

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

This form was originated by: Jeffere Garcia 11/23/09
Name of Contact person Date

in the Regional Counsel at x2697
Office Phone number

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS

Administrative Order/ Consent Agreement
FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt

This is a modification

Name of Company making payment: Sasol North America, INC.

The Total Dollar Amount of Receivable: 77,376.00

(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number CERCLA/PCRA-03-2010-0040

The Site-Specific Superfund Acct. Number N/A

The Designated Regional/HQ Program Office _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call: _____

Name of Contact Date

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

- | | |
|--|------------------------------|
| 1. Rosemarie Pacheco
Environmental Enforcement Section
Lands Division, Room 130044
1425 New York Avenue, N.W.
Washington, D.C. 20005 | 2. Originating Office (ORC) |
| | 3. Designated Program Office |

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 2. Designated Program Office |
| 3. Regional Hearing Clerk | |



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

December 21, 2009

HAND DELIVERY

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

Re: Consent Agreement and Final Order
U.S. EPA Docket No. CERCLA-03-2010-0040

Dear Ms. Guy:

Enclosed for filing is a fully executed Consent Agreement and Final Order settling this matter. A courtesy copy of the Consent Agreement and Final Order is also enclosed.

Sincerely,

A handwritten signature in black ink, appearing to read "Jefferie E. Garcia".

Jefferie E. Garcia
Assistant Regional Counsel

cc: Laura K. McAfee (via regular mail and email)



Civil Penalties and the Revocation or Suspension of Permits” (“Consolidated Rules of Practice”), 40 C.F.R. Part 22, (“Part 22”). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region III, who has in turn delegated them to the Director, Hazardous Site Cleanup Division, EPA Region III (“Complainant”).

The parties agree to the commencement and conclusion of this cause of action by issuance of this Consent Agreement and Final Order (referred to collectively herein as “CA/FO”) as prescribed by the Consolidated Rules of Practice pursuant to 40 C.F.R. § 22.13(b), and having consented to the entry of this CA/FO, agree to comply with the terms of this CA/FO.

EPA’S FINDINGS OF FACT

EPA makes the following findings of fact, which Respondent neither admits nor denies:

1. Respondent, Sasol North America, Inc., (“Sasol”), is a Delaware corporation with its principal place of business located at 900 Threadneedle Street in Houston, Texas.
2. As a corporation, Respondent is a “person” as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), and Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and their respective regulations, 40 C.F.R. §§ 302.3 and 355.61.
3. Upon information and belief, beginning in approximately 2001, continuing through the date of filing of this CA/FO, and at all times relevant to this CA/FO, Respondent has been in charge of, within the meaning of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), the Sasol facility located at 3441 Fairfield Road in Baltimore, Maryland.
4. The Sasol facility (hereinafter the “Facility”) is a “facility” as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), and Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and their respective regulations, 40 C.F.R. §§ 302.3 and 355.61.
5. Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), requires the Administrator of EPA to publish a list of substances designated as hazardous substances which, when released into the environment, may present a 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), and Section 304(a) of EPCRA, 42 U.S.C. § 11004(a) (“Reportable Quantity” or “RQ”). The list of hazardous substances is codified at 40 C.F.R. § 302.4.
6. On December 13, 2002, approximately twenty (20) pounds of benzene, Chemical Abstracts Service (“CAS”) No. 71-43-2, were released from the Respondent’s Facility.

7. Benzene is a hazardous substance, as defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and 40 C.F.R. § 302.4, with an RQ of ten (10) pounds, as listed in 40 C.F.R. Part 302, Table 302.4.

8. On December 30, 2004, EPA and Sasol entered into a Consent Agreement and Final Order resolving EPA's claims that Sasol violated Section 103 of CERCLA 42 U.S.C. § 9603(a), and Section 304 of EPCRA, 42 U.S.C. § 11004(a), for failing to properly notify the appropriate agencies of its December 13, 2002 release of benzene from the Facility.

9. Upon information and belief, beginning on or about June 12, 2006, between about 11:15 a.m. (1115 hours) and 1:38 p.m. (1338 hours), Eastern Daylight Savings Time, approximately eighty (80) pounds of benzene, CAS No. 71-43-2, were released from the Respondent's Facility (the "Release").

10. The Release from Respondent's Facility constitutes a release of a hazardous substance in a quantity equal to, or greater than, the RQ of ten (10) pounds for that hazardous substance as listed in 40 C.F.R. Part 302, Table 302.4.

11. On February 7, 2007, EPA issued a Section 104 information request pursuant to CERCLA, 42 U.S.C. § 9604, concerning the Release.

12. On or about July 8, 2009, EPA issued a Show Cause letter to Sasol indicating that the Agency was considering the assessment of penalties against Sasol for violations of Section 103 of CERCLA, 42 U.S.C. § 9603, and Section 304 of EPCRA, 42 U.S.C. § 11004.

13. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), as implemented by 40 C.F.R. Part 302, requires, in relevant part, the owner or operator of a facility at which hazardous chemicals are produced, used or stored, as soon as he/she has knowledge of a release (other than a federally permitted release) of a hazardous substance from such facility in a quantity equal to, or greater than, the RQ, to immediately notify the National Response Center ("NRC") established under Section 311(d)(2)(E) of the Clean Water Act, as amended, 33 U.S.C. § 1321(d)(2)(E), of such release.

14. Section 304(a) and 304(b) of EPCRA, 42 U.S.C. § 11004(a),(b), as implemented by 40 C.F.R. § 355.40, requires, in relevant part, the owner or operator of a facility at which hazardous chemicals are produced, used or stored, to immediately notify the State Emergency Response Commission ("SERC") when there has been a release of a hazardous substance or an extremely hazardous substance in a quantity equal to, or greater than, the RQ for that hazardous substance or an extremely hazardous substance.

15. Section 304(a) and 304(b) of EPCRA, 42 U.S.C. § 11004(a),(b), as implemented by 40 C.F.R. § 355.40, requires, in relevant part, the owner or operator of a facility at which hazardous chemicals are produced, used or stored, to immediately notify the Local Emergency Planning Committee (“LEPC”) when there has been a release of a hazardous substance or an extremely hazardous substance in a quantity equal to, or greater than, the RQ for that hazardous substance or extremely hazardous substance.

16. On or about June 14, 2006, at or about 9:00 a.m. (0900 hours), Eastern Daylight Savings Time, or approximately forty-three (43) hours and twenty-two (22) minutes after the Respondent knew that benzene had been released at the Respondent’s Facility in an amount equal to or in excess of the applicable RQ, Respondent notified the NRC, SERC, and LEPC of the Release.

**EPA’S CONCLUSION OF LAW RELATED TO THE
VIOLATION OF SECTION 103 OF CERCLA AND 304 OF EPCRA**

17. The Release was not a “federally permitted release” as that term is used in Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6, and defined in Section 101(10) of CERCLA, 42 U.S.C. § 9601(10), and 40 C.F.R. § 302.3.

18. Although Respondent notified the NRC, SERC, and LEPC of the Release, Respondent did not immediately notify the NRC, SERC, or LEPC of the Release as required by Section 103 of CERCLA, 42 U.S.C. § 9603, and Section 304 of EPCRA, 42 U.S.C. § 11004. Immediate notification is required as soon as the Respondent knew or should have known of the Release.

19. Respondent’s failure to immediately notify the NRC as soon as the Respondent knew or should have known of the release of benzene from the Facility in an amount equal to or in excess of its applicable RQ, is a violation of Section 103 of CERCLA, 42 U.S.C. § 9603. Therefore, Respondent is subject to the assessment of penalties under Section 109 of CERCLA, 42 U.S.C. § 9609.

20. Respondent’s failure to immediately notify the SERC of the Release constitutes a violation of Section 304(a) and 304(b) of EPCRA, 42 U.S.C. § 11004(a),(b). Therefore, Respondent is subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

21. Respondent’s failure to immediately notify the LEPC of the Release constitutes a violation of Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a),(b). Therefore, Respondent is subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

22. Respondent's failure to provide proper notification to the appropriate agencies of the Release is a second and subsequent violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and Section 304 of EPCRA, 42 U.S.C. § 11004(a), pursuant to Section 109(b) of CERCLA, 42 U.S.C. § 9609(b) and Section 325(b)(2) of EPCRA, 42 U.S.C. § 11045(b)(2).

CIVIL PENALTY

23. For the purpose of this proceeding, the Respondent consents to the assessment of a civil penalty for the violations of CERCLA Section 103(a), 42 U.S.C. § 9603(a), and EPCRA Section 304(a) and (b), 42 U.S.C. § 11004(a),(b), in the total amount of \$77,376.00.

PAYMENT TERMS

24. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with the civil penalty described in this CA/FO, the Respondent must pay the civil penalty no later than thirty (30) days after the effective date of the Final Order (the "final due date"). A payment of \$38,683.00 shall be made for the CERCLA portion of the penalty. An additional payment of \$38,683.00 shall be made for the EPCRA portion of penalty.

25. Payment shall be made as follows:

a. If payment is to be made by cashier's check, separate CERCLA and EPCRA payment cashier checks shall be made as follows.

i. The CERCLA portion of the penalty, payable to "EPA-Hazardous Substances Superfund," in care of:

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

Contact: Natalie Pearson, (314-418-4087)

If the cashier's check is sent overnight mail, it should be sent to:

U.S. Environmental Protection Agency
ATTENTION: Superfund Payments

U.S. Bank
1005 Convention Plaza
Mail Station FL-MO-C2GL
St. Louis, MO 63101

Contact Natalie Pearson, (314-418-4087)

The Respondent shall note on the CERCLA penalty-payment cashier's check the title and docket number of this case.

- ii. The EPCRA portion of the penalty, payable to "United States Treasury" in care of:

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

If check is sent via overnight mail, it should be sent to:

U.S. Environmental Protection Agency
Fines and Penalties
U.S. Bank
1005 Convention Plaza
Mail Station FL-MO-C2GL
St. Louis, MO 63101

The Respondent shall note on the EPCRA penalty-payment cashier's check the title and docket number of this case.

- b. Payment may be made via EFT (wire transfer) to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"

c. Payment may be made via Automated Clearinghouse (ACH) to:

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact - Jesse White 301-887-6548
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account 310006
CTX Format

26. The Respondent shall submit a copy of the checks, or verification of wire transfer or ACH to the following persons:

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

and

Jefferie E. Garcia (3RC42)
Senior Assistant Regional Counsel
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029

27. The CERCLA civil penalty stated herein is based upon Complainant's consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 109 of CERCLA, 42 U.S.C. § 9609, and is consistent with 40 C.F.R. Part 19 and the *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)*.

28. The EPCRA civil penalties stated herein are based upon Complainant's consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 325 of CERCLA, 42 U.S.C. § 11045, and are consistent with 40 C.F.R. Part 19 and the *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)*.

29. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment by the final due date or to comply with

the conditions in this CA/FO shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.

30. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this CA/FO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the final due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

31. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the final due date and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid.

32. A penalty charge of six (6) percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days in accordance with 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent, in accordance with 31 C.F.R. § 901.9(d).

33. Failure by the Respondent to pay the \$77,376.00 penalty assessed by the Final Order ("FO") in full by the final due date may subject Respondent to a civil action to collect the assessed penalties, plus interest, pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609, and Section 325 of EPCRA, 42 U.S.C. § 11045. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

GENERAL PROVISIONS

34. For the purpose of this proceeding, Respondent admits to the jurisdictional allegations set forth above.

35. For the purpose of this proceeding, Respondent agrees not to contest the Environmental Protection Agency's jurisdiction with respect to the execution or enforcement of the CA/FO.

36. For the purpose of this proceeding, Respondent neither admits nor denies factual allegations and conclusions of law set forth in this CA/FO, but expressly waives its rights to contest said allegations in this proceeding.

37. For the purpose of this proceeding, Respondent expressly waives its right to a hearing and to appeal the FO under Section 109 of CERCLA, 42 U.S.C. § 9609, and Section 325 of EPCRA, 42 U.S.C. § 11045.

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

39. This CA/FO resolves only those civil claims which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including the Respondent in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nothing in this CA/FO shall be construed to limit the United States' authority to pursue criminal sanctions.

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

41. By entering into this CA/FO, the Respondent does not admit any liability for the civil claims alleged herein.

FOR SASOL NORTH AMERICA, INC.

W. P. Brown
SIGNATURE

11/4/09
DATE

Title:

afm
11/4/09

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY

K. Hodgkiss
Kathryn A. Hodgkiss, Acting Director
Hazardous Site Cleanup Division

12/9/09
DATE

In the Matter of:)

Sasol North America, Inc.)
900 Threadneedle Street)
Houston, Texas 77079,)

Respondent.)

Sasol North America, Inc.)
900 Threadneedle Street)
Baltimore MD, 21226,)

Facility.)

EPA Docket No.: CERCLA-03-2010-0040
EPA Docket No.: EPCRA-03-2010-0040

Proceedings Pursuant to Section 103 and 109
of the Comprehensive Environmental Response
Compensation and Liability Act, as amended,
("CERCLA"), 42 U.S.C. §§ 9603 and 9609 and
§ 325 of the Emergency Planning and Community
Right-to-Know Act, ("EPCRA"), 42 U.S.C. §§
11004 and 11045.

FINAL ORDER

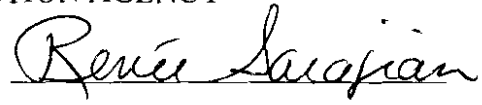
Pursuant to Sections 103 and 109 of the Comprehensive Environmental Response Compensation and Liability Act, as amended, ("CERCLA"), 42 U.S.C. §§ 9603 and 9609, Sections 304 and 325 of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. §§ 11004 and 11045, and the delegated authority of the undersigned, and in accordance with 40 C.F.R. Part 22, and based on the representations in the Consent Agreement, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is ordered to comply with the terms of the referenced Consent Agreement.

Effective Date

This Final Order shall become effective upon the date of its filing with the Regional Hearing Clerk.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 12/17/09



Renée Sarajian
Regional Judicial Officer
EPA, Region III



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


In the Matter of:)	
	)	U.S. EPA Docket No.: CERCLA-03-2010-0040
Sasol North America, Inc.	)	U.S. EPA Docket No.: EPCRA-03-2010-0040
900 Threadneedle Street)	
Houston, Texas 77079,)	
)	
Respondent.	)	Proceedings Pursuant to Sections
	)	103 and 109 of the Comprehensive
	)	Environmental Response
	)	Compensation and Liability Act, as
	)	amended, ("CERCLA"), 42 U.S.C.
Sasol North America, Inc.	)	§§ 9603 and 9609, and Sections 304
3441 Fairfield Road	)	and 325 of the Emergency
Baltimore, Maryland	)	Planning and Community
21226,	)	Right-to-Know Act, ("EPCRA")
	)	42 U.S.C. §§ 11004 and 11045.
)	
Facility.)	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of the signed Consent Agreement and Final Order with the Regional Hearing Clerk, U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that true and correct copies of the Consent Agreement and Final Order were sent by first class mail to:

Laura K. McAfee
 Beveridge & Diamond
 201 North Charles Street
 Suite 2210
 Baltimore, MD 21201-4150

12-21/09
 DATE


 Jefferie E. Garcia (3RC42)
 Assistant Regional Counsel
 Counsel for Complainant
 (215) 814-2697