

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

FILED

Sep 17, 2025

10:51 am

U.S. EPA REGION 5
HEARING CLERK

In the Matter of:)	Docket No. CAA-05-2025-0042
)	
Tate & Lyle Sagamore)	Proceeding to Assess a Civil Penalty
Lafayette, Indiana,)	Under Section 113(d) of the Clean Air Act,
)	42 U.S.C. § 7413(d)
Respondent.)	
_____)	

Consent Agreement and Final Order

A. Preliminary Statement

1. This is an administrative penalty assessment proceeding commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. §§ 22.1(a)(2), 22.13(b), and 22.18(b)(2) and (3).
2. Complainant is the U.S. Environmental Protection Agency (EPA). The EPA Administrator has delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the CAA to the Division Director of the Region 5 Enforcement and Compliance Assurance Division.
3. Respondent is Tate & Lyle Sagamore (Tate & Lyle), a corporation doing business in Indiana. Respondent is a “person,” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
4. The EPA and Respondent agree that settling this action is in the public interest and consent to the entry of this Consent Agreement and Final Order (CAFO) without the adjudication of any issues of law or fact.
5. Respondent agrees to comply with the terms of this CAFO.

B. Jurisdiction

6. The alleged violations in this CAFO are pursuant to Section 113(a)(3)(A) of the CAA.

7. The EPA and the United States Department of Justice have jointly determined that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

8. On March 21, 2024, the EPA issued to Respondent a Finding of Violation (FOV) and provided a copy of the FOV to the Indiana Department of Environmental Management (IDEM), providing notice to Respondent and IDEM that the EPA found Respondent committed the alleged violations described in Section E of this CAFO and providing Respondent an opportunity to confer with the EPA. On May 28, 2024 and November 21, 2024, representatives of Respondent and the EPA conferred regarding the March 21, 2024, FOV.

9. The Regional Judicial Officer of Region 5 is authorized to ratify the consent agreement memorializing the settlement between the EPA and Respondent and to issue the attached Final Order. 40 C.F.R. §§ 22.4(b) and 22.18(b).

C. Statutory and Regulatory Background

I. Clean Air Act, Subsection 112(r)

10. Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), provides that it shall be the objective of the regulations and programs authorized under this subsection to prevent the accidental release and to minimize the consequences of any such release of any substance listed pursuant to Section 112(r)(3), or any other extremely hazardous substance. The owners and operators of stationary sources producing, processing, handling, or storing such substances have a general duty in the same manner and to the same extent as Section 654, Title 29 of the United States Code, to identify hazards

which may result from such releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

11. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), provides that the Administrator shall promulgate, not later than 24 months after November 15, 1990, an initial list of 100 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.

12. Section 112(r)(7)(A) of the CAA, 42 U.S.C. § 7412(r)(7)(A), provides that in order to prevent accidental releases of regulated substances, the Administrator is authorized to promulgate release prevention, detection, and correction requirements which may include monitoring, record-keeping, reporting, training, vapor recovery, secondary containment, and other design, equipment, work practice, and operational requirements.

13. Section 112(r)(7)(B)(i) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(i), provides that within 3 years after November 15, 1990, the Administrator shall promulgate reasonable regulations and appropriate guidance to provide, to the greatest extent practicable, for the prevention and detection of accidental releases of regulated substances and for response to such releases by the owners or operators of the sources of such releases.

14. Section 112(r)(7)(B)(ii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(ii), provides that the regulations under this subparagraph shall require the owner or operator of stationary sources at which a regulated substance is present in more than a threshold quantity to prepare and implement a Risk Management Plan (RMP) to detect and prevent or minimize accidental releases of such substances from the stationary source, and to provide a prompt emergency response to any such releases in order to protect human health and the environment.

15. Pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), the Administrator initially promulgated a list of regulated substances, with threshold quantities for applicability, at 59 Fed. Reg. 4493 (Jan. 31, 1994), which is codified, as amended, at 40 C.F.R. § 68.130.

16. Pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), the Administrator promulgated “Accidental Release Prevention Requirements: Risk Management Programs Under Clean Air Act Section 112(r)(7),” 61 Fed. Reg. 31668 (June 20, 1996), which is codified, as amended, at 40 C.F.R. Part 68 (CAPP).

17. The CAPP seeks to prevent accidental releases of regulated substances and minimize the consequences of those releases that do occur by requiring owners and operators of certain stationary sources to, among other things: (1) develop and implement a management system to oversee the implementation of the RMP elements; (2) develop and implement an RMP that includes, but is not limited to, a hazard assessment, a prevention program, and an emergency response program; and (3) submit to EPA a RMP describing the risk management program for the source. See 40 C.F.R. Part 68, Subparts A-G, 40 C.F.R. §§ 68.1-68.195.

18. Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E), provides that after the effective date of any regulation or requirement promulgated pursuant to Section 112(r) of the CAA, it shall be unlawful for any person to operate any stationary source in violation of such regulation or requirement.

II. Chemical Accident Prevention Provisions

A. Applicability

19. Section 68.10(a) of the CAPP provides, in part, that the owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined under 40 C.F.R. § 68.115, shall comply with the requirements of the CAPP no later than the

date on which a regulated substance is first present above a threshold quantity in a process. See 40 C.F.R. § 68.10(a)(3).

20. Section 68.3 of the CAPP provides that “regulated substance” means any substance listed pursuant to Section 112(r)(3) of the CAA at 40 C.F.R. § 68.130.

21. Section 68.3 of the CAPP provides that “process” means “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.

22. Section 68.3 of the CAPP provides that “covered process” means “a process that has a regulated substance present in more than a threshold quantity as determined under § 68.155.”

23. Section 68.3 of the CAPP states “public receptor” means “offsite residences, institutions (e.g., schools, hospitals), industrial, commercial, and office buildings, parks, or recreational areas inhabited or occupied by the public at any time without restriction by the stationary source where members of the public could be exposed to toxic concentrations, radiant heat, or overpressure, as a result of an accidental release.”

24. Table 1 at Section 68.130(a) of the CAPP lists sulfur dioxide (anhydrous) as a regulated toxic substance with a threshold quantity of 5,000 pounds.

25. Section 68.10(g) of CAPP provides, in part, that a covered process is subject to Program 1 requirements if the distance to a toxic or flammable endpoint for a worst-case release assessment conducted under CAPP Subpart B and 40 C.F.R. § 68.25 is less than the distance to any public receptor, as defined in 40 C.F.R. § 68.3.

26. Section 68.10(i) of the CAPP provides, in part, that a covered process is subject to Program 3 requirements if the process does not meet the Program 1 eligibility requirements at 40 C.F.R. § 68.10(g) and if either of the following conditions is met: (1) the process is in NAICS code 32211, 32411, 32511, 325181, 325188, 325192, 325199, 325211, 325311, or 32532; or (2) the process is subject to the U.S. Occupational Safety and Health Administration (OSHA) process safety management standard, 29 C.F.R. § 1910.119.

27. Section 68.12(a) and (d) of the CAPP identify the CAPP requirements that the owner or operator of a stationary source with a process subject to Program 3 must meet, which include, among other provisions, to implement the prevention requirements of Sections 68.65 through 68.87; coordinate response actions with local emergency planning and response agencies as provided in Section 68.93; develop and implement an emergency response program, as provided in Sections 68.90 through 68.96; submit a single RMP, as provided in Sections 68.150 to 68.185, that includes a registration that reflects all covered processes; and submit as part of the RMP the data on prevention program elements for Program 3 processes as provided in Section 68.175.

B. Process Safety information (PSI)

28. Section 68.65(d)(1)(iv) of the CAPP requires the owner or operator of a stationary source to maintain information regarding the relief system design and design basis.

29. Section 68.65(d)(1)(v) of the CAPP requires the owner or operator of a stationary source to maintain information regarding the ventilation system design for the process.

30. Section 68.65(d)(2) of the CAPP requires the owner or operator to document that equipment complies with recognized and generally accepted good engineering practices.

C. Process Hazard Analysis (PHA)

31. Section 68.67(e) of the CAPP requires the owner or operator to establish a system to promptly address the PHA 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.

D. Contractors

32. Section 68.87(a) of the CAPP applies to contractors performing maintenance or repair, turnaround, major renovation, or specialty work on or adjacent to a covered process. It does not apply to contractors providing incidental services which do not influence process safety.

33. Section 68.87(b) of the CAPP requires the owner or operator to obtain and evaluate information regarding the contract owner or operator's safety performance and programs when selecting a contractor; inform the contract owner or operator of the known potential fire, explosion, or toxic release hazards related to the contractor's work and the process; explain to the contract owner or operator the applicable provisions of the CAPP; develop and implement safe work practices consistent with § 68.69(d), to control the entrance, presence, and exit of the contract owner or operator and contract employees in covered process areas; and periodically evaluate the performance of the contract owner or operator in fulfilling their obligations.

E. Emergency Response

34. Section 68.90(a) of the CAPP provides that the owner or operator of a stationary source with Program 2 and Program 3 processes shall comply with the requirements of Sections 68.93, 68.95, and 68.96 of the CAPP, with limited exception inapplicable here.

35. Section 68.93(a) of the CAPP requires the owner or operator to coordinate response needs with local emergency planning and response organizations at least annually, and more frequently, if necessary, to address changes: at the stationary source; in the stationary source's emergency response and/or emergency action plan; and/or in the community emergency response plan.

36. Section 68.93(c) of the CAPP requires the owner or operator to document coordination with local authorities, including: the names of individuals involved and their contact information (phone number, email address, and organizational affiliations); dates of coordination activities; and nature of coordination activities.

37. Section 68.95(a) of the CAPP requires the owner or operator to develop and implement an emergency response program for the purpose of protecting public health and the environment.

38. Section 68.95(a)(2) of the CAPP requires the owner or operator to develop and implement an emergency response that include the procedures for the use of emergency response equipment and for its inspection, testing, and maintenance.

39. Section 68.96(b)(3) of the CAPP requires the owner or operator to prepare an evaluation report within 90 days of each field and tabletop exercise. The report should include: a description of the exercise scenario; names and organizations of each participant; an evaluation of the exercise results including lessons learned; recommendations for improvement or revisions to the emergency response exercise program and emergency response program; and a schedule to promptly address and resolve recommendations.

F. Risk Management Plan

40. Section 68.195(b) of the CAPP requires the owner or operator to submit a correction of the emergency contact information within one month of any change in the emergency contact information required under § 68.160(b)(6).

III. Recognized And Generally Accepted Good Engineering Practices

41. ASME A13.1-2020 is the standard for the identification of piping systems, published by the American Society of Mechanical Engineers.

42. ASME A13.1-2020 Section 4.1 states that positive identification of the contents of a piping system shall be by lettered legend, giving the name of the contents in the full or abbreviated form; legends shall use arrows to indicate direction of flow; where piping is connected to containers that are labeled in accordance with GHS requirements, a corresponding label on the piping may be provided. The corresponding label should contain at least the product name or identifier, the pictogram, the signal word, and the physical, health, and environmental hazard statement(s).

43. ASME A13.1-2020 Section 4.2 states that color should be used to identify the characteristic hazards of the contents. Color should be displayed on, or contiguous to, the piping by any physical means, but its use shall be in the combination with a legend. Color may be used in continuous, total-length coverage or in intermittent displays.

44. ASME A13.1-2020 Section 4.3 states that where pipelines are located above or below the normal line of vision, the lettering shall be placed below or above the horizontal centerline of the pipe. Legends shall be applied close to valves or flanges; adjacent to changes in direction, branches, and where pipes pass through walls or floors; and at intervals on straight pipe runs sufficient for identification.

D. Stipulated Facts

I. Applicability

45. Tate & Lyle owns and operates a stationary wet corn milling plant located at 2245 Sagamore Parkway North, Lafayette, Indiana 47904 (Facility).

46. The Facility is a stationary source according to the CAA. See 40 C.F.R. § 68.90(a).

47. The Facility uses sulfur dioxide (anhydrous) (SO₂) to control microbial growth during the corn steeping process and to weaken the starch-gluten bonds.

48. Sulfur dioxide (anhydrous) is a regulated substance. See 40 C.F.R. § 68.130(a), Table 1.

49. The Facility maintains a maximum inventory of the regulated toxic substance sulfur dioxide (anhydrous), that exceeds the threshold quantity of 5,000 pounds of sulfur dioxide (anhydrous) as set forth in Table 1 at 40 C.F.R. § 68.130.

50. The Facility's sulfur dioxide system consists of a truck unloading station, storage tank 09V2, a vaporizer, a steep acid storage tank 14V20, freshwater tank 15V2, sulfur dioxide detection sensors, and associated piping.

51. The sulfur dioxide system at the Facility was and is a "covered process," as that term is defined at 40 C.F.R. § 68.3.

52. The covered process at the Facility is subject to the OSHA process safety management standard because it contains greater than the threshold quantity of 1,000 pounds of sulfur dioxide (liquid) that is a highly hazardous chemical as defined in 29 C.F.R. § 1910.119(b).

53. The Facility is subject to the requirements of the CAPP in accordance with 40 C.F.R. § 68.1 et seq.

54. The covered process at the Facility does not meet the Program 1 eligibility requirements at 40 C.F.R. § 68.10(j).

55. The Facility is subject to Program 3 because the covered process is subject to the OSHA process safety management standard, 29 C.F.R. § 1910.119, in accordance with 40 C.F.R. § 68.10(l), and does not meet the Program 1 eligibility requirements at 40 C.F.R. § 68.10(j).

56. Tate & Lyle owns or operates a Facility subject to requirements under the CAA. Therefore, Tate & Lyle is subject to the requirements of Section 114(a)(1).

II. Facility Inspection

57. On October 25, 2023, EPA conducted an announced inspection of the Facility (October 2023 Inspection).

58. During the October 2023 Inspection, EPA inspectors reviewed documents relating to the RMP that Tate & Lyle provided (RMP Documents). The RMP Documents included aspects of the Facility's RMP involving the management system, offsite consequence analysis, process safety information, process hazard analysis, operating procedures, training, mechanical integrity, management of change, pre-startup safety review, compliance audits, incident investigation, hot work permits, employee participation, emergency response, and contractors.

E. Allegations

I. Chemical Accident Prevention Provisions

A. Process Safety Information

59. ABS Consulting performed relief system review in 2017 to determine whether the relief system met current standards. The review yielded six recommendations to be implemented in order to meet the standards. At the time of the October 2023 Inspection, Respondent had only addressed one of the recommendations.

60. Respondent failed to maintain information regarding the relief system design and design basis, in violation of 40 C.F.R. § 68.65(d)(1)(iv). See ¶¶ 28, 59.

61. During the October 2023 Inspection, a system design for the ventilation system was not present at the Facility. At the time of the inspection, Respondent was in the process of obtaining quotations for the ventilation system design.

62. Respondent failed to maintain information regarding the ventilation system design for the process, in violation of 40 C.F.R. § 68.65(d)(1)(v). See ¶¶ 29, 61.

63. Respondent has not documented that the Facility's relief system and SO₂ ventilation system referenced in paragraphs 59 through 62 comply with recognized and generally accepted good engineering practices.

64. During the October 2023 Inspection, inspectors toured the Facility and made several observations (Inspector Observations).

65. Inspector Observations included:

- a. The piping system around the freshwater tank, designated as 15V2, was not appropriately marked. The markers were not placed in a visible location for the plant personnel and did not provide information about the direction of the flow. Furthermore, they were not located near directional changes, valves, and flanges.
- b. The piping network encircling the vessel designated as 14V20, which is situated within the caustic room, in addition to the pipes that extend beyond this room, were lacking proper identification markings to provide information about the pipe contents, the direction of the flow, and whether the contents were hazardous or not.

66. Respondent failed to ensure that the piping system referenced in paragraph 65 complies with recognized and generally accepted good engineering practices, in violation of 40 C.F.R. § 68.65(d)(2). See ¶¶ 30, 42-44, and 65.

B. Process Hazard Analysis (PHA)

67. The PHA, conducted on February 19, 2018, (2018 PHA), yielded 41 recommendations related to the processes involving propylene oxide (PO), POCl₃, and SO₂. Out of these recommendations, 40 have been addressed and closed. However, Respondent has not addressed the

recommendation to review the design requirements for ensuring adequate ventilation of process buildings in PO, POCl₃, and SO₂ covered process areas.

68. The latest PHA was conducted on February 2, 2023 (2023 PHA), through the Hazard and Operability Study (HAZOP) methodology. It produced 25 recommendations among three covered processes. One recommendation, still open, was repeated from the 2018 PHA.

69. Respondent failed to resolve one PHA recommendation in a timely manner, in violation of 40 C.F.R. § 68.67(e). See ¶¶ 31, 67-68.

C. Contractors

70. During the October 2023 inspection, inspectors discovered that the PVS delivery drivers connect their delivery trucks to plant air and storage tank 09V2 every five days and unload liquid anhydrous SO₂ into the vessel (tank 09V2).

71. On October 29, 2021, while a PVS driver was delivering and offloading a partial load of SO₂, liquid anhydrous SO₂ was spilled into a puddle of water, which caused it to fume and harm two Kelly Contractors.

72. During the incident investigation, it was discovered that the driver had never visited the plant before, and it is possible that it was also his first time unloading a partial load of SO₂. The investigation also found that there was a lack of proper training for the PVS drivers, insufficient communication between the PVS driver and PVS personnel off-site, and inadequate communication between the PVS driver and Respondent's personnel while at the Facility.

73. PVS delivers SO₂ and hooks the delivery truck up to unload directly into tank 09V2. The procedure of hooking up and unloading SO₂ into tank 09V2 has a direct influence on process safety, therefore, PVS is a contractor under the RMP regulations as defined by Section 68.87(a) of the CAPP.

74. Respondent failed to comply with the owner or operator responsibilities with regard to its contractor PVS, in violation of 40 C.F.R. § 68.87(b). See ¶¶ 32, 33, and 70-73.

D. Emergency Response

75. During the October 2023 Inspection, Respondent informed inspectors that it is a responding stationary source, per 40 C.F.R. § 68.90(a).

76. The RMP Documents do not indicate that coordination occurs at least annually, and more frequently, if necessary, to address changes: at the stationary source; in the stationary source's emergency response and/or emergency action plan; and/or in the community emergency response plan.

77. Respondent failed to coordinate response needs with local emergency planning and response organizations at least annually, and more frequently if necessary, to address changes: at the stationary source; in the stationary source's emergency response and/or emergency action plan; and/or in the community emergency response plan, in violation of 40 C.F.R. § 68.93(a). See ¶¶ 34, 35, and 76.

78. The RMP Documents indicate that the coordination response needs with local emergency planning and response organizations have not been fully documented. The documentation did not indicate the names of individuals involved and their contact information (phone number, email address, and organizational affiliations).

79. Respondent failed to document coordination with local authorities, including: the names of individuals involved and their contact information (phone number, email address, and organizational affiliations), in violation of 40 C.F.R. § 68.93(c). See ¶¶ 34, 36, and 78.

80. The 2023 PHA evaluated Human Factors as Node 20 and confirmed that the emergency exit and response signs, including windsocks, were adequately visible and easily understandable.

81. The Facilities Emergency Action Plan in section B. Evacuation routes and shelter areas - Plantwide assembly areas indicates that the assembly area to be used depends on the location and nature of the emergency, as well as the wind direction.

82. During the October 2023 Inspection, inspectors toured the Facility and observed that there were no windsocks to indicate the direction and speed of potential hazardous gas leaks in the vicinity of the SO₂ storage tank and truck unloading station. A wind flag was installed next to the HCL tank, 10 feet above ground, but it was visually obstructed within 30 feet in nearly every direction, and surrounding buildings were blocking potential wind from reaching the flag and indicating wind direction.

83. Respondent, by including inaccurate instructions in the Emergency Action Plan in section B. Evacuation routes and shelter areas - Plantwide assembly areas, failed to develop and implement an emergency response program for the purpose of protecting public health and the environment, in violation of 40 C.F.R. § 68.95(a). See ¶¶ 37, 80-82.

84. Procedures for inspecting, testing, and maintaining emergency response equipment were not found and reviewed as a part of the emergency response program during the October 2023 inspection.

85. Respondent failed to develop and implement an emergency response program that includes the procedures for the use of emergency response equipment and for its inspection, testing, and maintenance, in violation of 40 C.F.R. § 68.95(a)(2). See ¶¶ 38, 84.

86. Evaluation reports that include: a description of the exercise scenario; names and organizations of each participant; an evaluation of the exercise results including lessons learned; recommendations for improvement or revisions to the emergency response exercise program and

emergency response program; and a schedule to promptly address and resolve recommendations for the reviewed exercises were not provided and reviewed during the October 2023 inspection.

87. Respondent failed to prepare an evaluation report within 90 days of each field and tabletop exercise, in violation of 40 C.F.R. § 68.96(b)(3). See ¶¶ 39, 86.

E. Risk Management Plan

88. Respondent submitted the Risk Management Plan (RMP) on April 5, 2019, with Kenneth Daily as the emergency contact.

89. Kenneth Daily left Respondent in October 2020.

90. Respondent resubmitted the RMP with the current emergency contact information on October 21, 2023.

91. Respondent failed to submit a correction of the emergency contact information within one month of any change in the emergency contact information required under § 68.160(b)(6), in violation of 40 C.F.R. § 68.195(b). See ¶¶ 40, 88-90.

F. Terms of Consent Agreement

92. For the purposes of this proceeding, pursuant to 40 C.F.R. § 22.18(b)(2), Respondent:

- a. admits to the jurisdictional allegations in this CAFO;
- b. admits to the stipulated facts stated in Section D of this CAFO and neither admits nor denies the allegations stated in Section E of this CAFO;
- c. consents to the assessment of a civil penalty as stated below;
- d. consents to any conditions specified in this CAFO;
- e. waives any right to contest the allegations set forth in Section E of this CAFO; and
- f. waives its right to appeal this CAFO.

93. For the purposes of this proceeding, Respondent:

- a. agrees this CAFO states a claim upon which relief may be granted against Respondent;

- b. acknowledges this proceeding constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- c. waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);
- d. waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c);
- e. waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement; and
- f. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for noncompliance, and agrees that federal law shall govern in any such civil action.

94. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, Respondent's cooperation, the EPA has determined that an appropriate civil penalty to settle this action is \$99,624.

95. Respondent agrees to pay a civil penalty in the amount of \$99,624 ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

96. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website:

<https://www.epa.gov/financial/makepayment>. For additional instructions see:

<https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

97. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, CAA-05-2025-0042,

- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
R5airenforcement@epa.gov

Emily Lane
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
lane.emily@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

98. Interest, Charges, and Penalties on Late Payments. Pursuant to 42 U.S.C. § 7413(d)(5), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately owing, and the EPA is authorized to recover the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Per 42 U.S.C. § 7413(d)(5), interest will be assessed pursuant to 26 U.S.C. § 6621(a)(2), that is, the IRS standard underpayment rate, equal to the Federal short-term rate plus 3 percentage points.

- b. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of handing collection.
- c. Late Payment Penalty. A ten percent (10%) quarterly non-payment penalty.

99. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
- c. Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, per 42 U.S.C. § 7413(d)(5). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

100. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

101. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

102. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other

Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Division at wise.milton@epa.gov, within 30 days after the Final Order ratifying this Agreement is filed, or within 7 days after the Final Order ratifying this Consent Agreement is filed should that happen between December 15 and December 31 of the calendar year. EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Division with Respondent’s TIN, via email, within five (5) days of Respondent’s receipt of a TIN issued by the IRS.

103. By signing this CAFO, Respondent consents to the release of any information in this CAFO to the public and agrees this CAFO does not contain business information that is entitled to confidential treatment under 40 C.F.R. Part 2.

104. By signing this CAFO, the undersigned representative of the EPA and the undersigned representative of Respondent each certify that they are fully authorized to execute and enter into the terms and conditions of this CAFO and have the legal capacity to bind the party they represent to this CAFO.

105. By signing this CAFO, Respondent certifies the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that, under 18 U.S.C. § 1001, there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information.

106. Each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding, except in the case of a civil action brought by the Attorney General of the United States to recover unpaid penalties as described above.

G. Effect of Consent Agreement and Attached Final Order

107. The parties consent to service of this CAFO by e-mail at the following e-mail addresses: Lane.Emily@epa.gov (for the EPA) and Donald.Cole@tateandlyle.com (for Respondent).

108. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations specifically alleged in this CAFO.

109. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to this matter with the exception of the administrative compliance order, docket number EPA-5-25-113(a)-IN-4 issued concurrently.

110. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties and approval of the Regional Judicial Officer.

111. The provisions of this Agreement shall apply to and be binding upon Respondent and its officers, directors, authorized representatives, successors, and assigns.

112. Any violation of this CAFO may result in a civil judicial action for an injunction or civil penalties of up to \$121,275 per day per violation, or both, as provided in Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and 40 C.F.R. § 19.4, as well as criminal sanctions as provided in Section 113(c) of the CAA, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

113. Nothing in this CAFO relieves Respondent of the duty to comply with all applicable provisions of the CAA and other federal, state, or local laws or statutes, nor does it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor is it a ruling on, or determination of, any issue related to any federal, state, or local permit.

114. Nothing in this CAFO limits the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

115. The EPA reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA, and to assess and collect any civil penalties permitted by statute for any violation described herein. The EPA will give Respondent written notice of its intent to revoke this CAFO, which will not be effective until received by Respondent.

H. Effective Date

116. This CAFO will be effective after the Regional Judicial Officer executes the attached Final Order, on the date of filing with the Regional Hearing Clerk. Upon filing, the EPA will transmit a copy of the filed CAFO to Respondent.

**Consent Agreement and Final Order
In the Matter of: Tate & Lyle Sagamore
Docket No. CAA-05-2025-0042**

Tate & Lyle Sagamore, Respondent

9/5/2025
Date


Donald Cole, President
Tate & Lyle Solutions USA LLC

Consent Agreement and Final Order
In the Matter of: Tate & Lyle Sagamore
Docket No. CAA-05-2025-0042

United States Environmental Protection Agency, Complainant

Carolyn Persoon
Acting Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Tate & Lyle Sagamore
Docket No. CAA-05-2025-0042

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5