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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
Dallas, Texas

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REGIONAL HEARING CLERK  
EPA REGION VI

In the Matter of

Baze Chemical LLC

Respondent.

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Docket No. CAA-06-2023-3311

**ADMINISTRATIVE ORDER ON CONSENT**

**Preliminary Statement**

1. The U.S. Environmental Protection Agency, Region 6 (“EPA” or “Complainant”), and Baze Chemical LLC (“Respondent”) have agreed to voluntarily enter into this Administrative Order on Consent (“Order”) for the purposes of carrying out the goals of Section 112(r) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r), and the regulations promulgated thereunder and codified at 40 C.F.R. Part 68.

**Jurisdiction**

2. This Order is entered into pursuant to the authority of Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B). Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), provides that whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any other requirement or prohibition of Subchapter I of the CAA, which includes, among other things, the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the regulations promulgated thereunder, the Administrator may issue an order requiring compliance with such requirement or prohibition.

**Parties**

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

4. Respondent is Baze Chemical LLC, a limited liability company incorporated in the state of Delaware and authorized to conduct 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 minimize the consequences of any such release of any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance.

6. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of regulated substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), mandates that the Administrator establish a threshold quantity for any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). The list of regulated substances and respective threshold quantities is codified at 40 C.F.R. § 68.130.

7. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for stationary sources with threshold quantities of regulated substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). On June 20, 1996, EPA promulgated a final rule

known as the Risk Management Program, 40 C.F.R. Part 68 – Chemical Accident Prevention Provisions, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

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

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

10. The regulations at 40 C.F.R. § 68.10 set forth how the Chemical Accident Prevention Provisions of 40 C.F.R. Part 68 apply to each program level of covered processes.

11. 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.

### **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 the facility located at: 2187 East FM 323, Palestine, Texas 75801 (the Facility).

21. Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, the EPA conducted a virtual partial compliance evaluation (“VPCE”) of the Facility owned and operated by Respondent on February 25, 2021, to April 19, 2021, to determine the facility’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 October 01, 2021, Verdant Reactor Holdings, LLC, acquired the member interests in Respondent.

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 Respondent owns an alkoxylation process at the Facility, meeting the definition of “process”, as defined by 40 C.F.R. § 68.3.

25. Respondent manufactures a range of specialty surfactants for use predominantly in the oil and gas industry. The process of ethoxylation involves reacting ethylene oxide with various common chemicals, such as fatty alcohols and phenols, to produce a variety of products. The plant can also use propylene oxide instead of (or as well as) ethylene oxide in a similar process known as “propoxylation.”

26. Ethylene oxide and propylene oxide are regulated substances pursuant to Section

112(r)(2)(B) of the CAA, and the regulation at 40 C.F.R. § 68.3. The threshold quantity for regulated substance, as listed in 40 C.F.R. § 68.130 is 10,000 pounds.

27. Respondent has greater than threshold quantities of ethylene oxide and propylene oxide, in a process at the Facility, meeting the definition of “covered process” as defined by 40 C.F.R. § 68.3

28. From the time Respondent first had on-site greater than a threshold quantity of ethylene oxide and propylene oxide 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.

29. From the time Respondent first had on-site greater than a threshold quantity of ethylene oxide and propylene oxide 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 and is in North American Industry Classification System code 32519, Other Basic Organic Chemical Manufacturing.

30. On December 02, 2021, the EPA sent the Respondent a Notice of Potential Violation and Opportunity to Confer (NOPVOC) letter. In a conference call on January 19, 2022, the EPA conferred with the Respondent regarding the violations alleged therein and provided an opportunity for the Respondent to submit additional information or materials. The EPA found the violations alleged in the following Section.

**EPA Findings of Violation**

31. The facts stated in the EPA Findings of Fact and Conclusions of Law above are

herein incorporated.

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

*Training*

33. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.71(a), each employee presently involved in operating a process, and each employee before being involved in operating a newly assigned process, shall be trained in an overview of the process and in operating procedures as specified in 40 C.F.R. § 68.69. The training shall include emphasis on the specific safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks. The Respondent failed to provide its employees an initial training that includes emphases on the specific safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks.

34. Pursuant to 40 C.F.R. § 68.71(b) refresher training shall be provided at least every three years, and more often, if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process. The owner or operator, in consultation with the employees involved in operating the process, shall determine the appropriate frequency of refresher training. Respondent failed to provide refresher training to its employees at least every three years.

35. Pursuant to 40 C.F.R. § 68.71(c), the owner or operator shall ascertain that each employee involved in operating a process has received and understood the training required by 40 C.F.R. § 68.71 (a) and (b). The owner or operator shall prepare a record which contains the

identity of the employee, the date of training, and the means used to verify that the employee understood the training. The Respondent failed to prepare initial training and refresher training records.

36. Respondent's failure to provide initial training to its employees on emergency operations prior to being involved in the operating a process, as well as Respondent's failure to demonstrate that the employees understood the training and the failure to maintain training records pursuant to 40 C.F.R. § 68.71(a)-(c), 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).

*Process Hazard Analysis (PHA)*

37. The regulation at 40 C.F.R. § 68.67(e) requires that the owner or operator of a process system shall establish a system to promptly address the teams 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.

38. At the time of the inspection, the Respondent has failed to establish a system to address team findings and failed to communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations.

39. The regulation at 40 C.F.R. § 68.67(f) requires that at least every five (5) years after the completion of the initial process hazard analysis, the PHA shall be updated and revalidated by a team meeting the requirements of 40 C.F.R. § 68.67(d).



40. At the time of the inspection, the Respondent failed to revalidate its PHA five years after the completion of its initial PHA. The Respondent conducted its initial PHA in August 2015 and revalidated that PHA in February 2021 (six months late).

41. The Respondent's failure to establish a system to address team findings and failed to communicate the actions to operating, maintenance and other employees that may be affected by the recommendations as required by 40 C.F.R. § 68.67(e), and the Respondent's failure to revalidate its PHA five years after the completion of its initial PHA, as required by 40 C.F.R. § 68.67(f) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

*Management Systems*

42. The regulation at 40 C.F.R. § 68.15(a) requires the owner or operator of a stationary source with processes subject to Program 2 or Program 3 shall develop a management system to oversee the implementation of the risk management program elements.

43. At the time of inspection, the Respondent failed to develop a management system to oversee the risk management program elements.

44. Respondent's failure to develop a management system to oversee the implementation of the risk program elements, as required by 40 C.F.R. § 68.15(a), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

*Management of Change*

45. The regulation at 40 C.F.R. § 68.75(a) requires that the owner or operator establish and implement written procedures to manage changes (except for "replacements in kind") to process chemicals, technology, equipment, and procedures; and changes to stationary sources that affect a covered process.

46. The regulation at 40 C.F.R. § 68.75(c) requires that employees involved in

operating a process and maintenance and contract employees whose job tasks will be affected by a change in the process shall be informed of, and trained in, the change prior to start-up of the process or affected part of the process.

47. The regulation at 40 C.F.R. § 68.75(d) states that if a change covered by this paragraph results in a change in the process safety information by required by § 68.65 of this part, such information shall be updated accordingly.

48. The regulation at 40 C.F.R. § 68.75(e) states that if a change covered by this paragraph results in a change in the operating procedures or practices required by § 68.69, such procedures or practices shall be updated accordingly.

49. At the time of the inspection, the Respondent failed to document its completed management of change procedures, or document that employees whose job tasks were affected by a change in the process were informed of the process. Also, the Respondent failed to update its process safety information or operating procedures when required.

50. Respondent's failure to document its completed management of change procedures and failure to update its process safety information or operating procedures, as required by 40 C.F.R. § 68.75(a), (c), (d) and (e), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

#### *Defining Offsite Impacts*

51. The regulation at 40 C.F.R. § 68.33(a) requires that the owner or operator shall list in the RMP environmental receptors within a circle with its center at the point of the release and a radius determined by the distance to the endpoint defined in 40 C.F.R. § 68.22(a).

52. At the time of inspection, the Respondent failed to list its environmental receptors in its RMP program.

53. The Respondent's failure to document its RMP environmental receptors are required by 40 C.F.R. § 68.33(a), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

*Compliance Audit*

54. The regulation at 40 C.F.R. § 68.79(c) requires that a report of findings of the [compliance] audit be developed.

55. The regulation at 40 C.F.R. § 68.79(e) requires that the owner or operator shall retain the two (2) most recent compliance audit reports.

56. At the time of the inspection, the Respondent failed to develop a report of findings of its 2018 compliance audit. Also, the Respondent failed to determine and document an appropriate to each of the findings of the 2018 compliance audit nor did the Respondent document that the deficiencies were corrected.

57. The Respondent's failure to develop a report of the 2018 compliance audit findings and failure to address the findings by documenting that the deficiencies were corrected as required by 40 C.F.R. § 68.79(c) and (e), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

*Contractors*

58. The regulation at 40 C.F.R. § 68.87(b)(1) requires that owners and operators, when selecting a contractor, shall obtain and evaluate information regarding the contract owner or operator's safety performance and programs.

59. The regulation at 40 C.F.R. § 68.87(b)(5) requires that owners and operators periodically evaluate the performance of the contract owner or operator in fulfilling their obligations as specified at 40 C.F.R. § 68.87(c).

60. The Respondent failed to provide complete documentation when selecting a contractor regarding their contract owner or operator's safety performance and programs. Also, the Respondent did not periodically evaluate the performance of its contract owners and operators in fulfilling obligations.

61. The Respondent's failure to provide completed documentation of the selected contractor's owner or operator safety performance and programs, and failure to periodically evaluate the performance of its contract owner or operator in fulfilling its obligations as required by 40 C.F.R. § 68.87(b)(1) and (b)(5), is a violation of 112(r)(7) of the CAA, 42 U.S.C. §7412(r)(7).

*Emergency Response*

62. The regulation at 40 C.F.R. § 68.93 requires that the owner or operator of a stationary source shall coordinate response needs with local emergency planning and response organizations to determine how the stationary source is addressed in the community emergency response plan and to ensure that local response organizations are aware of the regulated substances at the stationary source, their quantities, the risks presented by covered processes, and the resources and capabilities at the stationary source to respond to an accidental release of a regulated substance.

63. The regulation at 40 C.F.R. § 68.93(a) requires that coordination shall occur 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.

64. At the time of inspection, the Respondent did not provide documentation of its emergency response plan and coordination with local emergency planning and response

organizations prior to July 2020.

65. The Respondent's failure to provide documentation of its emergency response plan and coordination with local emergency plan and response organizations prior to July 2020 as required by 40 C.F.R. § 68.93(a), is a violation of 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

**Order for Compliance**

66. Based on the EPA Findings of Fact and Conclusions of Law and the EPA Findings of Violation set forth above, and pursuant to the authority of Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), as amended, Respondent is hereby ORDERED and agrees to comply with the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the regulations promulgated thereunder and codified at 40 C.F.R. Part 68.

67. The EPA and Respondent agree that Respondent shall, as expeditiously as possible, but in no event later than one hundred twenty (120) days from the effective date of this Order, complete the following actions (Compliance Action):

- a. Respondent shall identify and engage a third-party expert to conduct an audit of the implementation of its RMP program since the VPCE conducted by EPA.

68. The EPA and Respondent agree that Respondent shall, as expeditiously as possible, but in no event later than three hundred sixty (360) days from the effective date of this Order, complete the following actions (Compliance Actions):

- a. To the extent that the findings associated action items for the third-party audit described in paragraph 67 differ from those in paragraphs 19 through 65, the Respondent shall take action to address the differing findings.
- b. To the extent the third-party compliance audit (described in paragraph 67)

findings are the same as those indicated in paragraphs 19 through 65, the

Respondent shall complete the actions detailed in paragraphs 19 through 65.

- c. Respondent shall be responsible for implementing all actions required to be taken to address audit findings, as described in paragraph 68.a and 68.b above.
- d. Respondent shall be required to implement all actions required to be taken to address audit findings within 360 days of the date of the Order, unless: (i) it is unreasonable for the Respondent to implement particular actions within 360 days of the date of the Order and (ii) Respondent's plan and projected timeline for completing implementation of those actions is completed within 360 days of the date of the Order. If any action required to be taken to address audit findings will require additional time for completion, the Respondent shall notify the EPA no later than 360 days from the effective date of this Order.

69. The EPA and Respondent agree that Respondent shall, as expeditiously as possible, but in no event later than three hundred and sixty days (360) days from the effective date of this Order, complete the following actions (Compliance Actions) for all covered processes at the facility:

- a. In accordance with 40 C.F.R. § 68.15, Respondent shall develop a management system to oversee the implementation of the risk management program elements.
- b. In accordance with 40 C.F.R. § 68.67, Respondent shall perform a process hazard analysis for the process. Respondent 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. Respondent shall provide the process hazard analysis to EPA. Respondent shall be responsible for implementing all actions required to be taken to resolve the team's findings and recommendations in accordance with the written schedule developed to complete action items. If any action required to be taken to resolve the team's findings and recommendations will require more than 360 days, the Respondent shall notify the EPA no later than 360 days from the effective date of this Order.

- c. In accordance with 40 C.F.R. § 68.69(c), Respondent shall certify its operating procedures are current and accurate. Respondent shall create a process or procedure to ensure its operating procedures are certified current and accurate on an annual basis.
- d. In accordance with 40 C.F.R. § 68.71, Respondent shall train each of its employees involved in operating a process in an initial training that includes emphasis on the specific safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks. Respondent shall ensure its employees are provided refresher training at least every three years. Respondent shall prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training. Respondent shall also provide EPA with a description of the training program. Respondent shall provide EPA with training

records of relevant employees.

- e. In accordance with 40 C.F.R. § 68.75, Respondent shall create a process to ensure it manages changes (except for “replacements in kind”) to process chemicals, technology, equipment, and procedures, and changes to stationary sources that affect a covered process as required. Respondent shall ensure the process includes a procedure to confirm employees affected by the change in the process are informed of and trained in the change prior to the startup of the affected part of the process.
- f. In accordance with 40 C.F.R. § 68.87, Respondent shall obtain and evaluate information regarding its contract owners or operators’ safety performance and programs. Respondent shall provide this information to EPA.

#### **Submissions**

70. Respondent must provide documentation of completion of the compliance actions described above to the EPA within three hundred and sixty (360) days of the effective date of this Order. All documentation shall be submitted as set forth in this sub-section.

71. All submissions to EPA required by this Order shall contain the following certification signed by an authorized representative of Respondent:

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, 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.

72. All submissions to EPA required by this Order shall be sent by electronic mail to:

Kayla Buchanan  
Enforcement and Compliance Assurance Division  
Air Enforcement Branch



U.S. Environmental Protection Agency, Region 6  
1201 Elm Street, Suite 500 (ECDAC)  
Dallas, Texas 75270-2101  
buchanan.kayla@epa.gov

73. All documents submitted by Respondent to EPA in the course of implementing this Order shall be available to the public unless identified and determined to be confidential business information pursuant 40 C.F.R. Part 2, Subpart B.

### **Stipulated Penalties**

74. Respondent shall be liable for stipulated penalties for failure to comply with the requirements of this Order. The following stipulated penalties shall accrue per violation per day for failure to comply with the Compliance Actions or Submissions requirements above:

<u>Penalty per Violation per Day</u>	<u>Period of Noncompliance</u>
\$1,500	1st through 30th day
\$3,750	31st day and beyond

75. All penalties shall begin to accrue on the day after the complete performance is due, or on the day a violation occurs and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity required by this Order.

76. The payment of penalties shall not alter in any way Respondent's obligation to comply with the provisions of this Order.

77. All penalties accruing under this section shall be due and payable to the United States within thirty (30) days of Respondent's receipt from the EPA of a demand for payment of stipulated penalties. Such payments 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>.

78. A copy of the check or other information confirming payment shall simultaneously be sent by electronic mail to:

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

79. Respondent understands that failure to timely pay any portion of the stipulated 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 the stipulated penalty from the date of delinquency until such 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).

#### **Other Terms and Conditions**

80. By entering into this Order, Respondent: (a) consents to and agrees to not contest the EPA's authority or jurisdiction to issue or enforce this Order; and (b) agrees to undertake all actions required by this Order.

81. Respondent neither admits nor denies the EPA Findings of Fact and Conclusions

of Law and the EPA Findings of Violation.

82. Respondent and the EPA agree to bear their respective costs and attorney's fees. Respondent waives its right to seek reimbursement of their costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 104-121), and any regulations promulgated thereunder.

**General Provisions**

83. Respondent waives any and all remedies, claims for relief and otherwise available rights to jurisdictional or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including, but not limited to, any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1), or under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

84. Any violation of this Order may result in an additional enforcement action under Section 113 of the CAA, 42 U.S.C. § 7413. The EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action. Section 113 of the CAA, 42 U.S.C. § 7413, authorizes the Administrator to:

- a. issue an administrative penalty order under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), assessing a civil penalty not to exceed \$48,192 (or amount as adjusted by the Civil Monetary Penalty Adjustment Rule) per day of violation, pursuant to Section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B);
- b. bring a civil judicial enforcement action for permanent or temporary injunction, or to assess and recover a civil penalty not to exceed \$101,439 (or amount as adjusted by the Civil Monetary Penalty Adjustment Rule) per day of violation, or both, pursuant to Section 113(b)(2) of the CAA, 42 U.S.C. § 7413(b)(2); or

- c. request the Attorney General to commence a criminal action pursuant to Section 113(c) of the CAA, 42 U.S.C. § 7413(c).

85. This Order does not resolve any civil or criminal claims for violations alleged in this Order. In accordance with Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), issuance of this Order does not preclude EPA from assessing penalties, obtaining injunctive relief, or taking any other action authorized under the CAA, or other applicable federal laws or regulation. This Order does not affect the obligation of Respondent to comply with all federal, state, and local statutes, regulations, and permits.

86. Nothing herein shall be construed to limit 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 public health, welfare, or the environment.

87. Nothing in this Order shall limit EPA's right to obtain access to, and/or inspect the Facility, and/or to request additional information from Respondent pursuant to the authority of Section 114 of the CAA, 42 U.S.C. § 7414.

88. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of the Order for Compliance is restitution, remediation, or required to come into compliance with the law.

89. By signing this Order, the undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Order, and to execute and legally bind Respondent to this Order.

90. The provisions of this Order shall apply and be binding upon Respondent and its agents, officers, directors, employees, trustees, authorized representatives, successors, and

assigns. Respondent shall ensure that any agents, officers, directors, employees, contractors, consultants, firms or other persons or entities acting under or for Respondent with respect to matters included herein comply with the terms of this Order. From the effective date until termination of this Order, Respondent must give written notice and a copy of this Order to any successors in interest prior to any transfer of ownership or control of any portion or interest in the Facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this Order unless the EPA has provided written approval of the release of said obligations or liabilities.

91. Pursuant to Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), this Consent Order shall be effective when fully executed, shall not exceed the earlier of one year or the date of a determination by the EPA that Respondent has achieved compliance with all terms of this Order, and shall be nonrenewable.

92. The EPA and Respondent may subsequently amend this Order, in writing, in accordance with the authority of the CAA. In the event of any amendment to this Order, all requirements for performance of this Order not affected by the amendment shall remain as specified by the original Order.

93. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

94. The EPA and Respondent agree to the use of electronic signatures for this matter. The EPA and Respondent further agree to electronic service of this Order by electronic mail to the following:

To EPA:

*mcdonald.ashley@epa.gov*

To Respondent:

*eddie.lewis@nortonrosefulbright.com*

**RESPONDENT:  
BAZE CHEMICAL LLC**

Date: 12/16/2022

William J. McConnell  
Signature

William J. McConnell  
Name

Chief Operating Officer  
Title

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

Cheryl T. Seager

Digitally signed by Seager, Cheryl  
Date: 2022.12.19 15:05:52 -06'00'

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

**CERTIFICATE OF SERVICE**

I certify that on the date noted below I sent a true and correct copy of the original

Administrative Order on Consent to:

Baze Chemical LLC  
c/o Eddie Lewis, Counsel  
eddie.lewis@nortonrosefulbright.com

ASHLEY  
MCDONALD

Digitally signed by ASHLEY  
MCDONALD  
Date: 2022.12.21 10:18:28 -06'00'

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