

FILED

22 NOV 30 AM 8:41

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

Indorama Ventures Oxides LLC,

Respondent.

§  
§  
§  
§  
§  
§

Docket No. CAA-06-2022-3380

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 6 (“EPA” or “Complainant”), and Indorama Ventures Oxides LLC (“Respondent” or “Indorama”) 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).
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 Indorama Ventures Oxides LLC, a company formed in the state of Delaware and conducting business in the state of Texas.

**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 prevent the accidental release and 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), requires 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), requires the Administrator to 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 Occupational 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 \$51,796 for violations that occur after November 2, 2015, and are assessed after January 12, 2022.

#### **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: 6001 Highway 366, Port Neches, Texas 77651 (the “Facility”).

21. Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, the EPA conducted an inspection of the Facility between April 19-21, 2022, 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”).

22. On June 28, 2022, the EPA sent Respondent a Notice of Potential Violation and

Opportunity to Confer letter (“NOPVOC”). On September 29, 2022, the EPA responded to the documentation and information received from Respondent as a result of the NOPVOC and articulated the EPA’s position concerning Respondent’s compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

23. 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.

24. The facility produces olefins, ethylene oxide, propylene oxide, Methyl tertiary-butyl ether (MTBE), ethylene glycols, propylene glycols, ethanalamines, morpholine/Diglycolamine (DGA) surfactants. The facility is divided into nine process areas. The first area contains the propylene glycol unit G2. The second area contains the morpholine/DGA unit E7. The third area contains the ethanalamines unit E4. The fourth area contains the surfactants units E3 and E6. The fifth area are the ethylene oxide units F4, F6 and F8 and ethylene glycol units G1, G5 and G6. The sixth area is the propylene oxide (PO)/MTBE unit known as F5. The seventh area contains the Receiving and Shipping. The eighth area contains Utilities. The ninth area contains the ethylene unit A3. Each of these processes at the Facility meet the definition of “process” as defined by 40 C.F.R. § 68.3.

25. The chemicals in Table A below are each a “regulated substance” pursuant to 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.

**Table A**

Chemical	CAS Number	Toxic	Flammable	RMP Threshold Quantity
Ammonia (20 wt.%)	7664-41-7	x		20,000
Ammonia (anhydrous)	7664-41-7	x		10,000
Chlorine	7782-50-5	x		2,500

Cyclohexylamine	108-91-8	x		15,000
Ethylene Oxide	75-21-8	x		10,000
Ethylenediamine	107-15-3	x		20,000
Peroxyacetic Acid	79-21-0	x		10,000
Propylene Oxide	75-56-9	x		10,000
Sulfur Dioxide	7446-09-5	x		5,000
Butane	106-97-8		x	10,000
Ethane	74-84-0		x	10,000
Ethylene	74-85-1		x	10,000
Flammable Mixture	00-11-11		x	10,000
Isobutane	75-28-5		x	10,000
Propane	74-98-6		x	10,000
Propylene	115-07-1		x	10,000

26. Respondent has greater than a threshold quantity of the chemicals shown in Table A (“Regulated Substances”) in a process at the Facility meeting the definition of “covered process” as defined by 40 C.F.R. § 68.3.

27. From the time Respondent first had on-site greater than a threshold quantity of the Regulated Substances 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 the Regulated Substances 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 process at the Facility did not meet the eligibility requirements of Program 1 or Program 2, is subject to OSHA requirements for Process Safety Management pursuant to 29 C.F.R. 1910.119, and is in North American Industry Classification System code 32511.

**EPA Findings of Violation**

29. The facts stated in the foregoing Paragraphs 19 – 28 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 (PHA)**

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 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 failed to resolve PHA recommendations in a timely manner, document the resolution, and complete actions as soon as possible. Indorama provided documentation of 43 PHA's completed over a five-year schedule from years 2017 to 2022 and identified 511 recommendations with 201 still open or unresolved (about 39%) at the time of the Inspection.

33. Respondent's failure to assure that the recommendations are resolved in a timely manner and that the resolution is documented, document what actions are to be taken, and to 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 – Operating Procedures**

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. § 68.69(a)(1)(i) and (vi), the owner or operator shall develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information and shall address at least the following elements. (1) Steps for each operating phase: (i) initial startup and (vi) normal shutdown.

35. Respondent failed to develop and implement written startup and shutdown operating procedures, which was identified following an air release at the E-7 Main Splitter Tower Reboiler on February 14, 2021.

36. Respondent's failure to develop and implement written startup and shutdown operating procedures pursuant to 40 C.F.R. § 68.69(a)(1)(i) and (vi), 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 – Operating Procedures**

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. § 68.69(a)(2)(i), the owner or operator shall develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information and shall address at least the following elements. (2) Operating limits: (i) consequences of deviation.

38. Respondent failed to include consequences of deviation in its operating procedures

for the Propylene Oxide (PO) Methyl tert-butylether (MTBE) F5 unit.

39. Respondent's failure to address consequences of deviation in all its written operating procedures pursuant to 40 C.F.R. § 68.69(a)(2)(i), 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 – Compliance Audits**

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. § 68.79(d), 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.

41. Respondent failed to promptly document that the deficiencies had been corrected from its most recent compliance audit completed on June 18, 2021. Indorama provided documentation of its most recent compliance audit action item status and identified 37 action items with 13 still open or unresolved (about 35%) at the time of the Inspection.

42. Respondent's failure to document that deficiencies have been corrected for each of the findings of the compliance audit in accordance with 40 C.F.R. § 68.79(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 – Risk Management Plan**

43. The regulation at 40 C.F.R. § 68.195(a) requires that for any accidental release meeting the five-year accident history reporting criteria of § 68.42 and occurring after April 9, 2004, the owner or operator shall submit the data required under §§ 68.168, 68.170(j), and 68.175(l) with respect to that accident within six months of the release or by the time the RMP is updated under § 68.190, whichever is earlier.

44. Respondent failed to certify new accident history information in its RMP for incidents that occurred on February 14, 2021, and April 28, 2021, within six months of the release. Both incidents were certified past the six-month release date with the February 14, 2021, incident (ID 1000072978) certification due by August 14, 2021, and the April 28, 2021, incident (ID 1000072980) due by October 28, 2021. Respondent submitted the information for both incidents on July 5, 2021, but did not complete certifications at that time. The RMP Central Data Exchange (CDX) identified that the February 14, 2021, incident and the April 28, 2021, incident were certified in the RMP CDX on November 2, 2021.

45. Respondent's failure to certify the data required under §§ 68.168, 68.170(j), and 68.175(l) with respect to the February 14, 2021, and April 28, 2021, incidents within six months of the releases or by the time the RMP is updated under § 68.190 pursuant to 40 C.F.R. § 68.195(a), 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).

#### **CONSENT AGREEMENT**

46. 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 the civil penalty as stated herein;
- d. consents to the performance of the Supplemental Environmental Project (SEP) set forth herein;
- e. consents to any conditions specified herein;
- f. waives any right to contest the allegations set forth herein; and

g. waives its rights to appeal the Final Order accompanying this Consent Agreement.

47. 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.

48. 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**

49. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of Seventeen Thousand Nine Hundred Ninety-Five (\$17,995.00).

50. 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>.

51. 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

Tony Robledo  
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  
Robledo.Tony@epa.gov

52. 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).

**Supplemental Environmental Project**

53. Respondent shall implement an emergency planning and preparedness supplemental environmental project ("SEP"), which the parties agree is intended to secure significant environmental or public health protection and improvement. Respondent worked with a local fire department that responds to emergencies in the area of the Indorama facility to develop the SEP. The SEP involves purchasing and donating emergency response equipment to the Port Neches Fire Department ("PNFD"), located at 606 Magnolia Avenue, Port Neches, TX, 77651. The equipment to be purchased and Respondent's costs of performing the SEP are described in more detail in Attachment A to this Consent Agreement and Final Order. The equipment shall be purchased and in possession of PNFD no later than twelve (12) months from the effective date of this Consent Agreement and Final Order.

54. The SEP is consistent with applicable EPA policy and guidelines, specifically EPA's *2015 Update to the 1998 Supplemental Environmental Projects Policy*, (March 10, 2015). The SEP advances at least one of the objectives of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), by allowing the PNF to be better prepared and respond more effectively to incidents involving chemicals and other hazardous materials. The SEP is not inconsistent with any provision of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). The SEP relates to the alleged violation(s), and is designed to reduce: the adverse impact to public health and/or the environment to which the alleged violations contribute and the overall risk to public health and/or the environment potentially affected by the alleged violations. Specifically, the donation of this equipment that covers traditional firefighting equipment, cutting edge technology, and specialized response equipment will support emergency response coordination and improve life safety during industrial incidents. New technologies like the LUNAR device can be used to help find separated firefighters, identify hot spots, and track and report real-time data to incident command, thereby supporting response coordination. Additionally, bunker gear and SCBAs will allow PNF personnel to safely enter facilities to fight fires, evacuate impacted individuals, secure the site, and perform other essential emergency response activities during an active incident. Other donated equipment will support unique rescue situations and training on such situations.

55. The Respondent is responsible for the satisfactory completion of the SEP described in the foregoing Paragraph 53 and Attachment A. The total expenditure for the SEP described in Paragraph 53 shall be no less than Sixty-Seven Thousand Four Hundred and Eighty-Three Dollars (\$67,483.00). The Respondent hereby certifies that the cost information provided to EPA in connection with EPA's approval of the SEP is complete and accurate, and that the

Respondent in good faith estimates that the cost to implement the SEP is \$67,483.00. The Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

56. The Respondent hereby certifies that as of the date of this Consent Agreement and Final Order, the Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation; nor is the Respondent required to perform or develop the SEP by any other agreement, grant, or as injunctive relief in this or any other case. The Respondent further certifies that the SEP is not a project that the Respondent was planning or intending to construct, perform, or implement other than in settlement of this action. Finally, the Respondent certifies that it has not received, and is not presently negotiating to receive credit in any other enforcement action for this SEP, and that the Respondent will not receive reimbursement for any portion of the SEP from another person or entity.

57. The Respondent also certifies that it is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Paragraph 53 and Attachment A.

58. Any public statement, oral or written, in print, film, or other media, made by the Respondent making reference to the SEP under this Consent Agreement and Final Order from the date of its execution of this Consent Agreement and Final Order shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action against Indorama Ventures Oxides LLC taken on behalf of the EPA to enforce federal laws."

59. For federal income tax purposes, the Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

### **SEP Completion Report**

60. The Respondent shall submit a SEP Completion Report to EPA within thirty (30) days after completion of the SEP under this Consent Agreement and Final Order. The SEP Completion Report shall contain the following information:

- A. A detailed description of the SEP as implemented;
- B. A description of any operating or logistical problems encountered and the solutions thereto;
- C. Itemized final costs with copies of receipts for all expenditures;
- D. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Agreement and Final Order; and
- E. A description of the environmental, emergency preparedness, and/or public health benefits resulting from implementation of the SEP.

The Respondent agrees that failure to timely submit the final SEP Completion Report shall be deemed a violation of this Consent Agreement and Final Order subject to stipulated penalties pursuant to Paragraph 65.

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



62. The Respondent shall submit the following certification in the SEP Completion

Report, signed by a responsible corporate official:

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

63. After receipt of the SEP Completion Report described in Paragraph 60 above, EPA will notify the Respondent, in writing: (a) regarding any deficiencies in the SEP Report itself along with a grant of an additional thirty (30) days for Respondent to correct any deficiencies; or (b) to indicate that EPA concludes that the SEP has been completed satisfactorily; or (c) to determine that the SEP has not been completed satisfactorily and seek stipulated penalties in accordance with Paragraphs 65-69 below.

64. If EPA elects to exercise option (a) in Paragraph 63 above, i.e., if the SEP Report is determined to be deficient but EPA has not yet made a final determination about the adequacy of SEP completion itself, then EPA shall permit the Respondent the opportunity to object in writing to the notification of deficiency given pursuant to Paragraph 63 within fifteen (15) days of receipt of such notification. EPA and the Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon the Respondent. The Respondent agrees to comply with any requirements imposed by EPA necessary to comply with the terms of this Consent Agreement and Final Order. In the event the SEP is not completed as reasonably contemplated herein, stipulated penalties shall be due and payable by Respondent to

EPA in accordance with Paragraphs 65-69 herein.

**Stipulated Penalties for Failure to Complete SEP/Failure to Spend Agreed-On Amount**

65. In the event that the Respondent fails to comply with any of the terms or provisions of this Consent Agreement and Final Order relating to the performance of the SEP described in Paragraph 53 and Attachment A of this Consent Agreement and Final Order and/or to the extent that the actual expenditures for the SEP does not equal or exceed the cost of the SEP described in Paragraph 55 above, the Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- A. Except as provided in subparagraph (B) immediately below, if the SEP has not been satisfactorily completed within 12 months of the Effective Date of the Consent Agreement and Final Order and Respondent has not made good faith and timely efforts to complete the project satisfactorily, pursuant to this Consent Agreement and Final Order, the Respondent shall pay a stipulated penalty to the United States in the amount of \$68,000.00.
- B. If the SEP is not completed in accordance with Paragraph 53 and Attachment A, but EPA determines that the Respondent: a) made good faith and timely efforts to complete the project; and b) certifies, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the SEP, the Respondent shall not be liable for any stipulated penalty.
- C. If the SEP is completed in accordance with Paragraph 53 and Attachment A, but the Respondent spent less than 90 percent of the amount of money required to be spent for the project, the Respondent shall pay a stipulated penalty, along with accrued interest, to the United States that shall reflect, dollar for dollar, the difference between the cost expended on the SEP and the agreed cost of \$68,000.00.

D. If the Respondent fails to timely complete the SEP (not including the SEP Completion Report) for any reason, the Respondent shall pay stipulated penalties as follows:

<u>Period of Noncompliance</u>	<u>Penalty Per Violation Per Day</u>
1st through 15th day	\$ 500
16th through 30th day	\$ 1,000
31st day and beyond	\$ 2,500

E. For failure to submit the SEP Completion Report required by Paragraph 60 above, the Respondent shall pay a stipulated penalty in the amount of \$500 for each day after the report was originally due, until the report is submitted.

66. The determinations of whether the SEP has been satisfactorily completed and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole determination of EPA.

67. Stipulated penalties for Paragraphs 65.D and 65.E above shall begin to accrue on the day after performance is due and shall continue to accrue through the final day of the completion of the activity.

68. Respondent shall pay stipulated penalties not more than thirty (30) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of Paragraphs 50-51 herein.

69. The EPA may, in its unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this Consent Agreement and Final Order.

**Dispute Resolution**

70. If the Respondent objects to any decision or directive of EPA, the Respondent shall notify the following persons in writing of its objections, and the basis for those objections, within fifteen (15) calendar days of receipt of EPA's decision or directive:

Chief, Chemical Accident Enforcement Section  
Compliance Assurance and Enforcement Division  
U.S. EPA - Region 6  
1201 Elm St, Suite 500  
Dallas, TX 75270-2101

Chief, RCRA & Toxics Enforcement Branch  
Office of Regional Counsel  
U.S. EPA - Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270-2101

71. The Chemical Accident Enforcement Section Chief (Chief) or his designee, and the Respondent shall then have an additional fifteen (15) calendar days from receipt by EPA of the Respondent's written objections to attempt to resolve the dispute. If an agreement is reached between the Chief and the Respondent, the agreement shall be reduced to writing and signed by the Chief and the Respondent and incorporated by reference into this Consent Agreement and Final Order.

72. If no agreement is reached between the Chief and the Respondent within that time period, the dispute shall be submitted to the Director of the Compliance Assurance and Enforcement Division (Division Director) or his designee. The Division Director and the Respondent shall then have a second 15-day period to resolve the dispute. If an agreement is reached between the Division Director and the Respondent, the resolution shall be reduced to writing and signed by the Division Director and Respondent and incorporated by reference into this Consent Agreement and Final Order. If the Division Director and the Respondent are unable

to reach agreement within this second 15-day period, the Division Director shall provide a written statement of EPA's decision to the Respondent, which shall be binding upon the Respondent and incorporated by reference into the Consent Agreement and Final Order.

**Notification**

73. Unless otherwise specified elsewhere in this Consent Agreement and Final Order, whenever notice is required to be given, whenever a report or other document is required to be forwarded by one party to another, or whenever a submission or demonstration is required to be made, it shall be directed to the individuals specified below at the addresses given (in addition to any action specified by law or regulation), unless these individuals or their successors give notice in writing to the other parties that another individual has been designated to receive the communication:

EPA: Tony Robledo  
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

Respondent: Kim Hoyt  
Indorama Ventures Oxides LLC  
2701 Spur 136  
Port Neches, TX 77651-4320

Leonardo Guglielmi  
Indorama Ventures - Integrated Oxides and Derivatives  
24 Waterway  
The Woodlands, TX 77380

**Modification**

74. The terms, conditions, and compliance requirements of this Consent Agreement and Final Order may not be modified or amended except as otherwise specified in this Consent

Agreement and Final Order, or upon the written agreement of EPA and Respondent, and such modification or amendment being filed with the Regional Hearing Clerk.

**Termination**

75. At such time as Respondent believes that it has complied with all terms and conditions of this Consent Agreement and Final Order, Respondent may request that EPA advise whether this Consent Agreement and Final Order has been satisfied and terminated. EPA will respond to said request as expeditiously as possible. This Consent Agreement and Final Order shall terminate when all actions required to be taken by this Consent Agreement and Final Order have been completed, and Respondent has been notified by the EPA in writing that this Consent Agreement and Final Order has been satisfied and terminated.

**No EPA Liability**

76. Neither EPA nor the United States Government shall be liable for any injuries or damages to persons or property resulting from acts or omissions of the Respondent, their officers, directors, employees, agents, receivers, trustees, successors, assigns or contractors in carrying out activities pursuant to this Consent Agreement and Final Order, nor shall the EPA or the United States Government be held out as a party to any contract entered into by the Respondent in carrying out activities pursuant to this Consent Agreement and Final Order.

**Effect of Settlement and Reservation of Rights**

77. Full payment of the penalty proposed in this Consent Agreement shall 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.

78. 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 the paragraph directly below.

79. Respondent certifies by the signing of this Consent Agreement that, as of the date of the execution of this Consent Agreement, Respondent has addressed or is addressing the violations alleged herein, and to the best of its knowledge, it is presently in compliance with all other requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

80. 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.

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

#### **General Provisions**

82. 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.

83. 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.

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

85. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's 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 provisions of this Consent Agreement and Final Order which by their terms apply to such persons.

86. 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: Elizabeth George at *George.Elizabeth.A@epa.gov*

To Respondent: Leonardo Guglielmi at *leo.guglielmi@us.indorama.net* and  
Kimberly Hoyt at *kim.hoyt@us.indorama.net*



**RESPONDENT:  
INDORAMA VENTURES OXIDES LLC**

Date: 11/28/2022

Kimberly A. Hoyt  
Signature

Kimberly A. Hoyt  
Print Name

Site Director - PNO Indorama  
Title Ventures

**COMPLAINANT:  
U.S. ENVIRONMENTAL PROTECTION AGENCY**

Date: November 29, 2022

Cheryl T. Seager

Digitally signed by CHERYL  
SEAGER  
Date: 2022.11.29 15:42:56 -06'00'

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: 2022.11.30 09:24:01 -0500

\_\_\_\_\_  
Thomas Rucki  
Regional Judicial Officer

\_\_\_\_\_  
Date

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was delivered to the Regional Hearing Clerk, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270-2102, and that a true and correct copy was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

*George.Elizabeth.A@epa.gov*

Copy via Email to Respondent:

*leo.guglielmi@us.indorama.net and kim.hoyt@us.indorama.net*

Copy via Email to Regional Hearing Clerk:

*vaughn.lorena@epa.gov*

ELIZABET  
H GEORGE

Digitally signed by  
ELIZABETH GEORGE  
Date: 2022.11.30  
09:31:04 -06'00'

---

Signed  
Office of Regional Counsel  
U.S. EPA, Region 6

**Attachment A**

**Supplemental Environmental Project (SEP)**

## ATTACHMENT A: SUPPLEMENTAL ENVIRONMENTAL PROJECT

Docket No. CAA-06-2022-3380

Indorama Ventures Oxides (“Indorama”) will donate emergency response equipment to the Port Neches Fire Department (“PNFD”), located at 606 Magnolia Avenue, Port Neches, TX, 77651. PNFD supports the City of Port Neches Department of Emergency Management and is the first responder for fires and other incidents involving public safety. The donated equipment will allow PNFD to be better prepared and respond more effectively to incidents involving chemicals and other hazardous materials. The area covered by the PNFD is the same area where Indorama’s facility is located.

The donation will include:

1. Rescue equipment for technical rescue, at an estimated cost of \$12,000;
2. LUCAS device or other automated CPR device, at an estimated cost of \$19,300;
3. Two LUNAR thermal imaging cameras at an estimated cost of \$2,225 each, total of \$4,450;
4. Water rescue dummy at an estimated cost of \$1,000;
5. Two replacement sets of PPE/bunker gear meeting PNFD specifications at an estimated cost of \$2,750 each, total of \$5,500;
6. Five sets of PPE/bunker gear at an estimated cost of \$2,000 each, total of \$10,000;
7. Underwater drone sonar for river operations at an estimated cost of \$5,000;
8. Five Scott 4500 psi SCBA bottle and valve assemblies at an estimated cost of \$1,200 each, total of \$6,000;
9. One Scott X3 Pro SCBA 4500 psi at an estimated cost of \$6,000;

This donation covers traditional firefighting equipment, cutting edge technology, and specialized response equipment that will support emergency response coordination and improve life safety during industrial incidents.

The LUNAR device is a multipurpose search and rescue device that will be key equipment in responding to emergencies. LUNAR uses thermal imaging, which can be used to help find separated firefighters and identify hot spots. It also allows tracking and reporting of real-time data to incident command, thereby supporting response coordination.

The LUCAS device is an automated CPR device that will allow first responders to continue active response efforts while still providing CPR to impacted individuals.

The additional bunker gear and SCBAs will allow PNFD personnel to safely enter facilities to fight fires, evacuate impacted individuals, secure the site, and perform other essential emergency response activities during an active incident.

The remaining equipment will support unique rescue situations and training on such situations. The technical rescue equipment includes specialized tools that can be used in responding to industrial incidents. The water rescue dummy will facilitate water response training, while the underwater drone sonar will allow for more effective water rescues.

The total estimated cost of the donation is between \$67,483 and \$69,250. Indorama will purchase and donate this equipment to PNFN within twelve months of the effective date of the Consent Agreement and Final Order.