

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
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Philadelphia, Pennsylvania 19103-2029

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In the Matter of:)	EPA Docket Nos. EPCRA-03-2011-0138
Chemicals and Solvents, Inc.)	CAA-03-2011-0138
d/b/a Chemsolv, Inc.)	
1140 Industry Avenue, S.E.)	
Roanoke, Virginia 24103,)	
)	
and)	
)	
Austin Holdings-VA, LLC)	
1140 Industry Avenue, S.E.)	
Roanoke, Virginia 24103,)	
)	
Respondents.	)	Proceedings Pursuant to Sections 311, 312
	)	and 325 of the Emergency Planning and
Chemicals and Solvents, Inc.	)	Community Right-to-Know Act, 42
d/b/a Chemsolv, Inc.	)	U.S.C. §§ 11021, 11022, 11045, and
1111 and 1140 Industry Avenue, S.E.	)	Sections 112(r) and 113 of the Clean Air
Roanoke, Virginia 24103,	)	Act, 42 U.S.C. §§ 7412(r) and 7413
)	
Facility.)	

CONSENT AGREEMENT

STATUTORY AUTHORITY

This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA" or the "Agency") by Section 325 of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045, by Section 113 of the Clean Air Act ("CAA"), as amended, 42 U.S.C. § 7413, and under the authority of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The Administrator has delegated these authorities to the Regional Administrator, who has, in turn, delegated them to the Director, Hazardous Site Cleanup Division.

The parties agree to the commencement and conclusion of this cause of action by issuance of this Consent Agreement and Final Order (referred to collectively herein as "CA/FO")

as prescribed by the Consolidated Rules of Practice pursuant to 40 C.F.R. § 22.13(b), and having consented to entry of this CA/FO, agree to comply with the terms of this CA/FO.

PRELIMINARY STATEMENT

1. The implementing regulations for the hazardous chemical reporting requirements in Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021, 11022, are codified at 40 C.F.R. Part 370. On November 3, 2008, EPA issued a final rule, 73 *Fed. Reg.* 65451 (Nov. 3, 2008), *inter alia*, to make these regulations easier to read by presenting them in a plain language format. The amendments resulted in a re-numbering of 40 C.F.R. Part 370, which became effective on December 3, 2008. This CA/FO references the newly effective numbering, but includes the pre-2008 numbering in parentheses since those regulations were in effect at the time of the violations alleged herein.

FINDINGS OF FACT

2. Respondent, Chemicals and Solvents, Inc. d/b/a Chemsolv, Inc. (“Chemsolv”), is a Virginia corporation with its principal place of business located at 1140 Industry Avenue, S.E., in Roanoke, Virginia.

3. Respondent, Austin Holdings-VA, LLC (“Austin Holdings”), is a Virginia limited liability company.

4. A chemical distribution facility is located at 1111 and 1140 Industry Avenue, S.E., Roanoke, Virginia 24013 (the “Facility”), with an SIC Code of 5169 (Chemicals and Allied Products, not elsewhere classified), and an NAICS Code of 42269 (Other Chemical and Allied Products Wholesalers).

5. Austin Holdings is the owner of the real property and improvements located at 1111 Industry Avenue, S.E., Roanoke, Virginia, and identified as Tax Parcel #4170102.

6. The real property and improvements located at 1140 Industry Avenue, S.E., Roanoke, Virginia, is comprised of two tax parcels, Tax Parcel #4240103 and #4240104.

7. Austin Holdings owns Tax Parcel #4240103.

8. Chemsolv owns Tax Parcel #4240104.

9. Chemsolv leases the real property and improvements located at Tax Parcel #4170102 and Tax Parcel #4240103 from Austin Holdings.

10. As a corporation, Chemsolv is a “person” as defined by Section 329(7) of EPCRA, 42 U.S.C. §11049(7), and 40 C.F.R. § 370.66 (370.2).

11. At all times relevant to this CA/FO, Chemsolv has operated the Facility and has owned one of the three tax parcels comprising the Facility.

12. At all times relevant to this CA/FO, Austin Holdings has owned two of the three tax parcels comprising the Facility.

13. The Facility is a “facility” as defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 370.66 (370.2).

**EPA’S FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 311 OF EPCRA - SERC**

14. The findings of fact contained in Paragraphs 1 through 13 of this CA/FO are incorporated by reference herein as though fully set forth at length.

15. On June 13, 2008, EPA sent Chemsolv an Information Request pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. §§ 9601 *et seq.*, to obtain information relevant to the Facility’s compliance with Section 103 of CERCLA and Sections 302, 303, 304, 311 and 312 of EPCRA.

16. Chemsolv supplied information in response to this Information Request on June 30, 2008, December 5, 2008, and July 24, 2009.

17. Calcium chloride (Chemical Abstract Services [“CAS”] No. 10043-52-4), citric acid (CAS No. 77-92-9), cyclohexanone (CAS No. 108-94-1), ethyl acetate (CAS No. 141-78-6), ferric sulfate (CAS No. 10028-22-5), n-butyl acetate (CAS No. 123-86-4), octylphenoxypoly(ethyleneoxy) ethanol (CAS No. 9002-93-1), silicic acid (CAS No. 1344-09-8), sodium sulfate (CAS No. 7757-82-6), tetrasodium EDTA (CAS No. 64-02-8), sodium bisulphite (CAS No. 7631-90-5), sodium chloride (CAS No. 7647-14-5), sodium fluoride (CAS No. 7681-49-4), and urea (CAS No. 57-13-6) are “hazardous chemicals” as defined by Section 311(e) of EPCRA, 42 U.S.C. § 11021(e).

18. Calcium chloride (CAS No. 10043-52-4), citric acid (CAS No. 77-92-9), cyclohexanone (CAS No. 108-94-1), ethyl acetate (CAS No. 141-78-6), ferric sulfate (CAS No. 10028-22-5), n-butyl acetate (CAS No. 123-86-4), silicic acid (CAS No. 1344-09-8), sodium sulfate (CAS No. 7757-82-6), tetrasodium EDTA (CAS No. 64-02-8), sodium bisulphate (CAS No. 7631-90-5), and sodium chloride (CAS No. 7647-14-5) were produced, used or stored at the Facility during calendar years 2006 and 2007.

19. Hazardous chemical octylphenoxypoly(ethyleneoxy) ethanol (CAS No. 9002-93-1) was produced, used or stored at the Facility during calendar year 2006.

20. Hazardous chemical sodium fluoride (CAS No. 7681-49-4) was produced, used or stored at the Facility during calendar years 2006 and 2007.

21. Hazardous chemical urea (CAS No. 57-13-6) was produced, used or stored at the Facility during calendar year 2007.

22. Section 311 of EPCRA, 42 U.S.C. § 11021, as implemented by 40 C.F.R. Part 370 (40 C.F.R. § 370.21), requires an owner or operator of a facility required to prepare or have available a Material Safety Data Sheet (“MSDS”) for a hazardous chemical in accordance with the Occupational Safety and Health Administration (“OSHA”) Hazard Communication Standard, 29 U.S.C. §§ 651 *et seq.*, and 29 C.F.R. § 1910.1200, and at which facility is present at any one time a hazardous chemical (including, but not limited to, a hazardous chemical which also qualifies as an extremely hazardous substance (“EHS”)) in a quantity equal to or greater than its applicable minimum threshold level for reporting (“MTL”) or threshold planning quantity (“TPQ”) established by 40 C.F.R. § 370.10 (40 C.F.R. § 370.20), to submit, either MSDSs for, or a list identifying, those hazardous chemicals to the appropriate State Emergency Response Commission (“SERC”), Local Emergency Planning Committee (“LEPC”), and local fire department with jurisdiction over the facility, on or before October 17, 1990, or within 90 days after meeting the threshold.

23. The SERC for the Facility is, and has been at all times relevant to this CA/FO, the Virginia Department of Environmental Quality located at 629 East Main Street, Mezzanine Level, Richmond, Virginia 23219.

24. Respondents are the owner and/or operator of a facility that is required to prepare or have available an MSDS for hazardous chemicals under the OSHA Hazard Communication Standard, 29 U.S.C. §§ 651 *et seq.*, and 29 C.F.R. § 1910.1200.

25. Pursuant to 40 C.F.R. § 370.20(b)(1) (40 C.F.R. § 370.2), the reporting threshold for the hazardous chemicals calcium chloride, citric acid, cyclohexanone, ethyl acetate, ferric sulfate, n-butyl acetate, octylphenoxypoly(ethyleneoxy)ethanol, silicic acid, sodium sulfate, tetrasodium EDTA, sodium bisulphite, sodium chloride, sodium fluoride, and urea is 10,000 pounds.

26. On at least one occasion during calendar year 2007, Respondents had present at the Facility the following chemicals in the following amounts: 27,683 pounds of calcium chloride; 44,000 pounds of citric acid; 58,376 pounds of cyclohexanone; 27,036 pounds of ethyl acetate; 23,226 pounds of ferric sulfate; 91,854 pounds of n-butyl acetate; 39,655 pounds of silicic acid; 16,039 pounds of sodium sulfate; 18,646 pounds of tetrasodium EDTA; 28,350 pounds of sodium bisulphate; 108,226 pounds of sodium chloride; 11,880 pounds of sodium fluoride; and 42,373 pounds of urea (referred to hereafter as “2007 Chemicals”).

27. On at least one occasion during calendar year 2007, Respondents had present at the Facility the 2007 Chemicals in quantities exceeding their respective thresholds.

28. Respondents were required to submit to the SERC either MSDSs for the 2007 Chemicals, or a list of hazardous chemicals identifying the 2007 Chemicals as being present at the Facility in quantities exceeding their respective thresholds, no later than 90 days after the 2007 Chemicals were present at the Facility in amounts equal to or greater than their respective thresholds.

29. Respondents failed to submit to the SERC either MSDSs for the 2007 Chemicals, or a list identifying the 2007 Chemicals as present at the Facility in quantities exceeding their respective thresholds, no later than 90 days after the 2007 Chemicals were present at the Facility in amounts equal to or greater than their respective thresholds.

**EPA'S CONCLUSION OF LAW RELATED TO THE
VIOLATION OF SECTION 311 OF EPCRA - SERC**

30. Respondents' failure to submit to the SERC either MSDSs for the 2007 Chemicals or a list of hazardous chemicals identifying the 2007 Chemicals as present at the Facility in quantities exceeding their respective thresholds constitutes a violation of Section 311 of EPCRA, 42 U.S.C. § 11021, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 311 OF EPCRA -
LEPC AND LOCAL FIRE DEPARTMENT**

31. The findings of fact and conclusions of law contained in Paragraphs 1 through 30 of this CA/FO are incorporated by reference herein as though fully set forth at length.

32. The LEPC for the Facility is, and has been at all times relevant to this CA/FO, the Roanoke Valley Joint LEPC, located at 713 Third Street, S.W., Roanoke, Virginia 24016.

33. The local fire department for the Facility is, and has been at all times relevant to this CA/FO, the Roanoke City Fire and Emergency Management Services, located at 713 Third Street, S.W., Roanoke, Virginia 24016.

34. Respondents were required to submit to the LEPC and the local fire department either MSDSs for the 2007 Chemicals, or a list identifying the 2007 Chemicals as being present at the Facility in quantities exceeding their respective thresholds, no later than 90 days after the 2007 Chemicals were present at the Facility in amounts equal to or greater than their respective thresholds.

35. Respondents failed to submit to the LEPC and the local fire department either MSDSs for the 2007 Chemicals, or a list identifying the 2007 chemicals as present at the Facility, no later than 90 days after the 2007 Chemicals were present at the Facility in amounts equal to or greater than their respective thresholds.

**EPA'S CONCLUSION OF LAW RELATED TO THE
VIOLATION OF SECTION 311 OF EPCRA -
LEPC AND LOCAL FIRE DEPARTMENT**

36. Respondents' failure to submit to the LEPC and the local fire department either MSDSs for the 2007 Chemicals or a list of hazardous chemicals identifying the 2007 Chemicals as present at the Facility in quantities exceeding their respective thresholds constitutes a violation

of Section 311 of EPCRA, 42 U.S.C. § 11021, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 312 OF EPCRA - CALENDAR YEAR 2007 - SERC**

37. The findings of fact and conclusions of law contained in Paragraphs 1 through 36 of this CA/FO are incorporated by reference herein as though fully set forth at length.

38. Section 312 of EPCRA, 42 U.S.C. § 11022, requires the owner or operator of a facility required to prepare or have available an MSDS for a hazardous chemical in accordance with the OSHA Hazard Communication Standard, 29 U.S.C. §§ 651 *et seq.*, and 29 C.F.R. § 1910.1200, and at which facility a hazardous chemical (including, but not limited to, a hazardous chemical which also qualifies as an EHS) is present at any one time in a quantity equal to or greater than its applicable minimum threshold for reporting established by 40 C.F.R. § 370.20(b) (the "threshold"), to submit on or before March 1, 1988, and by March 1st of each year thereafter, a completed Emergency and Hazardous Chemical Inventory Form identifying the hazardous chemical and providing the information described in Section 312(d)(1) of EPCRA, 42 U.S.C. § 11022(d)(1), to the appropriate SERC, LEPC, and local fire department with jurisdiction over the facility.

39. By March 1, 2008, Respondents were required to submit to the SERC, LEPC, and local fire department, an Emergency and Hazardous Chemical Inventory Form identifying the 2007 Chemicals as present at the Facility during calendar year 2007 in quantities greater than their respective thresholds, and providing the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), about the 2007 Chemicals.

40. On or about March 21, 2008, Chemsolv submitted an Emergency and Hazardous Chemical Inventory Form for calendar year 2007 to the SERC.

41. The Emergency and Hazardous Chemical Inventory Form for calendar year 2007 did not identify the 2007 Chemicals as present at the Facility in quantities equal to or greater than their respective thresholds.

42. Respondents failed to submit to the SERC, by March 1, 2008, an Emergency and Hazardous Chemical Inventory Form identifying the 2007 Chemicals as present at the Facility in quantities greater than their respective thresholds at any one time during calendar year 2007 and providing the required information concerning the hazardous chemicals.

**EPA'S CONCLUSION OF LAW RELATED TO THE
VIOLATION OF SECTION 312 OF EPCRA - CALENDAR YEAR 2007 - SERC**

43. Respondents' failure to submit to the SERC, by March 1, 2008, an Emergency and Hazardous Chemical Inventory Form identifying the 2007 Chemicals as present at the Facility in quantities greater than their respective thresholds at any one time during calendar year 2007 and providing the required information concerning the 2007 Chemicals, constitutes a

violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 312 OF EPCRA
CALENDAR YEAR 2007 – LEPC AND LOCAL FIRE DEPARTMENT**

44. The findings of fact and conclusions of law contained in Paragraphs 1 through 43 of this CA/FO are incorporated by reference herein as though fully set forth at length.

45. On or about March 21, 2008 Chemsolv submitted an Emergency and Hazardous Chemical Inventory Form for calendar year 2007 to the LEPC and the local fire department.

46. The Emergency and Hazardous Chemical Inventory Form for calendar year 2007 did not identify the 2007 Chemicals as present at the Facility in quantities equal to or greater than their respective thresholds.

47. Respondents failed to submit to the LEPC and the local fire department, by March 1, 2008, a complete and accurate Emergency and Hazardous Chemical Inventory Form identifying the 2007 Chemicals as present at the Facility in quantities equal to or greater than their respective thresholds at any one time during calendar year 2007 and providing the required information concerning the 2007 Chemicals.

**EPA'S CONCLUSION OF LAW RELATED TO THE
VIOLATION OF SECTION 312 OF EPCRA
CALENDAR YEAR 2007 – LEPC AND LOCAL FIRE DEPARTMENT**

48. Respondents' failure to submit to the LEPC and the local fire department, by March 1, 2008, a complete and accurate Emergency and Hazardous Chemical Inventory Form identifying the 2007 Chemicals as present at the Facility in quantities greater than their respective thresholds at any one time during calendar year 2007 and providing the required information concerning the 2007 Chemicals, constitutes a violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 312 OF EPCRA - CALENDAR YEAR 2006**

49. The findings of fact and conclusions of law contained in Paragraphs 1 through 48 of this CA/FO are incorporated by reference herein as though fully set forth at length.

50. On at least one occasion during calendar year 2006, Respondents had present at the Facility the following hazardous chemicals in the following amounts: 49,111 pounds of calcium chloride; 56,000 pounds of citric acid; 58,376 pounds of cyclohexanone; 27,036 pounds of ethyl acetate; 23,357 pounds of ferric sulfate; 91,854 pounds of n-butyl acetate; 11,040 pounds of octylphenoxypoly(ethyleneoxy)ethanol; 18,592 pounds of silicic acid; 43,490 pounds

of sodium sulfate; 18,561 pounds of tetrasodium EDTA; 27,568 pounds of sodium bisulphate; 123,164 pounds of sodium chloride; and 11,880 pounds of sodium fluoride (referred to hereafter as "2006 Chemicals").

51. By March 1, 2007, Respondents were required to submit to the SERC, LEPC, and the local fire department, an Emergency and Hazardous Chemical Inventory Form identifying the 2006 Chemicals as present at the Facility during calendar year 2006 in quantities greater than their respective threshold, and providing the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), about the 2006 Chemicals.

52. On or about February 28, 2007, Chemsolv submitted an Emergency and Hazardous Chemical Inventory Form for calendar year 2006 to the SERC, LEPC and the local fire department.

53. The Emergency and Hazardous Chemical Inventory Form for calendar year 2006 submitted to the SERC, LEPC and the local fire department did not identify the 2006 Chemicals as present at the Facility in quantities equal to or greater than their respective thresholds.

54. Respondents failed to submit to the SERC, LEPC and the local fire department, by March 1, 2007, a complete and accurate Emergency and Hazardous Chemical Inventory Form identifying the 2006 Chemicals as present at the Facility in quantities greater than their respective thresholds at any one time during calendar year 2006, and providing the required information concerning the 2006 Chemicals.

**EPA'S CONCLUSION OF LAW RELATED TO THE
VIOLATION OF SECTION 312 OF EPCRA - CALENDAR YEAR 2006**

55. Respondents' failure to submit to the SERC, LEPC and the local fire department by March 1, 2007, a complete and accurate Emergency and Hazardous Chemical Inventory Form identifying the 2006 Chemicals present at the Facility in quantities greater than their respective thresholds at any one time during calendar year 2006, and providing the required information concerning the 2006 Chemicals, constitutes a violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 112(r)(1) OF THE CLEAN AIR ACT**

56. The findings of fact and conclusions of law contained in Paragraphs 1 through 55 of this CA/FO are incorporated by reference herein as though fully set forth at length.

57. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Clean Air Act Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r).

58. 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 substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to identify hazards which may result from accidental releases of such substances 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. Section 112(r)(1) is hereinafter referred to as the "General Duty Clause."

59. The General Duty Clause applies to any stationary source producing, processing, handling, or storing regulated substances, as defined above, or other extremely hazardous substances ("EHS"). An EHS is any chemical which may, as a result of short-term exposures because of releases to the air, cause death, injury or property damage due to its toxicity, reactivity, flammability, volatility or corrosivity. Senate Comm. of Environment and Public Works, Clean Air Act Amendments of 1989, Senate Rep. No. 228, 101st Cong., 1st Sess. 211 (1989). EHSs include, but are not limited to, regulated substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), at 40 C.F.R. § 68.130, and chemicals on the list of extremely hazardous substances published under EPCRA at 40 C.F.R. Part 355, Appendices A and B.

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

61. Chemsolv has been the owner or operator of a "stationary source," as the term is defined at 40 C.F.R. § 68.3, since 1979.

62. Austin Holdings is a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

63. Austin Holdings has been the owner of a "stationary source," as the term is defined at 40 C.F.R. § 68.3, since 1998.

64. At all times relevant to this Consent Agreement, the Facility stored EHSs at the Facility, including, but not limited to, acetone, methanol, hydri-fin, xylene, alcohols, caustic potash, hydrogen peroxide, and sulfuric acid.

65. EPA conducted an inspection of the Facility on April 22-23, 2008, to determine Respondents' compliance with Section 112(r)(1) and (7) of the CAA, and the Risk Management Program regulations at 40 C.F.R. Part 68.

66. EPA's inspection revealed a number of safety concerns regarding the storage of chemicals at the Facility, including the following:

- a. Adequate fire protection was not provided for EHSs stored in the warehouse located at 1140 Industry Road, SE ("1140 Warehouse"), as required by 2006

International Fire Code (“IFC”), Chapters 27 and 34, when more than 120 pounds of Class IB chemicals are present;

- b. Adequate secondary containment was not provided for EHSs stored in the 1140 Warehouse, as required by IFC Chapter 27 when more than 120 pounds of Class IB chemicals are present;
- c. Secondary containment walls of tank storage area outside 1140 Warehouse, containing EHSs, including xylene and alcohols, were cracked, in violation of IFC Chapter 27;
- d. Incompatible chemicals, namely caustic potash near hydrogen peroxide and sulfuric acid containers, were not properly separated outside the 1140 Warehouse, as required by IFC Chapter 27;
- e. A water-reactive chemical, namely hydrifin, was improperly stored in warehouse located at 1111 Industry Road, SE, which uses a wet standpipe fire protection system, in violation of IFC Chapter 27.

67. EPA determined that the issues identified in the Paragraph 66, immediately above, constituted violations of the General Duty Clause.

68. On June 12, 2008, EPA issued an Administrative Order to Respondents, pursuant to Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), requiring Respondents to, *inter alia*, address the identified safety concerns. The Administrative Order was subsequently modified on August 11, 2008 and February 24, 2009.

69. Currently, Respondents are conducting extensive work at the Facility to address the safety concerns identified by EPA, including the rebuilding of one warehouse and the retrofitting of another warehouse.

70. In response to EPA’s Administrative Order, EPA’s May 29, 2008 information request to Chemsolv pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, and EPA’s April 16, 2010 letter to Chemsolv requesting Chemsolv to show cause why penalties against Chemsolv were not warranted under Section 113 of the CAA, Chemsolv submitted information to EPA on June 17, 2008, September 25, 2008, October 24, 2008, May 10, 2010, August 5, 2010, and August 23, 2010 concerning Chemsolv’s compliance with the General Duty Clause.

**EPA’S CONCLUSIONS OF LAW RELATED TO THE
VIOLATION OF SECTION 112(r)(1) OF THE CLEAN AIR ACT**

71. Respondents have violated Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), by failing to design and maintain a safe facility taking such steps as are necessary to prevent releases and to minimize the consequences of accidental releases that do occur, and is, therefore, subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

**EPA'S FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 112(r)(7) OF THE CLEAN AIR ACT**

72. The findings of fact and conclusions of law contained in Paragraphs 1 through 71 of this CA/FO are incorporated by reference herein as though fully set forth at length.

73. Section 112(r) to the CAA, 42 U.S.C. § 7412(r), requires the Administrator of EPA to, among other things, promulgate regulations in order to prevent accidental releases of certain regulated substances. Section 112(r)(3), 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of regulated substances, with threshold quantities, and defines the stationary sources that will be subject to the accident prevention regulations mandated by Section 112(r)(7). Specifically, Section 112(r)(7) requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for these listed regulated substances, 42 U.S.C. § 7412(r)(7). The list of regulated substances and threshold levels can be found in 40 C.F.R. § 68.130.

74. On June 20, 1996, EPA promulgated a final rule known as the Risk Management Program, 40 C.F.R. Part 68, which implements Section 112(r)(7), 42 U.S.C. § 7412(r)(7), of the CAA. The regulations require owners and operators of stationary sources to develop and implement a risk management program that includes a hazard assessment, a prevention program, and an emergency response program. The risk management program is described in a risk management plan that must be submitted to EPA. The risk management plan must include a hazard assessment to assess the potential effects of an accidental release of any regulated substance, a program for preventing accidental releases of hazardous substances, and a response program providing for specific actions to be taken in response to an accidental release of a regulated substance, so as to protect human health and the environment.

75. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and its regulations at 40 C.F.R. §§ 68.10(a) and 68.150(a), the owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity must submit a risk management plan to EPA 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.

76. Section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B), authorizes EPA to commence an administrative action to assess civil penalties of not more than \$25,000.00 per day for each violation of Section 112(r) of the CAA that occurs before January 30, 1997. Section 113(d)(1)(B), as amended by the Debt Collection Improvement Act of 1996, authorizes EPA to commence an administrative action to assess civil penalties of not more than \$32,500.00 per day for each violation of Section 112(r) of the CAA that occurs after March 15, 2004 through January 12, 2009, and \$37,500 per day for each violation of Section 112(r) of the CAA that occurs after January 12, 2009.

77. The regulations at 40 C.F.R. § 68.3 define "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.

78. The regulations at 40 C.F.R. § 68.3 define “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, listed in 40 C.F.R. § 68.130, Table 1, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

79. The regulations at 40 C.F.R. § 68.3 define “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA, in 40 C.F.R. § 68.130.

80. The regulations at 40 C.F.R. § 68.3 define “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 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.

81. The Facility’s inventory records dated April 22, 2008, indicated that approximately 32,000 pounds of ammonia (concentration 20% or greater), CAS No. 7664-41-7, were handled, stored or used at the Facility on that date.

82. The Facility’s inventory records dated April 22, 2008, indicated that approximately 45,100 pounds of formaldehyde, CAS No. 50-00-0, were handled, stored, or used at the Facility on that date.

83. Information from the Facility reviewed after the April 22, 2008 inspection indicated that at any one time during calendar years 2003 through 2008, between 6,000 and 42,500 pounds of hydrofluoric acid, CAS No. 7664-39-3, were handled, stored, or used at the Facility.

84. Information from the Facility reviewed after the April 22, 2008 inspection indicated that on at least one occasion during the first quarter of calendar year 2008, approximately 49,075 pounds of isopropylamine, CAS No. 75-31-0, were handled, stored, or used at the Facility.

85. The substances ammonia, formaldehyde, hydrofluoric acid, and isopropylamine are “regulated substances” pursuant to Section 112(r)(3) of the CAA, and listed in 40 C.F.R. § 68.130, with threshold quantities of 10,000 pounds, 10,000 pounds, 1,000 pounds and 10,000 pounds, respectively.

86. At all times relevant to this Consent Agreement, the substances formaldehyde, hydrofluoric acid, isopropylamine, and ammonia have been present in a process at the Facility.

87. Respondents are subject to the requirements of Section 112(r) of the CAA, 40 U.S.C. § 7412(r), and 40 C.F.R. Part 68, because each is the owner and/or operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

Pursuant to 40 C.F.R. § 68.10(a), an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process shall comply with the requirements of 40 C.F.R. Part 68, including the requirement to develop and implement a risk management program, on the latest of the following dates: (1) June 21, 1999; (2) three years after the date on which the regulated substance is first listed under 40 C.F.R. § 68.130; or (3) the date on which the regulated substance is first present above a threshold quantity in a process.

88. Complainant determined, based on its inspection of the Facility and documents obtained from the Facility, that the Facility failed to comply with the following components of the Risk Management Program:

- a. Retention of documents relating to initial and subsequent off-site consequence analyses, including alternative release scenarios, worst-case release scenario analyses, rationales for selection of specific scenarios and selection of data used to estimate population and environmental receptors potentially affected, as required by 40 C.F.R. § 68.39;
- b. Compilation and maintenance of safety information related to the regulated substances, processes and equipment, as required by 40 C.F.R. § 68.65(a);
- c. Development of a facility-specific system to maintain the on-going mechanical integrity of the process equipment, as required by 40 C.F.R. § 68.73(a) to (b);
- d. Inspection and testing of all equipment related to regulated substances, as required by 40 C.F.R. § 68.73(d);
- e. Preparation of a process hazard review for all regulated substances, as required by 40 C.F.R. § 68.67(a);
- f. Update of process hazard analyses for all regulated substances every five years, as required by 40 C.F.R. § 68.67(f); and
- g. Conduct a compliance audit every three years, as required by 40 C.F.R. § 68.79(e).

89. Pursuant to the Administrative Order, Chemsolv submitted a risk management plan for the Facility to EPA on or about December 10, 2008.

90. In response to EPA's Administrative Order, EPA's May 29, 2008 information request to Chemsolv pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, and EPA's April 16, 2010 letter to Chemsolv requesting Chemsolv to show cause why penalties against Chemsolv were not warranted under Section 113 of the CAA, Chemsolv submitted information to EPA on June 17, 2008, September 25, 2008, October 24, 2008, May 10, 2010, August 5, 2010, and August 23, 2010 concerning Respondent's compliance with the risk management program requirements at the Facility.

**EPA'S CONCLUSIONS OF LAW RELATED TO THE
VIOLATION OF SECTION 112(r)(7) OF THE CLEAN AIR ACT**

91. Respondents were required under Section 112(r) of the CAA, 40 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68, to develop and implement a risk management program that includes a hazard assessment, a prevention program, and an emergency response program.

92. Respondents have violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and its regulations at 40 C.F.R. Part 68, by failing to meet the following requirements: retain required documentation; compile safety information related to the regulated substances, processes and equipment; develop and maintain a mechanical integrity program; prepare comprehensive standard operating procedures; prepare and update the process hazard review every five years; and complete the triennial compliance audit. Respondents are, therefore, subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

SETTLEMENT

93. In full and final settlement and resolution of all allegations referenced in the foregoing EPA's Findings of Fact and EPA's Conclusions of Law, and in full satisfaction of all civil penalty claims pursuant thereto, for the purpose of this proceeding, Respondents consent to the assessment of a civil penalty for the violations of Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021, 11022, set forth above, in the amount of \$14,855.00, and to the assessment of a civil penalty for the violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), as set forth above, in the amount of \$29,112.00, for a total civil penalty of **\$43,967.00**. Respondents further agree to pay \$180.69 in interest that will accrue from the effective date of this Consent agreement to the final due date.

94. Respondents consent to the issuance of this Consent Agreement, and consents for purposes of settlement to the payment of the civil penalty plus interest cited in the foregoing Paragraph and to performance of the Supplemental Environmental Projects, as set forth below.

SUPPLEMENTAL ENVIRONMENTAL PROJECTS

95. The following Supplemental Environmental Projects ("SEPs") are consistent with applicable EPA policy and guidelines, specifically EPA's Supplemental Environmental Projects Policy, effective May 1, 1998.

96. Respondents agree to install and operate a nitrogen blanketing system in twenty flammable product storage tanks located at the Facility ("SEP A").

- a. SEP A is intended to reduce the risk of combustion in the flammable product storage tanks, thus lowering the risk of a product release to the environment. Each flammable product tank will be equipped with a Series 20 Pilot Operated Tank Blanketing Valve and a Series 830 End-of-Line Combustion Combination Conservation Vent and Flame Arrester, produced by PROTECTOSEAL®. SEP

A is described further in the SEP A Proposal ("SEP A Proposal"), attached hereto as Attachment A and incorporated herein by reference.

- b. Respondents shall complete the installation of the nitrogen blanketing system within one year of the effective date of this CA/FO.

97. Respondents agree to install and operate dry disconnect couplings, manufactured by Dry Link® on 30 storage tanks at the Facility ("SEP B").

- a. SEP B is intended to eliminate drips and accidental spills during loading and unloading of chemicals by trapping fluids and providing true hose and valve closure to stop the flow of liquids completely before disconnection. SEP B is described further in the SEP B Proposal ("SEP B Proposal"), attached hereto as Attachment A and incorporated herein by reference.
- b. Respondents shall complete the installation of the dry disconnect couplings within one year of the effective date of this CA/FO.

98. Respondents' total expenditure for installation of SEP A shall not be less than \$108,660, and Respondents' total expenditure for installation of SEP B shall not be less than \$63,000.00, in accordance with the specifications set forth in the SEP A Proposal and SEP B Proposal. SEP A has been valued at \$93,458.00, and SEP B has been valued at \$48,380.00 pursuant to EPA's Project Model. Respondents shall include documentation of the expenditures made in connection with each SEP as part of the SEP Completion Reports described in Paragraph 102 below.

99. Respondents hereby certify that, as of the date of this Consent Agreement, Respondents are not required to perform or develop SEP A or SEP B by any federal, state, or local law or regulations; nor is Respondent required to perform or develop SEP A or SEP B by any other agreement, grant or as injunctive relief in this or any other case. Respondents further certify that they have not received, and are not presently negotiating to receive, credit in any other enforcement action for SEP A or SEP B.

100. For Federal Income Tax purposes, Respondents agree that they will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing SEP A or SEP B.

101. Respondents shall notify EPA, c/o Kevin Daniel, at the address noted in Paragraph 102, below, when such implementation is complete. EPA may grant Respondents an extension of time to fulfill its SEP A and/or SEP B obligations if EPA determines, in its sole and unreviewable discretion, that, through no fault of Respondents, Respondents are unable to complete the SEP A and/or SEP B obligations within the time frame required by Paragraphs 96.b and 97.b and this Paragraph. Requests for any extension must be made in writing within 48 hours of any event, such as an unanticipated delay in obtaining governmental approvals, the occurrence of which renders the Respondents unable to complete SEP A and/or SEP B within the required time frame ("force majeure event"), and prior to the expiration of the allowed SEP A or

SEP B completion deadline. Any such requests should be directed to Kevin Daniel at the address noted in Paragraph 102, below.

102. SEP Completion Reports

a. Respondents shall submit a Completion Report to EPA for SEP A and for SEP B, c/o Kevin Daniel, U.S. EPA Region III, 1650 Arch Street (Mailcode 3HS61), Philadelphia, PA 19103, within fourteen (14) days of completing the implementation of each SEP, as set forth in Paragraphs 96 and 97. Each SEP Completion Report shall contain the following information:

- (i) detailed description of SEP as implemented;
- (ii) a description of any operating problems encountered and the solution thereto;
- (iii) a professional engineer's certification that the SEP is installed correctly and running properly; and
- (iv) itemized costs.

b. Respondents shall, by their respective officers, sign the reports required by this Paragraph and certify under penalty of law, that the information contained therein is true, accurate, and not misleading by including and signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

c. Respondents agree that failure to submit reports required by this Paragraph 102 shall be deemed a violation of this CA/FO and, in such an event, Respondents will be liable for stipulated penalties pursuant to Paragraph 105 below.

d. In itemizing its costs in the SEP Completion Reports, Respondents shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where either report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

103. Respondents agree that EPA may inspect the facility at which SEP A and SEP B are implemented at any time in order to confirm that SEP A and SEP B are being undertaken in conformity with the representations made herein and as required by this CA/FO.

104. EPA Acceptance of SEP Completion Reports

a. Upon receipt of each SEP Completion Report, EPA may exercise one of the following options:

- (i) notify the Respondents in writing that the SEP Completion Report is deficient, provide an explanation of the deficiencies, and grant Respondent an additional thirty (30) days to correct those deficiencies;
- (ii) notify the Respondents in writing that EPA has concluded that the project has been satisfactorily completed; or
- (iii) notify the Respondents in writing that EPA has concluded that the project has not been satisfactorily completed, and seek stipulated penalties in accordance with Paragraph 105 herein.

b. If EPA elects to exercise option (i) above, EPA shall permit Respondents the opportunity to object in writing to the notification of deficiency within ten (10) days of receipt of such notification. EPA and Respondents shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the respective SEP Completion Report. If agreement cannot be reached within this thirty (30) day period, EPA shall provide to the Respondents a written statement of its decision on the adequacy of the completion of either SEP A or SEP B, which shall be final and binding upon Respondents. Respondents agree to comply with any requirements imposed by EPA as a result of any failure to comply with the terms of this CA/FO. In the event either SEP A or SEP B is not completed as required herein, as determined by EPA, stipulated penalties shall be due and payable by Respondents to EPA in accordance with Paragraph 105 herein.

105. Stipulated Penalties

a. In the event that Respondent fails to comply with any of the terms or provisions of this Consent Agreement relating to the performance of SEP A, described in Paragraph 96 above, or SEP B, described in Paragraph 97 above, and/or to the extent that the actual expenditures for SEP A and/or SEP B do not equal or exceed the costs of SEP A and/or SEP B, described in Paragraphs 98 and 99 above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- (i) Except as provided in subparagraph (iii) below, if SEP A has not been completed satisfactorily pursuant to this CA/FO, Respondent shall pay a stipulated penalty to EPA in the amount of \$89,584.00.
- (ii) Except as provided in subparagraph (iii) below, if SEP B has not been completed satisfactorily pursuant to this CA/FO, Respondent shall pay a stipulated penalty to EPA in the amount of \$43,467.00.
- (iii) If either SEP A or SEP B is not completed in accordance with Paragraphs 96 and 97, respectively, but the Complainant

determines that the Respondents: (a) made good faith and timely efforts to complete the project; and (b) certifies, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the SEP, Respondents shall not be liable for any stipulated penalty.

- (iv) If SEP A is completed in accordance with Paragraph 96, but the Respondents spent less than 90 percent of the amount of money required to be spent for the project, Respondents shall pay a stipulated penalty to EPA in the amount of \$8,954.00.
- (v) If SEP B is completed in accordance with Paragraph 97, but the Respondents spent less than 90 percent of the amount of money required to be spent for the project, Respondents shall pay a stipulated penalty to EPA in the amount of \$4,347.00.
- (vi) If SEP A and SEP B are completed in accordance with Paragraphs 96 and 97, respectively, and the Respondents spent at least 90 percent of the amount of money required to be spent for each project, Respondents shall not be liable for any stipulated penalty.
- (vii) For failure to submit either the SEP A Completion Report or the SEP B Completion Report required by Paragraph 102, above, Respondent shall pay a stipulated penalty in the amount of \$500.00 for each day after the report was originally due until the report is submitted.

b. The determination of whether SEP A and SEP B have been satisfactorily implemented and whether the Respondents have made a good faith, timely effort to implement SEP A and SEP B shall be in the sole discretion of EPA.

c. Respondents shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties, in accordance with the provisions of Paragraphs 106 and 107, below. Interest and late charges shall be paid as set forth in Paragraphs 110 through 116, below.

PAYMENT TERMS

106. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with the civil penalties described in this CA/FO, Respondent shall pay the civil penalty of \$43,967.00 plus interest of \$180.69, for a total of **\$44,147.69**, no later than six months after the effective date of the Final Order (the "final due date") by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, EPCRA-03-2011-0138, CAA-03-2011-0138;
- b. All checks shall be made payable to **United States Treasury**;
- c. All payments made by check and sent by regular mail shall be addressed to:

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

Contact: Bryson Lehman 513-487-2123

- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

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

Contact: 314-418-1028

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed 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

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

- h. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV
Enter sfo 1.1 in the search field. Open and complete the form.

- i. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

107. Respondent shall submit copies of the check, or verification of wire transfer or ACH, to the following persons:

Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Cynthia T. Weiss
Senior Assistant Regional Counsel (3RC42)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

108. The EPCRA civil penalty stated herein is based upon EPA's consideration of a number of factors, including, but not limited to, the following: the nature, circumstances, extent, and gravity of the violations and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such matters as justice may require, with specific reference to EPA's *Enforcement Response Policy for Sections 304, 311, and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act*, dated September 30, 1999 ("ERP").

109. The CAA civil penalty stated herein is based upon Complainant's consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and is consistent with 40 C.F.R. Part 19 and the *Combined Enforcement Response Policy for Section 112(r) of the Clean Air Act (August 15,*

2001).

110. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to 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, as more fully described below. Accordingly, Respondent's failure to make timely payment by the final due date or to comply with the conditions of this CA/FO shall result in the assessment of late payment charges, including interest beyond that required by this CA/FO, penalties and/or administrative costs of handling delinquent debts.

111. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this CA/FO is mailed or hand-delivered to Respondent. 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).

112. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). Pursuant to Appendix B of EPA's *Resource Management Directives – Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the final due date and additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid.

113. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days in accordance with 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent, in accordance with 31 C.F.R. § 901.9(d).

114. Failure of Respondent to pay the penalty assessed by the Final Order in full by the final due date may subject Respondent to a civil action to collect the assessed penalties, plus interest, pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 113 of the CAA, 42 U.S.C. § 7413. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

GENERAL PROVISIONS

115. For the purposes of this proceeding, Respondents admit to the jurisdictional allegations set forth above.

116. Respondents agree not to contest EPA's jurisdiction with respect to execution or enforcement of the CA/FO.

117. Except as provided in Paragraph 115 above, for purposes of this proceeding, Respondents neither admit nor deny factual allegations set forth in this Consent Agreement, but expressly waives its rights to contest said allegations.

118. By entering into this CA/FO, the Respondents do not admit any liability for the civil claims alleged herein.

119. For purposes of this proceeding, Respondents expressly waive their right to hearing and to appeal this Final Order under Section 325 of EPCRA, 42 U.S.C. § 11045, and under Section 113 of the CAA, 42 U.S.C. § 7413.

120. Respondents certify by the signing of this CA/FO that, to the best of their knowledge, the Facility is presently in compliance with all requirements of Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021, 11022, and all regulations promulgated thereunder.

121. Respondents certify by the signing of this CA/FO that, to the best of its knowledge, the Facility is presently in compliance with all requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and all regulations promulgated thereunder.

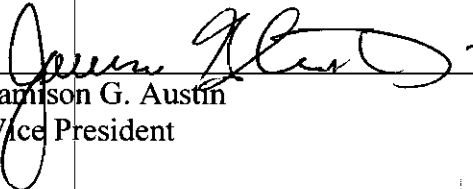
122. The provisions of this CA/FO shall be binding upon Respondents, their respective officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this Consent Agreement on behalf of each Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind said Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.

123. This CA/FO does not constitute a waiver, suspension or modification of the requirements of Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021, 11022, or of Section 112(r) of the CAA, 42 U.S.C. § 7612, or any regulations promulgated thereunder.

124. This CA/FO is a complete and final settlement of all civil and administrative claims and causes of action set forth in this CA/FO for alleged violations of Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021, 11022, and Section 112(r) of the CAA, 42 U.S.C. § 7412(r). Nothing herein shall be construed to limit the authority of EPA to undertake action against any person, including the Respondents, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nothing in this CA/FO shall be construed to limit the United States' authority to pursue criminal sanctions.

125. Each party to this action shall bear its own costs and attorney's fees.

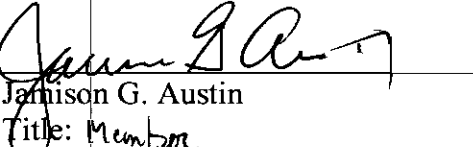
FOR CHEMICALS AND SOLVENTS, INC. d/b/a CHEMSOLV, INC.



Jamison G. Austin
Vice President

June 21, 2011
Date

FOR AUSTIN HOLDINGS-VA, LLC




Jamison G. Austin
Title: Member

June 21, 2011
Date

In the Matter of Chemicals and Solvents, Inc.
d/b/a Chemsolv, Inc. and Austin Holdings-VA, LLC

EPA Docket Nos. EPCRA-03-2011-0138
CAA-03-2011-0138

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY



Ronald J. Borsellino, Director
Hazardous Site Cleanup Division

7/5/11

Date

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the Matter of:	)	EPA Docket Nos. EPCRA-03-2011-0138
Chemicals and Solvents, Inc.	)	CAA-03-2011-0138
d/b/a Chemsolv, Inc.)	
1140 Industry Avenue, S.E.)	
Roanoke, Virginia 24103,)	
)	
and)	
)	
Austin Holdings-VA, LLC)	
1140 Industry Avenue, S.E.)	
Roanoke, Virginia 24103,)	
)	
Respondents.	)	Proceedings Pursuant to Sections 311, 312
	)	and 325 of the Emergency Planning and
Chemicals and Solvents, Inc.	)	Community Right-to-Know Act, 42
d/b/a Chemsolv, Inc.	)	U.S.C. §§ 11021, 11022, 11045, and
1111 and 1140 Industry Avenue, S.E.	)	Sections 112(r) and 113 of the Clean Air
Roanoke, Virginia 24103,	)	Act, 42 U.S.C. §§ 7412(r) and 7413
)	
Facility.)	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of Consent Agreement and Final Order, along with enclosures and/or attachments, for the above-referenced matter, with the Regional Hearing Clerk, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that a true and correct copy of the Consent Agreement and Final Order, along with its enclosures and/or attachments, was sent:

Via certified mail, return receipt requested, to:

Charles L. Williams, Esquire
Gentry Locke Rakes & Moore
SunTrust Plaza
10 Franklin Road, Southeast
Suite 800
Roanoke, Virginia 24011

JUL 13 2011

Date



Cynthia T. Weiss (3RC42)
Senior Assistant Regional Counsel