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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 Elm Street, Suite 500
Dallas, Texas 75270

REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of §
LANXESS Corporation, §
Respondent. §
Docket No. CAA-06-2021-3343

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

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

Jurisdiction

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

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

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

Parties

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

4. Respondent is LANXESS Corporation, a corporation authorized to conduct business in the state of Arkansas

Statutory and Regulatory Background

5. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The Amendments added Section 112(r) to Title I of the CAA, 42 U.S.C. § 7412(r). The objective of Section 112(r) is to minimize the consequences of any such release of any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance.

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

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

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

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

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

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

C.F.R. 1910.119.

11. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to \$25,000 per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and its implementing regulations. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred before November 2, 2015, and to \$48,192 for violations that occur after November 2, 2015, and are assessed after January 13, 2020.

Definitions

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

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

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

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

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

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

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

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

EPA Findings of Fact and Conclusions of Law

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

20. Respondent is the owner and operator of a facility located at: 324 Southfield Cutoff Rd., El Dorado, Arkansas 71730 (the Facility).

21. The Facility is a “stationary source” pursuant to Section 112(r)(2)(C) of the CAA,

42 U.S.C. § 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3.

22. Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, the EPA conducted an inspection of the Facility on April 29, 2019 through May 2, 2019, to determine Respondent's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68 (the Inspection).

23. On November 9, 2020, the EPA sent Respondent a Notification of Potential Violations and Opportunity to Confer letter (NOPVOC Letter). On November 10, 2020, the EPA resumed discussions with Respondent as a result of the opportunity to confer and articulated the EPA's position concerning Respondent's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68.

24. Respondent has five inorganic chemical manufacturing processes at the Facility, meeting the definition of "process", as defined by 40 C.F.R. § 68.3.

25. Bromine, ammonia (anhydrous), chlorine, sulfur trioxide, propylene oxide, oleum (fuming sulfuric acid), and sulfur dioxide (anhydrous) are each a "regulated substance" pursuant to 40 C.F.R. § 68.3. The threshold quantity for bromine, ammonia (anhydrous), sulfur trioxide, propylene oxide, and oleum (fuming sulfuric acid), as listed in 40 C.F.R. § 68.130 is 10,000 pounds. The threshold quantity for chlorine, as listed in 40 C.F.R. § 68.130 is 2,500 pounds. The threshold quantity for sulfur dioxide (anhydrous), as listed in 40 C.F.R. § 68.130 is 5,000 pounds

26. Respondent has greater than a threshold quantity of bromine, ammonia (anhydrous), chlorine, sulfur trioxide, propylene oxide, oleum (fuming sulfuric acid), and sulfur dioxide (anhydrous), in a process at the Facility.

27. From the time Respondent first had on-site greater than a threshold quantity of bromine, ammonia (anhydrous), chlorine, sulfur trioxide, propylene oxide, oleum (fuming

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

28. From the time Respondent first had on-site greater than a threshold quantity of bromine, ammonia (anhydrous), chlorine, sulfur trioxide, propylene oxide, oleum (fuming sulfuric acid), and sulfur dioxide (anhydrous) in a process, Respondent was required to submit an RMP pursuant to 40 C.F.R. § 68.12(a) and comply with the Program 3 prevention requirements because pursuant to 40 C.F.R. § 68.10(i), the covered processes at the Facility did not meet the eligibility requirements of Program 1 and are subject to the OSHA process safety management standard, 29 C.F.R. § 1910.119.

EPA Findings of Violation

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

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

Count 1 – Process Hazard Analysis

31. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.67(e), the owner or operator shall establish a system to promptly address the process hazard analyses team's findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as

possible; develop a written schedule of when these actions are to be completed; communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.

32. Respondent did not effectively implement a system to address the team's findings and recommendations on all the process hazards analyses (PHAs). Consequently, some due dates were not assigned for action items and items remained incomplete.

33. Respondent's failure to promptly address the team's findings and recommendations, assure that the recommendations were resolved in a timely manner, and complete actions as soon as possible pursuant to 40 C.F.R. § 68.67(e), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 2 – Refresher Training

34. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.71(b), the owner or operator shall provide refresher training at least every three years, and more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process.

35. At the time of the Inspection, Respondent had not provided refresher training to an employee involved in operating a process for a greater than three-year period.

36. Respondent's failure to provide each employee involved in operating a process refresher training at least every three years pursuant to 40 C.F.R. § 68.71(b), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 3 – Mechanical Integrity

37. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.73(d), the owner or operator shall perform inspections and tests on process equipment and document each inspection and test that has been performed on process equipment. The frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operation experience.

38. Respondent did not adequately document some preventative maintenance inspections, some inspections were overdue, and two tanks missed annual inspections in 2016 and 2017.

39. Respondent's failure to timely complete inspections and tests on some process equipment and maintain documentation of some preventative maintenance inspections pursuant to 40 C.F.R. § 68.73(d), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 4 – Management of Change (MOC)

40. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.75(a) and (d), the owner or operator shall establish and implement written procedures to manage changes (except for "replacements in kind") to process chemicals, technology, equipment, and procedures; and, changes to stationary sources that affect a covered process; if such a change results in a change in the process safety information required such information must be updated accordingly.

41. Respondent did not update a process and instrumentation drawing (P&ID) after MOC 20181055-003 was closed

42. Respondent's failure to update this P&ID after MOC 20181055-003 was closed pursuant to 40 C.F.R. § 68.75(a) and (d), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 5 – Compliance Audits

43. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.79(a) and (d), the owner or operator shall certify that they have evaluated compliance with the provisions of this subpart at least every three years to verify that procedures and practices developed under this subpart are adequate and are being followed; the owner or operator shall promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected.

44. Respondent did not include a certification statement for their 2016 compliance audit and some the due dates for the action items on the 2016 audit passed before the item was completed. At the time of the inspection, two items from the 2016 audit were listed as incomplete.

45. Respondent's failure to include a certification statement for their 2016 compliance audit and promptly determine and document an appropriate response to each of the findings of the 2016 compliance audit pursuant to 40 C.F.R. § 68.79(a) and (d), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 6 – Incident Investigation

46. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.81(d)(2), the owner or operator shall prepare a report at the conclusion of the investigation which includes the date the investigation began.

47. Respondent did not include the date the investigation began on an investigation report reviewed during the Inspection.

48. Respondent's failure to include the date the investigation began on an investigation report pursuant to 40 C.F.R. § 68.81(d)(2), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 7 - Contractors

49. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.87(b)(5), the owner or operator shall periodically evaluate the performance of the contract owner or operator in fulfilling their obligations as specified in paragraph (c) of 40 C.F.R. § 68.87.

50. At the time of the Inspection, Respondent did not have procedures in place that expressly provided for the need to periodically evaluate the performance of contractors, nor did Respondent document that the periodic evaluation of the performance of the contractors had occurred.

51. Respondent's failure to periodically evaluate the performance of contractors, pursuant to 40 C.F.R. § 68.87(b)(5), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 8 - Emergency Response Program

52. The regulation at 40 C.F.R. § 68.90(a) requires the owner or operator of a stationary source with a process subject to Program 3 to comply with the requirements of 40 C.F.R. § 68.95. Pursuant to 40 C.F.R. § 68.95(a), the owner or operator shall develop and implement an emergency response program for the purpose of protecting public health and the environment, and such program shall include several elements. Pursuant to 40 C.F.R. § 68.95(a)(1)(ii), the emergency response plan must contain documentation of proper first aid and emergency treatment necessary to treat accidental human exposures. Pursuant to 40 C.F.R. § 68.95(a)(2), the emergency response program shall include procedures for the use of emergency response equipment and for its inspection, testing, and maintenance. Pursuant to 40 C.F.R. § 68.95(a)(3), the emergency response program shall include training for all employees in relevant procedures.

53. At the time of the Inspection, the emergency response plan did not include documentation of proper first-aid and medical treatment necessary to treat accidental human exposure, some inspections of safety equipment did not align with the inspection procedures for fire extinguishers and respirators (no documented inspections between July 08, 2018 and March 26, 2019), and training for approximately sixty-four (64) first responders had not been completed.

54. Respondent's failure to document first-aid, follow safety equipment inspection requirements, and train first responders pursuant to 40 C.F.R. § 68.95, as required by 40 C.F.R. § 68.90, is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 9 – Registration

55. The regulation at 40 C.F.R. § 68.160(a) requires the owner or operator of a

stationary source to complete a single registration form and include in in the RMP. Pursuant to 40 C.F.R. § 68.160(b)(6), the registration shall include the name, title, telephone number, and 24-hour telephone number of the emergency contact.

56. Respondent did not include a manned 24-hour telephone number listed in the RMP at the time of the inspection.

57. Respondent's failure to include a manned 24-hour telephone number listed in the RMP, as required by 40 C.F.R. § 68.160(b)(6) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

CONSENT AGREEMENT

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

- (a) admits the jurisdictional allegations set forth herein;
- (b) neither admits nor denies the specific factual allegations stated herein;
- (c) consents to the assessment of a civil penalty, as stated herein;
- (d) consents to the issuance of any specified compliance or corrective action order;
- (e) consents to any conditions specified herein;
- (f) consents to any stated Permit Action;
- (g) waives any right to contest the allegations set forth herein; and
- (h) waives its rights to appeal the Final Order accompanying this Consent Agreement.

59. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein.

60. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

Penalty Payment

61. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of three hundred fifty-six thousand and ten dollars (**\$356,010.00**), as set forth below.

62. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

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

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

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

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

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

64. Respondent understands that its failure to timely pay any portion of the civil

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

Effect of Settlement and Reservation of Rights

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

66. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in paragraph directly below.

67. Respondent certifies by the signing of this Consent Agreement that it is presently in compliance with all requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), save and except as reflected in the Administrative Order for Compliance on Consent, Docket No. CAA-06-2021-3344. Fulfillment of the terms of the Administrative Order for Compliance on Consent is intended to bring Respondent into full compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

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

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

General Provisions

70. By signing this Consent Agreement, the undersigned representative of Respondent certifies that it is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party it represents to this Consent Agreement.

71. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon filing of the Final Order by the Regional Hearing Clerk for EPA, Region 6. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

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

73. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and

Final Order.

74. The EPA and Respondent agree to the use of electronic signatures for this matter pursuant to 40 C.F.R. § 22.6. The EPA and Respondent further agree to electronic service of this Consent Agreement and Final Order by email to the following:

To EPA: *goudeau.charlotte@epa.gov*

To Respondent: *Kevin.Hazen@chemtura.com*

With copy to: *mark.farley@farleyllp.com*

**RESPONDENT:
LANXESS CORPORATION**

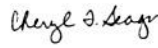
Date: 9/9/2021

Kevin Hazen
Signature

Kevin Hazen
Print Name

Senior Site Manager
Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY



Digitally signed by CHERYL SEAGER
DN: cn=U.S. Government,
ou=Environmental Protection Agency,
on=CHERYL SEAGER,
o=U.S. EPA, ou=Region 6, email=cheryl.seager@epa.gov,
Date: 2021.09.13 08:37:39 -0500

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

FINAL ORDER

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

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

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

IT IS SO ORDERED.

**THOMAS
RUCKI**

Digitally signed by THOMAS RUCKI
DN: c=US, o=U.S. Government,
ou=Environmental Protection Agency,
cn=THOMAS RUCKI,
0 9 2342 19200300 100 1 1-68001003655804
Date: 2021.09.13 10:08:45 -0500

Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that on the date noted below I sent a true and correct copy of the original Consent Agreement and Final Order in the following manner to the email addresses:

Copy via Email to Complainant:
goudeau.charlotte@epa.gov

Copy via Email to Respondent:
Kevin.Hazen@chemtura.com

Copy via Email to:
mark.farley@farleyllp.com

Copy via Email to the EPA, Region 6, Regional Hearing Clerk:
vaughn.lorena@epa.gov

**Goudeau,
Charlotte**

Digitally signed by Goudeau,
Charlotte
DN: cn=Goudeau, Charlotte,
email=Goudeau.Charlotte@epa.g
ov
Date: 2021.09.13 12:33:55 -05'00'

Signed
U.S. Environmental Protection Agency, Region 6

Electronic service was agreed to by the parties in lieu of service by certified mail to the following:

LANXESS Corporation
Attn: Kevin Hazen, Senior Site Manager
2226 Haynesville Highway
PO Box 7020
El Dorado, AR 71730