

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
FOUR PENN CENTER – 1600 JOHN F. KENNEDY BLVD.
PHILADELPHIA, PENNSYLVANIA 19103-2852**

In the Matter of:	:	U.S. EPA Docket No. CERCLA-03-2022-0086
	:	
Sasol Chemicals (USA) LLC 292 State Route 8 Oil City, PA 16301,	:	Proceeding under Sections 103 and 109 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9603 and 9609
Respondent/Facility.	:	
	:	
	:	

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Sasol Chemicals (USA) LLC (“Respondent” or “Sasol”) (collectively “the Parties”), pursuant to Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9609, and 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. Section 109 of CERCLA vests the President of the United States with the authority to assess penalties and undertake other actions required by this Consent Agreement, which authority has been delegated to the Administrator of the U.S. Environmental Protection Agency (“EPA”). The Administrator has delegated these authorities to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under CERCLA for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The EPA has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(7).

GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in **this Consent Agreement and Final Order** and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

11. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
12. Respondent is incorporated in the state of Delaware and its headquarters is located at 12120 Wickchester Ln., Houston, TX, 77079.
13. Respondent is the owner of a facility located at 292 State Route 8, Oil City, PA 16301 (the "Facility").
14. The Facility is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), and 40 C.F.R. § 302.3.
15. Respondent is an "owner or operator" of the Facility as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20).
16. Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), and 40 C.F.R. § 302.3.

17. At all times relevant to this Consent Agreement and Final Order, Respondent has been in charge of the Facility, within the meaning of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).
18. *para*-Cresol (“*p*-cresol”) is a hazardous substance, as defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and 40 C.F.R. § 302.3. According to the National Institute for Occupational Safety and Health (“NIOSH”), *p*-cresol is a combustible solid with a melting point of 95 degrees Fahrenheit. (See the relevant NIOSH pocket guide for *p*-cresol available online at <https://www.cdc.gov/niosh/npg/npgd0156.html>.)
19. 40 C.F.R. § 302.6(a) provides that any person in charge of a vessel or an offshore or an onshore facility shall, as soon as he or she has knowledge of any release (other than a federally permitted release or application of a pesticide) of a hazardous substance from such vessel or facility in a quantity equal to or exceeding the reportable quantity (“RQ”) determined by 40 C.F.R. Part 302 in any 24-hour period, immediately notify the National Response Center (“NRC”).
20. *p*-Cresol has an RQ of 100 pounds, as listed in 40 C.F.R. § 302.4.
21. 40 C.F.R. § 302.3 defines a “release” as any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment. 40 C.F.R. § 302.3 defines “the environment” as navigable waters, the waters of the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the United States under the Fishery Conservation and Management Act of 1976, and (2) any other surface water, ground water, drinking water supply, land surface or subsurface strata, or ambient air within the United States or under the jurisdiction of the United States.
22. At all times relevant to this Consent Agreement and Final Order, *p*-cresol was produced, used, or stored at the Facility.
23. On November 11, 2019 at 1:48 p.m., the NRC received a notification from Sasol regarding a release of *p*-cresol from the Facility.
24. On February 24, 2021, EPA sent a CERCLA Section 104(e) Information Request Letter to Respondent to determine Respondent’s compliance with Section 103 of CERCLA and Sections 302-312 of EPCRA in response to the Release of *p*-cresol from the Facility. On March 25, 2021, Sasol responded to EPA’s request with information relevant to Respondent’s compliance with Section 103 of CERCLA and Sections 302-312 of EPCRA.
25. According to information submitted to EPA by Respondent, at times relevant to this matter, Respondent maintained an outdoor raw material storage tank holding cresol (a chemical combination of 99% *p*-cresol and 1% *meta*-cresol (*m*-cresol)) directly positioned above soil at the Facility (“cresol tank”). The cresol tank was heated to 50 to 60 degrees Celsius to maintain the material in a liquid state.

26. According to information submitted to EPA by Respondent, Respondent became aware of a gauge discrepancy in the cresol tank during an October 2019 inventory and initiated an investigation to determine whether the tank gauge was operating correctly. On November 11, 2019, Respondent saw cresol dripping from the tank and into the soil directly below the tank. Respondent then concluded that the tank gauge had been operating properly and determined, based on gauge readings, that a leak had begun on September 24, 2019 and continued through November 11, 2019. Respondent concluded that approximately 33,633 pounds of cresol (33,297 pounds of *p*-cresol and 336 pounds of *m*-cresol) leaked into the environment due to the compromised holding tank (“the Release”). The Respondent calculated, based on a continuous release over the 48 days from September 24, 2019 to November 11, 2019, that an average of 694 pounds of *p*-cresol had leaked from the tank every 24 hours.
27. Based on the information Sasol submitted to EPA, Sasol became aware of the Release of *p*-cresol at 11:57 a.m. on November 11, 2019 when the plant manager was notified of the Release after employees reviewed the historic tank gauging data.
28. On November 11, 2019 at 1:48 p.m., Sasol notified the NRC of the Release approximately 1 hour and 51 minutes after a person in charge of the Facility knew of or should have known that the RQ was exceeded.

Count I

Failure to Immediately Notify the National Response Center of a Release

29. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
30. CERCLA Section 103(a), 42 U.S.C. § 9603(a), requires any person in charge of a facility, as soon as he has knowledge of a release of a hazardous substance from such facility, in a quantity equal to or greater than the RQ for that hazardous substance, to immediately notify the NRC of the release.
31. Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), requires the Administrator of the EPA to publish a list of substances designated as hazardous substances, which, when released into the environment may present substantial danger to public health or welfare or to the environment, and to promulgate regulations establishing that quantity of any hazardous substance, the release of which shall be required to be reported under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a). The list of hazardous substances is codified at 40 C.F.R. § 302.4.
32. The Release from the Facility constitutes a release of a hazardous substance in a quantity equal to or exceeding the RQ for that hazardous substance, requiring immediate notification of the NRC pursuant to Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

33. The Release was not a “federally permitted release” as that term is defined in Section 101(10) of CERCLA, 42 U.S.C. § 9601(10), and used in Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6.
34. Respondent knew or should have known of the Release of *p*-cresol from the Facility in a quantity exceeding the RQ on or before 11:57 a.m. on November 11, 2019, after employees reviewed the historic tank gauging data and the plant manager was notified that the Release exceeded the RQ for *p*-cresol.
35. Respondent reported the Release of *p*-cresol to the NRC at 1:48 p.m. on November 11, 2019, approximately 1 hour and 51 minutes after having knowledge of the Release.
36. Respondent failed to immediately notify the NRC of the Release as soon as Respondent knew or should have known that a release of a hazardous substance had occurred at the Facility in an amount equal to or exceeding the applicable RQ, as required by Section 103 of CERCLA, 42 U.S.C. § 9603, and 40 C.F.R. § 302.6.
37. In failing to comply with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. Part 302, Respondent is subject to the assessment of penalties under Section 109(a) of CERCLA, 42 U.S.C. § 9609(a).

CIVIL PENALTY

38. In settlement of EPA’s claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **SEVEN THOUSAND THREE HUNDRED AND SIXTY-FOUR DOLLARS (\$7,364)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
39. The civil penalty is based upon EPA’s consideration of a number of factors, including the penalty criteria (“statutory factors”) set forth in Section 109(a)(3) of CERCLA, 42 U.S.C. § 9609(a)(3), including, the following: the nature, circumstances, extent and gravity of the violation or 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. These factors were applied to the particular facts and circumstances of this case 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 (September 30, 1999)*, which reflects the statutory penalty criteria and factors set forth at Section 109(a)(3) of CERCLA, the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA’s civil penalty policies to account for inflation.

40. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, **CERCLA-03-2022-0086**.
- b. All checks in payment of the CERCLA civil penalty shall be made payable to the "EPA-Hazardous Substances Superfund."
- c. All payments made by check in payment of the CERCLA civil penalty and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously by email to:

Conner Kingsley
Assistant Regional Counsel
U.S. EPA, Region III
kingsley.conner@epa.gov

and

U.S. EPA Region III Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

41. 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 of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.

42. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final

Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).

43. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date Respondent is notified of its debt to the United States as established upon the ratification and filing of the fully executed Consent Agreement and Final Order with the Regional Hearing Clerk. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. 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).
44. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case 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 payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
45. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 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. 31 C.F.R. § 901.9(d).
46. Failure by the Respondent to pay the CERCLA civil penalty assessed by the Final Order in accordance with the terms of this Consent Agreement and Final Order may subject Respondent to a civil action to collect the assessed penalty, plus interest, pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.
47. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
48. The parties consent to service of the Final Order by e-mail at the following valid e-mail addresses: kingsley.conner@epa.gov for Complainant, and heather.kress@us.sasol.com for Respondent.

GENERAL SETTLEMENT CONDITIONS

49. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best

of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.

50. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, **including information about Respondent's ability to pay a penalty**, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

OTHER APPLICABLE LAWS

51. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of CERCLA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

52. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under CERCLA, the regulations promulgated thereunder, and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

53. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents, and assigns of Respondent. By his or her signature below, the person who signs this Consent

Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

54. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

55. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: Sasol Chemicals (USA) LLC Signed by: Heather Kress
Signed at: 2022-06-09 16:06:34 +02:00
Reason: I approve this document



Date: June 9, 2022

By: _____

Heather Kress
Senior Legal Manager Sasol
Chemicals (USA) LLC

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: _____

By: _____

Karen Melvin
Director, Enforcement and Compliance
Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: _____

By: _____

Conner Kingsley
Assistant Regional Counsel
U.S. EPA – Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
FOUR PENN CENTER – 1600 JOHN F. KENNEDY BLVD.
PHILADELPHIA, PENNSYLVANIA 19103-2852**

In the Matter of:

:
: **U.S. EPA Docket No. CERCLA-03-2022-0086**

**Sasol Chemicals (USA) LLC
292 State Route 8
Oil City, PA 16301,**

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: **Proceeding under Sections 103 and 109
of the Comprehensive Environmental Response,
Compensation, and Liability Act,
42 U.S.C. §§ 9603 and 9609**

Respondent/Facility.

:
:
:

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Sasol Chemicals (USA) LLC have executed a document entitled “Consent Agreement,” which I hereby ratify as a Consent Agreement in accordance with 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 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s *Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act (September 30, 1999)*, and the statutory factors set forth in the *Comprehensive Emergency Response, Compensation and Liability Act (“CERCLA”) Section 109(a)(3), 42 U.S.C. § 9609(a)(3)*.

NOW, THEREFORE, PURSUANT TO Section 109 of CERCLA, 42 U.S.C. § 9609 and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **SEVEN THOUSAND THREE HUNDRED AND SIXTY-FOUR DOLLARS (\$7,364)**, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive,

extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of CERCLA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: _____

By: _____

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
FOUR PENN CENTER – 1600 JOHN F. KENNEDY BLVD.
PHILADELPHIA, PENNSYLVANIA 19103-2852**

In the Matter of: : **U.S. EPA Docket No. CERCLA-03-2022-0086**
:
Sasol Chemicals (USA) LLC : **Proceeding under Sections 103 and 109**
292 State Route 8 : **of the Comprehensive Environmental**
Oil City, PA 16301, : **Response, Compensation, and Liability Act,**
: **42 U.S.C. §§ 9603 and 9609**
Respondent/Facility. :
:

CERTIFICATE OF SERVICE

I certify that the foregoing *Consent Agreement and Final Order* was filed with the EPA Region III Regional Hearing Clerk on the date that has been electronically stamped on the *Consent Agreement and Final Order*. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Heather Kress
Senior Manager Legal, Americas
Sasol Chemicals (USA) LLC
12120 Wickchester Ln.
Houston, Texas 77079
(281) 588-3128
heather.kress@us.sasol.com

Copies served via email to:

Conner Kingsley
Assistant Regional Counsel
U.S. EPA, Region III
kingsley.conner@epa.gov

Theresa Gallagher
Environmental Engineer
U.S. EPA, Region III
gallagher.theresa@epa.gov

[Digital Signature and Date]

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III