



UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY

REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270-2102

November 30, 2021

VIA Electronic Mail:
destacy@eastman.com

Mr. David Stacy
The Eastman Chemical Company
Technical Safety Services Manager
P.O. Box 7444
Longview, Texas 75607

Re: Proposed Consent Agreement and Final Order
CAA-06-2022-3309
The Eastman Chemical Company, Tyler, Texas

Dear Mr. Stacy:

Enclosed is a Consent Agreement and Final Order (CAFO) for signature by an authorized representative of the Eastman Chemical Company. On September 22, 2021, and at several other times subsequently, the U.S. Environmental Protection Agency (EPA) conferred with the Eastman Chemical Company regarding the violations alleged herein and provided several opportunities for the Eastman Chemical Company to submit additional information or materials. In accordance with those negotiations, please return the signed CAFO to Lawrence Pittman, with the Office of Regional Counsel, within one week by email at pittman.lawrence@epa.gov.

The signed CAFO will then be executed by the EPA, and a fully executed copy will be forwarded to you. As provided in the CAFO, The Eastman Chemical Company will have thirty (30) days from the effective date of the CAFO to pay the civil penalty of \$39,884. If you have any questions regarding this CAFO, please contact Lawrence Pittman, Assistant Regional Counsel, at (214) 665-8381. Thank you for your cooperation in this matter.

Sincerely,

Digitally signed by CHERYL SEAGER
DN: c=US, o=U.S. Government,
ou=Environmental Protection Agency,
cn=CHERYL SEAGER
0.9.2342.19200300.1.001.1=68001001651793
Date: 2021.11.30 13:23:11 -0600

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

Enclosure

FILED

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY 21 DEC -9 PM 3: 33
REGION 6
DALLAS, TEXAS
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:)
)
)
THE EASTMAN CHEMICAL COMPANY) DOCKET NO. CAA-06-2022-3309
TYLER, TEXAS)
)
RESPONDENT)
_____)

CONSENT AGREEMENT AND FINAL ORDER

The Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency (EPA), Region 6 (Complainant) and The Eastman Chemical Company (Respondent) in the above-referenced proceeding, hereby agree to resolve this matter through the issuance of this Consent Agreement and Final Order (CAFO).

I. PRELIMINARY STATEMENT

1. This proceeding for the assessment of civil penalties is brought by EPA pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and is simultaneously commenced and concluded through the issuance of this CAFO pursuant to 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b), 22.18(b)(2) and (3), and 22.34.

2. For the purposes of this proceeding, the Respondent admits the jurisdictional allegations contained herein; however, the Respondent neither admits nor denies the specific factual allegations contained in this CAFO.

3. The Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed Final Order set forth herein and waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.

4. Compliance with all the terms and conditions of this CAFO shall fully resolve the Respondent's liability for Federal civil penalties and injunctive relief for those violations and facts which are set forth herein.

5. The Respondent consents to the issuance of the CAFO, to the assessment and payment of the civil penalty in the amount and by the method set forth in this CAFO, and to the conditions specified in the CAFO.

6. Each undersigned representative of the parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement, to execute it, and to legally bind that party to it.

7. This CAFO shall apply to and be binding upon the Respondent, its officers, directors, servants, employees, agents, authorized representatives, successors, and assigns.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. PRELIMINARY ALLEGATIONS

8. Eastman Chemical Company (Respondent) is incorporated under the laws of the State of Delaware and authorized to do business in the State of Texas.

9. "Person" is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), as "an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency of the United States and any officer, agent, or employee thereof."

10. The Respondent is a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

11. The Respondent owns and/or operates a chemical production facility located at 3041 Loop 323 N.E., Tyler, Texas 75710.

12. "Stationary source" is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C.

§ 7412(r)(2)(C), and 40 C.F.R. § 68.3 as meaning:

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.

13. The Respondent's facility identified in Paragraph 11 is a "stationary source" as that term is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3.

14. The Respondent is the owner and/or operator of the stationary source identified in Paragraph 11.

15. The following substances are each a "regulated substance", as set forth in 40 C.F.R. § 68.130:

- A. Propane;
- B. Ethane;
- C. Propylene;
- D. Ethylene; and
- E. Butane.

16. "Process" is defined in 40 C.F.R. § 68.3 as meaning:

any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of activities. For the purpose 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.

17. The stationary source chemical production facility contains regulated substances identified as flammable mixtures. The facility receives regulated substances by pipeline and truck, and stores these materials in above-ground pressure vessels and below-ground salt caverns.

18. 40 C.F.R. § 68.130 specifies the following threshold quantities for the regulated substances listed below:

- A. Propane – 10,000 pounds;
- B. Ethane – 10,000 pounds;
- C. Propylene – 10,000 pounds;
- D. Ethylene – 10,000 pounds; and
- E. Butane – 10,000 pounds.

19. The quantity of regulated substances identified as flammable mixtures at the Respondent's facility exceed the threshold quantity identified in Paragraphs 18.A-18. E.

20. "Covered process" is defined in 40 C.F.R. § 68.3 as meaning "a process that has a regulated substance present in more than a threshold quantity as determined under § 68.115."

21. The stationary source processes identified in Paragraph 17 are a "covered process" as that term is defined by 40 C.F.R. § 68.3.

22. The stationary source covered processes identified in Paragraphs 17 are subject to the "Program 3" requirements of the Risk Management Program (RMP) regulations and the Respondent must, among other things, comply with the Program 3 Prevention Program of 40 C.F.R. Part 68, Subpart D.

23. From June 15 – 17, 2021, a representative of EPA conducted an onsite Partial Compliance Evaluation (PCE) of the Respondent's facility.

24. EPA submitted to Respondent on August 30, 2021, a Notice of Potential Violation and Opportunity to Confer. In a conference call on September 22, 2021, the EPA conferred with Respondent regarding the violations alleged herein and provided an opportunity for Respondent to submit additional information or materials, which the Respondent did not. Based on Respondent's previous submittals and information obtained during the onsite PCE, the EPA identified the violations alleged in the following Section II.B.

B. VIOLATIONS

Count One – Failure to Properly Identify Equipment

25. 40 C.F.R. § 68.73(f)(2) provides that the owner or operator appropriately conduct checks and inspections that shall be performed to assure that equipment is installed properly and consistent with design specifications and the manufacturer's instructions.

26. The Respondent violated 40 C.F.R. § 68.73(f)(2) by its failure to properly identify the proper O-ring replacement head gasket at the standby SBF-1 propane filter which resulted in an incident that released approximately 2,385 pounds of propane on February 23, 2017.

Count Two – Failure to Certify Compliance Audits

27. 40 C.F.R. § 68.79(a) provides that the owner or operator shall certify that they have evaluated compliance with the provisions of this subpart at least every three years to verify the procedures and practices developed under this subpart are adequate and are being followed.

28. The Respondent violated 40 C.F.R. § 68.79(a) by its failure to certify any of its evaluated compliance audits, including the most recent compliance audit conducted in 2020.

III. TERMS OF SETTLEMENT

A. CIVIL PENALTY

29. For purposes of settlement, the Respondent has agreed to pay a civil penalty of **THIRTY-NINE THOUSAND, EIGHT HUNDRED AND EIGHTY-FOUR DOLLARS (\$39,884)**.

30. Within thirty (30) days of the effective date of this CAFO, the Respondent shall pay the assessed civil penalty by company check or wire transfer, made payable to "Treasurer, United States of America, EPA - Region 6". Payment shall be remitted in one of three (3) ways: regular U.S. Postal mail (including certified mail), overnight mail, or wire transfer. For regular U.S. Postal mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, the

check should be remitted to:

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

For overnight mail (non-U.S. Postal Service, e.g., Fed Ex), the check should be remitted

to:

U.S. Bank
Government Lockbox 979077
US EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
Phone No. (314) 418-1028

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 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" with a phone number of (412)
234-4381".

PLEASE NOTE: Docket Number CAA-06-2022-3309 shall be clearly typed on the check or other method of payment to ensure proper credit. If payment is made by check, the check shall also be accompanied by a transmittal letter and shall reference the Respondent's name and address, the case name, and docket number of the CAFO. If payment is made by wire transfer, the wire transfer instructions shall reference the Respondent's name and address, the case name, and docket number of the CAFO. The Respondent shall also send a simultaneous notice of such payment, including a copy of the check and transmittal letter, or wire transfer instructions to the

following:

Electronically by email (no hard copy):
Tony Robledo
Senior Enforcement Officer
Chemical Accident Prevention Section (ECDAC)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270
Robledo.Tony@epa.gov

Lorena Vaughn
Regional Hearing Clerk (ORCD)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270
Vaughn.Lorena@epa.gov

The Respondent's adherence to this request will ensure proper credit is given when penalties are received in the Region.

31. The Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

32. If the Respondent fails to submit payment within thirty (30) days of the effective date of this CAFO, the Respondent may be subject to a civil action to collect any unpaid portion of the assessed penalty, together with interest, handling charges, and nonpayment penalties as set forth below.

33. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will 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. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not

paid by the respective 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). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. *See* 40 C.F.R. § 13.11(b).

34. EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent (6%) per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. *See* 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. *See* 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

35. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including but not limited to, attorneys fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent (10%) of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

B. COMPLIANCE

36. The Respondent hereby certifies that as of the date of the execution of this CAFO, that it has corrected the violations alleged herein, and is now, to the best of its knowledge, in compliance with all applicable requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r)

and 40 C.F.R. Part 68.

C. MODIFICATION

37. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except as otherwise specified in this CAFO, or upon the written agreement of the Complainant and the Respondent, and approved by the Regional Judicial Officer, and such modification or amendment being filed with the Regional Hearing Clerk.

D. RETENTION OF ENFORCEMENT RIGHTS

38. EPA does not waive any rights or remedies available to EPA for any other violations by the Respondents of Federal or State laws, regulations, or permitting conditions.

39. Nothing in this CAFO shall relieve the Respondent of the duty to comply with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68.

40. Nothing in this CAFO shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, contaminants, hazardous substances on, at or from the Respondent's facility whether related to the violations addressed in this CAFO or otherwise. Furthermore, subject to Paragraph 4 above, nothing in this CAFO shall be construed to prevent or limit EPA's civil and criminal authorities, or that of other Federal, State, or local agencies or departments to obtain penalties or injunctive relief under other Federal, State, or local laws or regulations.

41. The Complainant reserves all legal and equitable remedies available to enforce the provisions of this CAFO. In any such action to enforce the provisions of this CAFO, the Respondent shall not assert, and may not maintain, any defense of laches, statute of limitations, or any other equitable defense based on the passage of time. This CAFO shall not be construed

to limit the rights of the EPA or United States to obtain penalties or injunctive relief under the Clean Air Act or its implementing regulations for violations not addressed in this CAFO, or under other federal or state laws, regulations, or permit conditions.

42. In any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, to enforce the provisions of this CAFO, or other appropriate relief relating to this Facility, the Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the Complainant or the United States in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims for civil penalties that have been specifically resolved pursuant to this CAFO.

43. The Respondent waives any right it may possess at law or in equity to challenge the authority of the EPA or the United States to bring a civil action in a United States District Court to compel compliance with this CAFO and to seek an additional penalty for such noncompliance and agrees that federal law shall govern in any such civil action. The Respondent also consents to personal jurisdiction in any action to enforce this CAFO in the appropriate Federal District Court.

44. The Respondent also waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that the Respondent may have with respect to any issue of law or fact set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1).

45. This CAFO is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. The Respondent is responsible for achieving and maintaining

complete compliance with all applicable federal, State, and local laws, regulations, and permits. The Respondent's compliance with this CAFO shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The Complainant does not warrant or avert in any manner that the Respondent's compliance with any aspect of this CAFO will result in compliance with provisions of the CAA or with any other provisions of federal, State, or local laws, regulations, or permits.

E. SERVICE OF CAFO

46. The Complainant and Respondent agree to the use of electronic signatures for this matter. The Respondent further agrees to electronic service of this CAFO pursuant to 40 C.F.R. § 22.6, by e-mail to the following address:

To the Respondent:

Steven Addlestone
Senior HSES Counsel
The Eastman Chemical Company
200 S. Wilcox Drive, B-280
Kingsport, TN 37662
Saddlestone@eastman.com
(423) 229-5835

To the EPA:

Lawrence Pittman
Assistant Regional Counsel, RCRA & Toxics Enforcement Branch
Office of Regional Counsel (ORC-ER)
U.S. Environmental Protection Agency, Region 6
1201 Elm St., Suite 500 (ORCER)
Dallas, TX 75270
(214) 665-8381
Pittman.Lawrence@epa.gov

F. COSTS

47. Each party shall bear its own costs and attorney's fees. Furthermore, the Respondent

specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17.

G. EFFECTIVE DATE

48. This CAFO, and any subsequent modifications, become effective upon filing with the Regional Hearing Clerk.

THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:

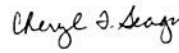
FOR THE RESPONDENT:

Date: 12/1/21



Eastman Chemical Company

FOR THE COMPLAINANT:



Digitally signed by Seager, Cheryl
DN: cn=Seager, Cheryl,
email=Seager.Cheryl@epa.gov
Date: 2021.12.08 16:28:57 -06'00'

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
EPA – Region 6

FINAL ORDER

Pursuant to the Section 113 of the CAA, 42 U.S.C. § 7413, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive relief or other equitable relief for criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect the 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. The Respondent is ordered to comply with the terms of settlement as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

THOMAS
RUCKI

Digitally signed by THOMAS RUCKI
DN: c=US, o=U.S. Government, ou=Environmental
Protection Agency, cn=THOMAS RUCKI,
0.9.2342.19200300.100.1.1=68001003655804
Date: 2021.12.09 14:51:46 -0600

Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Consent Agreement and Final Order (CAFO) was electronically delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that a true and correct copy of the CAFO was sent to the following via e-mail:

Copy via Email to Complainant:

Pittman.Lawrence@epa.gov

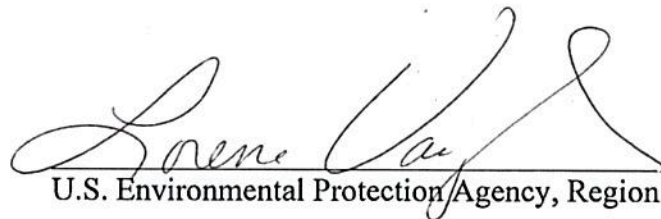
Copy via Email to Respondent:

Saddlestone@eastman.com

Steven Addlestone
Senior HSES Counsel
Eastman Chemical Company
200 S. Wilcox Drive, B-280
Kingsport, TN 37662
(423) 229-5835

Copy via Email to Regional Hearing Clerk:

Vaughn.loreana@epa.gov



Lorena Vaughn
U.S. Environmental Protection Agency, Region 6