initial process hazard analysis, the process hazard analysis shall be updated and revalidated by a team meeting the requirements of paragraph (d) of this section, to assure that the process hazard analysis is consistent with the current process. 29 C.F.R. § 1910.119(e) continues that updated and revalidated process hazard analyses completed are acceptable to meet the requirements of this paragraph.

40. During the Records Review of the Inspection, the EPA Representative observed that initial PHA for the hydrochloric acid production furnace (HAPF) area located within the VCM 1 process was conducted on March 18, 2011.

41. Respondent failed to have a revised, updated, or revalidated PHA by September 12, 2016, five years after the HAPF-1 initial startup.

42. Based on paragraphs 40 and 41 above, Respondent failed to comply with the requirements of 40 C.F.R. § 68.67(f) and 29 C.F.R. § 1910.119(e) by failing to complete a PHA every five years for its HAPF area located within the VCM 1.

**Count Three – Failure to implement an operating procedure**

43. Paragraphs 1 through 24 above are incorporated by reference in full.

44. 40 C.F.R. § 68.69(a) provides 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 found in 40 C.F.R. § 68.69(a)(1) through (a)(4):

(1) Steps for each operating phase:

- (i) Initial startup;
- (ii) Normal operations;
- (iii) Temporary operations;
- (iv) Emergency shutdown including the conditions under which emergency shutdown is required, and the assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in a safe and timely manner.
- (v) Emergency operations;
- (vi) Normal shutdown; and,
- (vii) Startup following a turnaround, or after an emergency shutdown.

(2) Operating limits:

- (i) Consequences of deviation; and
- (ii) Steps required to correct or avoid deviation.

(3) Safety and health considerations:

- (i) Properties of, and hazards presented by, the chemicals used in the process;
- (ii) Precautions necessary to prevent exposure, including engineering controls, administrative controls, and personal protective equipment;
- (iii) Control measures to be taken if physical contact or airborne exposure occurs;
- (iv) Quality control for raw materials and control of hazardous chemical inventory levels; and,
- (v) Any special or unique hazards.

(4) Safety systems and their functions.

45. 40 C.F.R. § 68.69(b) provides that operating procedures shall be readily accessible to

employees who work in or maintain a process.

46. 40 C.F.R. § 68.69(c) provides that the operating procedures shall be reviewed as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to stationary sources. The owner or operator shall certify annually that these operating procedures are current and accurate.

47. 40 C.F.R. § 68.69(d) provides that the owner or operator shall develop and implement safe work practices to provide for the control of hazards during operations such as lockout/tagout; confined space entry; opening process equipment or piping; and control over entrance into a stationary source by maintenance, contractor, laboratory, or other support personnel. The safe work practices apply to employees and contractor employees.

48. During the Records Review of the Inspection, the EPA Representative observed that the Respondent failed to have a procedure to prevent the inadvertent closure of the instrument air valve to the vinyl chloride distillation tower in the VCM 2 unit.

49. As a result of this failure, on September 15, 2016, Respondent experienced an estimated release of 2,576 lbs. of Vinyl Chloride, 754 lbs. of Ethylene Dichloride, 618 lbs. of Ethylene, 507 lbs. of 1-1 Dichloroethylene, 1,055 lbs. of Chloroform, 195 lbs. of Carbon Tetrachloride, and 44 pounds of Benzene.

50. Additionally, during the Records Review of the Inspection, the EPA Representative observed and documented that Respondent did not maintain a section of pipe with a safety valve between a VCM sphere (MTK-902B) and the VCM unit. As a result of the above, a VCM leak occurred on October 31, 2016.

51. Finally, the EPA Representative observed and documented that the Respondent did not have a procedure to properly sample a catalyst in the VCM unit. As a result, the estimated release of 26 lbs. of EDC, 0.48 lbs. of Ethylene, and 0.12 lbs. of Hydrogen Chloride (HCL) occurred on June 1, 2017.

52. The chemicals identified in paragraph 50 above are either hazardous air pollutants on the EPCRA/CERCLA list (Benzene and Ethylene dichloride – EDC ), the Toxic list (Hydrochloric Acid - HCL), or they are listed in paragraph 15 above (Vinyl Chloride).

53. Therefore, based upon the above, Respondent failed to comply with the requirements of 40 C.F.R. § 68.69(a) through (d).

**Count Four – Failure to identify a hazard**

54. Paragraphs 1-24 are incorporated by reference in full.

55. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), the owners and operators of stationary sources producing, processing, handling or storing such substances or chemicals found in 40 C.F.R. Part 68 or any other extremely hazardous substance shall have a general duty to identify hazards which may result from (such) releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

56. During the Records Review of the Inspection, the EPA Representative observed and found that the Respondent did not have a proper procedure or equipment in the VCM 2 unit to prevent a release of vinyl chloride.

57. This failure resulted in the estimated release of 7,075 lbs. of Vinyl Chloride, 21 lbs. of EDC, and 2,365 lbs. of HCL on July 29, 2017.

58. As identified in paragraph 15 above, Vinyl Chloride is a chemical identified in 40 C.F.R. part 68, EDC is on the EPCRA/CERCLA list and HCL is on the Toxic list.

59. Therefore, based on the above, Respondent violated Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), by failing to have a proper procedure and equipment in place to design and maintain a safe facility to prevent the release of vinyl chloride and failed to identify the hazard, which caused the release.

### **III. TERMS OF SETTLEMENT**

#### **A. CIVIL PENALTY**

60. For the reasons set forth above, the Respondent has agreed to pay a civil penalty of **One Hundred Sixty-Eight Thousand Five Hundred Dollars (\$168,500.00)**.

61. Within thirty (30) days of the effective date of this CAFO, the Respondent shall pay the assessed civil penalty by certified check, cashier's check, or wire transfer, made payable to "Treasurer, United States of America, EPA - Region 6". Payment shall be remitted in one of three (3) ways: regular U.S. Postal mail (including certified mail), overnight mail, or wire transfer. For regular U.S. Postal mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, the check should be remitted to:

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

For overnight mail (non-U.S. Postal Service, e.g. Fed Ex), the check should be remitted to:

U.S. Bank  
Government Lockbox 979077  
US EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
Phone No. (314) 418-1028

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account No. 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read  
"D 68010727 Environmental Protection Agency" with a phone number of (412)  
234-4381".

**PLEASE NOTE: Docket Number CAA-06-2020-3303 shall be clearly typed on the check or other method of payment to ensure proper credit.** If payment is made by check, the check shall also be accompanied by a transmittal letter and shall reference the Respondent's name and address, the case name, and docket number of the CAFO. If payment is made by wire transfer, the wire transfer instructions shall reference the Respondent's name and address, the case name, and docket number of the CAFO. The Respondent shall also send a simultaneous notice of such payment, including a copy of the check and transmittal letter, or wire transfer instructions to the following:

Carlos Flores  
Enforcement Officer  
Chemical Accident Prevention Section (6ECDAC)  
U.S. EPA, Region 6  
1201 Elm Street  
Dallas, TX 75270

Lorena Vaughn  
Regional Hearing Clerk (6RC-D)  
U.S. EPA, Region 6  
1201 Elm Street  
Dallas, TX 75270

The Respondent's adherence to this request will ensure proper credit is given when penalties are received in the Region.

62. The Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering All or any part of the civil penalty paid to the United States Treasurer.

63. If the Respondent fails to submit payment within thirty (30) days of the effective date of this CAFO, the Respondent may be subject to a civil action to collect any unpaid portion of the assessed penalty, together with interest, handling charges, and nonpayment penalties as set forth below.

64. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the

period the debt is overdue. *See* 40 C.F.R. § 13.11(b).

65. EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent (6%) per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. *See* 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. *See* 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

66. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including but not limited to, attorneys fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

67. This CAFO is considered a "prior violation" for the purpose of demonstrating a "history of noncompliance" under the Clean Air Act Stationary Source Penalty Policy, and the Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R.



Part 68 (June 2012).

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

**B. NOTIFICATION**

69. Unless otherwise specified elsewhere in this CAFO, 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 party that another individual has been designated to receive the communication:

Complainant:

Carlos Flores  
Enforcement Officer  
Chemical Accident Prevention Section (6ECDAC)  
U.S. EPA, Region 6  
1201 Elm Street  
Dallas, TX 75270

Respondent:

Daniel Cedotal  
Vice President of Manufacturing  
Shintech Louisiana, LLC  
P.O. Box 358  
Addis, Louisiana 70710

**C. COMPLIANCE**

70. The Respondent hereby certifies that as of the date of the execution of this CAFO, that it has corrected the violations alleged herein, and is now, to the best of its knowledge, in compliance with all applicable requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68.

**D. MODIFICATION**

71. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except as otherwise specified in this CAFO, or upon the written agreement of the Complainant and the Respondent, and approved by the Regional Judicial Officer, and such modification or amendment being filed with the Regional Hearing Clerk.

**E. RETENTION OF ENFORCEMENT RIGHTS**

72. EPA does not waive any rights or remedies available to EPA for any other violations by the Respondent of Federal or State laws, regulations, or permitting conditions.

73. Nothing in this CAFO shall relieve the Respondent of the duty to comply with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68.

74. Nothing in this CAFO shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate or minimize an actual or threatened release of hazardous substances, pollutants, contaminants, hazardous substances on, at or from the Respondent's facility whether related to the violations addressed in this CAFO or otherwise. Furthermore, nothing in this CAFO shall be construed or to prevent or limit EPA's civil and criminal authorities, or that of other Federal, State, or local agencies or departments to obtain penalties or injunctive relief under other

Federal, State, or local laws or regulations.

75. The Complainant reserves all legal and equitable remedies available to enforce the provisions of this CAFO. In any such action to enforce the provisions of this CAFO, the Respondent shall not assert, and may not maintain, any defense of laches, statute of limitations, or any other equitable defense based on the passage of time. This CAFO shall not be construed to limit the rights of the EPA or United States to obtain penalties or injunctive relief under the Clean Air Act or its implementing regulations, or under other federal or state laws, regulations, or permit conditions.

76. In any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, to enforce the provisions of this CAFO, or other appropriate relief relating to this Facility, the Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the Complainant or the United States in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims for civil penalties that have been specifically resolved pursuant to this CAFO.

77. The Respondent waives any right it may possess at law or in equity to challenge the authority of the EPA or the United States to bring a civil action in a United States District Court to compel compliance with this CAFO and to seek an additional penalty for such noncompliance and agrees that federal law shall govern in any such civil action. The Respondent also consents to personal jurisdiction in any action to enforce this CAFO in the appropriate Federal District

Court.

78. The Respondent also waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that the Respondent may have with respect to any issue of law or fact set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1).

79. This CAFO is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. The Respondent is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits. The Respondent's compliance with this CAFO shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The Complainant does not warrant or aver in any manner that the Respondent's compliance with any aspect of this CAFO will result in compliance with provisions of the Clean Air Act or with any other provisions of federal, State, or local laws, regulations, or permits.

**F. COSTS**

80. Each party shall bear its own costs and attorney's fees. Furthermore, the Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17.

**G. TERMINATION**

81. At such time as the Respondent believes it is in compliance with all of the requirements of this CAFO, it may request that EPA concur whether all of the requirements of this CAFO have been satisfied. Such request shall be in writing and shall provide the necessary documentation to establish whether there has been full compliance with the terms and conditions

of this CAFO. EPA will respond to said request in writing within ninety (90) days of receipt of the request. This CAFO shall terminate when all actions required to be taken by this CAFO have been completed, and the Respondents have been notified by the EPA in writing that this CAFO has been satisfied and terminated.

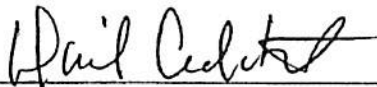
**H. EFFECTIVE DATE**

82. This CAFO, and any subsequent modifications, become effective upon filing with the Regional Hearing Clerk.

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT  
AGREEMENT AND FINAL ORDER:**

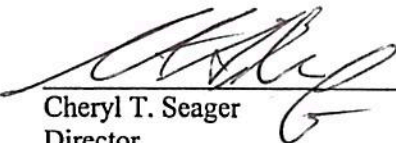
**FOR THE RESPONDENT:**

Date: 2/3/2020

  
\_\_\_\_\_  
Daniel Cedotal  
Vice President of Manufacturing  
Shintech Louisiana, LLC

**FOR THE COMPLAINANT:**


Date: FEB - 5 2020

  
\_\_\_\_\_  
Cheryl T. Seager  
Director  
Enforcement and  
Compliance Assurance Division  
EPA - Region 6

**FINAL ORDER**

Pursuant to the Section 113 of the CAA, 42 U.S.C. § 7413, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right or EPA or the United States to pursue appropriate injunctive relief or other equitable relief for criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect the 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. The Respondent is ordered to comply with the terms of settlement as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: 2-12-2020

  
\_\_\_\_\_  
Thomas Rucki  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

I hereby certify that on the 12<sup>th</sup> day of February, 2020, the original and one copy of the foregoing Consent Agreement and Final Order (CAFO) was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Dallas, Texas 75270, and that a true and correct copy of the CAFO was sent to the following by certified mail, return receipt requested 7014 0150 0000 2404 7766 :

Daniel Cedotal  
Vice President of Manufacturing  
Shintech Louisiana, LLC  
P.O. Box 358  
Addis, Louisiana 70710

  
Lori Jackson  
Paralegal