UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF:	)	
AXIALL LLC PLAQUEMINE, LOUISIANA	)	DOCKET NO. CAA-06-2016-3422
RESPONDENT	)	CONSENT AGREEMENT AND FINAL ORDER

CONSENT AGREEMENT AND FINAL ORDER

The Director of the Compliance Assurance and Enforcement Division of the United States Environmental Protection Agency (EPA), Region 6 (Complainant) and Axiall LLC (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 C.F.R. §§ 22.13(b), 22.18(b)(2) and (3), and 22.34.

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

3. For the purposes of this proceeding only, Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed Final Order set forth therein, 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 only resolve Respondent's liability for civil penalties for those violations and facts which are set forth herein.

5. 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 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 Respondent, its officers, directors, servants, employees, agents, authorized representatives, successors and assigns.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. PRELIMINARY ALLEGATIONS

8. Axiall LLC (Respondent) is a Delaware limited liability company authorized to do business in the State of Louisiana.

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. Respondent is a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

11. At all times relevant to this CAFO, Respondent was the "owner" and continues to be the "owner" of the chemical manufacturing facility located at 26100 Louisiana Highway 405

South, Plaquemine, Louisiana 70765 (the "Facility") within the meaning of the term "owner or operator" in Section 112(a)(9) of the CAA, 42 U.S.C. § 7412(a)(9), and 40 C.F.R. § 63.2.

12. Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), authorizes EPA to bring an administrative action for penalties that exceed $356,312[1] and/or the first alleged date of violation occurred more than twelve (12) months prior to the initiation of the action, if the Administrator and the United States Attorney General jointly determine that the matter is appropriate for administrative action.

13. EPA and the U.S. Department of Justice have jointly determined that the Complainant can administratively assess a civil penalty even though the penalty might exceed the statutory amount and the alleged violations have occurred more than twelve (12) months prior to the initiation of the administrative action.

1. CAA Section 112(r)

14. "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.

[1] The maximum penalty that can be assessed (without a waiver) under Section 113 of the Clean Air Act was increased by the Civil Monetary Penalty Inflation Adjustment Rule codified at 40 C.F.R. Part 19 to $220,000 for violations occurring between January 30, 1997 and March 15, 2004, to $270,000 for violations occurring between March 15, 2004 and January 12, 2009, to $295,000 for violations occurring between January 12, 2009 and December 6, 2013, to $320,000 for violations occurring between December 6, 2013 and November 2, 2015, and to $356,312 for violations occurring after November 2, 2015.

15. 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.

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

17. Ammonia (anhydrous), chlorine, and vinyl chloride are each a "regulated substance", as set forth in 40 C.F.R. § 68.130.

18. "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.

19. Respondent has the following processes at the stationary source identified in Paragraph 11:

i. Chlorine;

ii. Vinyl Chloride Monomer (VCM);

iii. Polyvinyl Chloride (PVC); and

iv. Water Treatment.

20. 40 C.F.R. § 68.130 specifies the following threshold quantities for the regulated substances listed below:

i. Ammonia (anhydrous) – 10,000 pounds;

ii. Chlorine – 2,500 pounds; and

iii. Vinyl chloride – 10,000 pounds.

21. Respondent has exceeded the threshold quantity for one or more of the following regulated substances at the processes identified in Paragraph 19:

i. Ammonia (anhydrous);

ii. Chlorine; and

iii. Vinyl chloride.

22. "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."

23. Each process identified in Paragraphs 19 is a "covered process" as that term is defined by 40 C.F.R. § 68.3.

24. The covered processes identified in Paragraphs 19 are subject to the "Program 3" requirements of the Risk Management Program (RMP) regulations and must, among other things, comply with the Program 3 Prevention Program of 40 C.F.R. Part 68, Subpart D.

25. On or about May 7-9, 2013, an EPA inspector conducted an inspection (the "RMP Inspection") of Respondent's facility to determine compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r) and 40 C.F.R. Part 68.

2. National Emission Standards for Hazardous Air Pollutants

26. Section 101(b)(1) of the CAA, 42 U.S.C. § 7401(b)(1), states that the statute is designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population.

27. Section 112(b) of the CAA, 42 U.S.C. § 7412(b), lists hazardous air pollutants (HAPs); Section 112(c)(1) of the CAA, 42 U.S.C. § 7412(c)(1), requires EPA to publish and revise, if appropriate, a list of categories of stationary sources; and Section 112(d)(1) of the CAA, 42 U.S.C. § 7412(d)(1), requires EPA to promulgate regulations establishing emission

standards for each category, known as the National Emission Standards for Hazardous Air Pollutants (NESHAP), based on Maximum Achievable Control Technology (MACT) to reduce emissions of HAPs.

28. The synthetic organic chemical manufacturing industry (SOCMI) is a listed source category pursuant to 40 C.F.R. Part 63, Subpart F; 40 C.F.R. § 63.100(a). The Hazardous Organic NESHAP (HON) regulates the emissions of certain organic hazardous air pollutants from SOCMI production. 40 C.F.R. Part 63, Subparts F, G, H, and I comprise the HON.

29. The HON applies to SOCMI process units that: (1) are part of a major sources as defined in Section 112(a) of the CAA; (2) produce as a primary product a SOCMI chemical listed in Table 1 of Subpart F (40 C.F.R. § 63.107, Appendix Table 1); and (3) use as a reactant or manufacture as a product, by-product, or co-product one or more of the organic HAPs listed in Table 2 of Subpart F (40 C.F.R. § 63.107, Appendix Table 2). 40 C.F.R. § 63.100(b). Under the HON, "primary product" means "the product with the greatest annual design capacity on a mass basis" for an individual process unit. 40 C.F.R. § 63.100(d)(1). For the SOCMI source category under the HON, a source is comprised of all SOCMI chemical manufacturing process units that are subject to the HON and are located at contiguous or adjoining properties under common control. 40 C.F.R. § 63.101(b) (defining "source" and "plant site"). Equipment required by, or utilized as a method compliance with Subpart F, G, or H are regulated emission points under the HON. 40 C.F.R. § 63.100(e).

30. 40 C.F.R. § 63.102(a) states that owners and operators of sources subject to Subpart F shall comply with the requirements of Subpart G and H of Part 63.

31. 40 C.F.R. § 63.136(a) in Subpart G requires that for each individual drain system that receives or manages a Group 1 wastewater stream or a residual removed from a Group 1

wastewater stream, the owner or operator shall comply with the requirements of paragraphs (b), (c), and (d) or with paragraphs (e), (f), and (g) of the section.

32. The Facility is a "stationary source" and a "major source" as each of those terms is defined in Section 112(a) of the CAA, 42, U.S.C. § 7412(a), and 40 C.F.R. § 63.2.

33. At all times relevant to this CAFO, the Facility had seven Operating Permits (Title V):

i. Cogeneration Plant – Permit No. 2056-V1 issued November 9, 2010, revised and issued as 2056-V2 on October 4, 2013, and revised and issued as 2056-V3 on June 29, 2016;

ii. EDC/VCM Plant – Permit No. 2906-V3 revised and issued April 20, 2011, and revised and issued as 2906-V4 on June 29, 2016;

iii. Phenol Acetone Plant – Permit No. 1267-V2 revised and issued April 20, 2011, and revised and issued as 1267-V3 on June 29, 2016;

iv. VCM Plant Incinerators– Permit No. 2224-V2 revised and issued December 8, 2011;

v. Utilities/Wastewater Plant – Permit No. 2907-V2 revised and issued January 5, 2012;

vi. Polyvinyl Chloride (PVC) Plant – Permit No. 881-V4 revised and issued July 26, 2013, and revised and issued as 881-V5 on August 14, 2015; and

vii. Chlorine Caustic Plant – Permit No. 2030-V1 issued April 20, 2011, and revised and issued as 2030-V2 on June 29, 2016.

B. VIOLATIONS

Count One – Failure to Identify, Evaluate, and Control Hazards in the Process

34. 40 C.F.R. § 68.67(a) provides that the owner or operator's shall "identify, evaluate, and control the hazards involved in the process."

35. The Vinyl Chloride Monomer (VCM) Unit is a "covered process" as that term is defined by 40 C.F.R. § 68.3.

36. On or about November 14, 2012, Respondent was removing a tank from the VCM Unit for maintenance, and while doing so, hit the adjacent support piping for the safety deluge system, which was not anchored, causing it to fall and hit a bleeder valve. The bleeder valve broke resulting in a 150-lb release of vinyl chloride.

37. Therefore, Respondent violated 40 C.F.R. § 68.67(a) by failing to identify, evaluate, and control process hazards from having unsecured and unanchored supports for the safety deluge system.

Count Two – Failure to Address Required Criteria in Process Hazard Analysis

38. 40 C.F.R. § 68.67(c) provides that the owner or operator's process hazard analysis for each covered process shall address the parameters enumerated therein, including "stationary source siting" and "human factors".

39. The Polyvinyl Chloride (PVC) Unit and the Vinyl Chloride Monomer (VCM) Unit are each a "covered process" as that term is defined by 40 C.F.R. § 68.3.

40. During the RMP Inspection, the inspector identified deviations in portions of the process hazard analysis checklists for the PVC Unit and VCM Unit relating to stationary source siting and human factors. These deviations included remarks such as "Will be reviewed by

safety department" without any further written documentation of consequences, recommendations, or risk determinations.

41. Therefore, Respondent violated 40 C.F.R. § 68.67(c) by failing to adequately complete and document the process hazard analyses for the PVC Unit and VCM Unit.

Count Three – Failure to Promptly Address Process Hazard Analysis Findings and Recommendations

42. In regards to the findings and recommendations of the team performing the process hazard analysis, 40 C.F.R. § 68.67(e) provides that owners or operators must:

i. Establish a system to promptly address the team's findings and recommendations;

ii. Assure that the recommendations are resolved in a timely manner and that the resolution is documented;

iii. Document what actions are to be taken; complete actions as soon as possible;

iv. Develop a written schedule of when these actions are to be completed; and

v. 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.

43. The Polyvinyl Chloride (PVC) Unit and the Vinyl Chloride Monomer (VCM) Unit are each a "covered process" as that term is defined by 40 C.F.R. § 68.3.

44. The most recent process hazard analysis (PHA) for the PVC Unit was performed between September 26, 2011 and March 12, 2012.

45. The PHA for the PVC Unit included at least three recommendations with a risk rating of "B".

46. Respondent's policy requires that recommendations with a risk rating of "B" must be addressed to the extent that the risk rating is reduced to at least "C" within 60 days.

47. Review of Respondent's records for the PVC Unit PHA during the RMP Inspection showed that three risk rating "B" recommendations remained open and unresolved at the time of the RMP Inspection, which was more than a year after conclusion of the PVC Unit PHA.

48. The most recent PHA for the VCM Unit was performed between September 26, 2011 and March 15, 2012.

49. The PHA for the VCM Unit included at least four recommendations with a risk rating of "B".

50. Review of Respondent's records for the VCM Unit PHA during the RMP Inspection showed that four risk rating "B" recommendations remained open and unresolved at the time of the RMP Inspection, which was more than one year after the conclusion of the VCM Unit PHA.

51. Therefore, Respondent violated 40 C.F.R. § 68.67(e) by failing to establish a system to promptly address PHA findings and recommendations; assure that the recommendations were resolved in a timely manner and that the resolution was documented; document what actions were to be taken; and complete actions as soon as possible.

Count Four – Failure to Manage Change

52. 40 C.F.R. § 68.75(a) provides that owners or operators must establish and implement written procedures to manage changes to process chemicals, technology, equipment, and procedures, and to stationary sources that affect a covered process.

53. The carbon-steel Recovered VCM (RVCM) Receiver #1 is part of the VCM Unit.

54. The VCM Unit is a "covered process" as that term is defined by 40 C.F.R. § 68.3.

55. On or about September 14, 2012, an 870-lb release of vinyl chloride monomer occurred from the RVCM Receiver #1.

56. Non-destructive testing reports indicate that RVCM Receiver #1 suffered from internal corrosion since at least October 1986 for which Respondent made periodic repairs using in-kind materials.

57. Sometime between October 2010 and June 2011, Respondent began using Inconel alloy overlay patches to repair the corrosion in RVCM Receiver #1, which were not in-kind materials.

58. Respondent never conducted a Management of Change review concerning whether Inconel alloy overlay patches were compatible or appropriate for the repairs made to RVCM Receiver #1.

59. The vessel failure analysis conducted after the release on or about September 14, 2012 concluded that the release occurred because of corrosion of the carbon steel, which was "exacerbated by a galvanic couple with an Alloy 625 weld overlay."

60. Therefore, Respondent violated 40 C.F.R. § 68.75(a) by failing to implement procedures to manage changes to process chemicals, technology, equipment, and procedures.

Count Five – Failure to Promptly Respond to Compliance Audit Findings

61. 40 C.F.R. § 68.79(d) requires owners or operators to "promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected."

62. During the RMP Inspection, records for the most recent compliance audit showed audit recommendations that were not assigned for response/resolution until approximately one year after the audit and that were given due dates approximately two years after the audit.

63. Therefore, Respondent violated 40 C.F.R. § 68.79(d) by failing to promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected.

Count Six – Failure to Update Emergency Contact

64. 40 C.F.R. § 68.195(b) requires that emergency contact information listed in the Risk Management Plan (RMP) must be updated within one month of any change.

65. During the RMP Inspection, the emergency contact listed in Respondent's RMP had not been an employee of the facility for approximately two years.

66. Therefore, Respondent violated 40 C.F.R. § 68.195(b) by failing to update the emergency contact information in the RMP within one month of the change.

Count Seven – Failure to Comply with MACT HON Group 1 Wastewater Individual Drain System Requirements

67. 40 C.F.R. § 63.136(a) provides that individual drain systems that receive HON Group 1 wastewater shall comply with the requirements of either paragraphs (b), (c), and (d) [covered/enclosed with emissions vented to a closed vent system and then to a control device], or paragraphs (e), (f), and (g) [water seal or tightly fitting cap/plug that prevents emissions].

68. Respondent's Phenol Acetone Plant Operating Permit (Title V Permit No. 1267-V2) states that Respondent must comply with 40 C.F.R. Part 63, Subpart G.

69. On September 18, 2013 EPA inspectors observed water discharging freely from a valve in the Phenol Acetone Unit and moving by sheet flow across the concrete to a drain with an open grate.

70. In an email dated June 5, 2014, Respondent confirmed that the water discharge observed was HON Group 1 wastewater and that the discharge continued from September 17, 2013 at 7:00 pm until September 19, 2013 at 9:20 am.

71. Therefore, Respondent violated 40 C.F.R. § 63.136(a) by conveying HON Group 1 wastewater in an uncovered and uncontrolled individual drain system.

III. TERMS OF SETTLEMENT

A. CIVIL PENALTY

72. For the reasons set forth above, Respondent has agreed to pay a civil penalty of **One Hundred Sixty-Seven Thousand One hundred Seventy-two Dollars ($167,172).**

73. Within thirty (30) days of the Effective Date of this CAFO, Respondent shall pay the assessed civil penalty by certified check, cashier's 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 Service (USPS) mail (including certified mail), overnight mail, or wire transfer. For regular USPS mail, USPS certified mail, or USPS 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-06-2016-3422 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 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 Respondent's name and address, the case name, and docket number of the CAFO. 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:

Marie Stucky (6EN-AS)
Chemical Accident Enforcement Section
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202

Lorena Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202

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

74. 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.

75. If Respondent fails to submit payment within thirty (30) days of the Effective Date of this CAFO, 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.

76. 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).

77. 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 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.

78. 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, attorney's 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 of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

79. This CAFO will be considered a "prior violation" for the purpose of demonstrating a "history of noncompliance" under the Clean Air Act Stationary Source Penalty Policy, and the Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68.

B. SUPPLEMENTAL ENVIRONMENTAL PROJECTS

80. Respondent shall undertake the following supplemental environmental project (SEP), which the parties agree is intended to secure significant environmental or public health protection and improvement.

81. Respondent has elected to purchase and operate the SAFER One modeling system for use in modeling accidental releases of chlorine at the Facility for a period of two years following installation. Within one hundred twenty (120) days of the Effective Date of this CAFO, Respondent, at its sole expense, shall enter into a contract with SAFER One for the purposes of purchasing and operating the SAFER One system. SEP expenditures for the project are anticipated to include engineering, installation, any meteorological station upgrades, any additional monitoring station, and the annual software fees for two years. The SAFER One

system shall be operational and in use at the Facility within 365 days of the Effective Date of this CAFO. At least sixty (60) days prior to operation of the SAFER One system at the Facility, Respondent shall develop and provide EPA with a copy of a written operating procedure that provides the timing and manner in which Respondent will provide data to local emergency responders in the event of a chlorine release and the contact for each of the local emergency responders to whom the data will be provided.

82. The SEP will improve local emergency responders' ability to safely respond to chlorine releases and to notify the public when safety precautions such as sheltering in place should be taken. As such, the SEP will help protect the health of local emergency responders and likely reduce exposure of humans and the environment to chlorine releases.

83. Respondent is responsible for the satisfactory completion of the SEP. The total expenditure for the SEPs described in Paragraph 81 shall be no less than **One Hundred Forty Thousand One Hundred Twenty Dollars ($140,120)**. 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 no less than **One Hundred Forty Thousand One Hundred Twenty Dollars ($140,120)**. Eligible SEP costs do not include inventory on hand, overhead, additional employee time and salary, administrative expenses, legal fees, and oversight of a contractor. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

84. Respondent hereby certifies that as of the date of this CAFO, Respondent is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop the SEP by any other agreement, grant, or as

injunctive relief in this or any other case. Respondent further certifies that the SEP was not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of this action. Finally, 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 Respondent will not receive reimbursement for any portion of the SEP from another person or entity.

85. 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 81.

86. Any public statement, oral or written, in print, film, or other media, made by the Respondent making reference to the SEP under this CAFO from the date of its execution of this CAFO shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action against Axiall LLC, taken on behalf of the EPA to enforce federal laws." This language is not required when reporting or sharing data generated from operation of the SAFER One software.

87. 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.

1. SEP Reports

88. Respondent shall submit a SEP Progress Report to EPA at least every ninety (90) days to update EPA of its progress in execution of the project and of any problems or delays encountered. These SEP Progress Reports may be submitted to EPA either by letter or by email.

89. Respondent shall submit a SEP Completion Report to EPA within thirty (30) days after completion of the SEP. The SEP Completion Report shall contain the following information:

A. A description of the SEP as implemented;

B. A description of any operating or logistical problems encountered and the solutions thereto;

C. Copies of receipts for all expenditures; and

D. Certification that the SEP has been fully implemented pursuant to the provisions of this CAFO.

90. Respondent agrees that failure to timely submit a SEP Progress Report or the final SEP Completion Report shall be deemed a violation of this CAFO and Respondent shall become liable for stipulated penalties pursuant to Paragraph 93.

91. 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.

92. 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.

2. Stipulated Penalties for Failure to Complete SEP as Agreed or Failure to Spend Agreed Amount

93. In the event that Respondent fails to comply with any of the terms or provisions of this CAFO relating to the performance of the SEPs described in Paragraph 81 of this CAFO and/or to the extent that the actual expenditures for the SEPs do not equal or exceed the cost of the SEPs described in Paragraph 83 above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

A. Except as provided in subparagraph (B) immediately below, for a SEP which has not been completed satisfactorily pursuant to this CAFO, Respondent shall pay a stipulated penalty to the United States in the amount of $112,096 (100% of the amount the penalty was mitigated).

B. If the SEP is not completed in accordance with Paragraphs 81 - 87, but EPA determines that Respondent: a) made good faith and timely efforts to complete the project; and b) certifies, with supporting documentation, the amount of money expended its effort to undertake and complete the SEP, the stipulated penalty will be reduced by that amount.

C. If the SEP is completed in accordance with Paragraphs 81 - 87, but Respondent spent less than 90 percent of the amount of money required to be spent for the project, Respondent shall pay a stipulated penalty to the United States in the amount of $56,048 [50% of the amount the penalty was mitigated ($112,096).

D. If the SEP is completed in accordance with Paragraphs 81 - 87 and Respondent spent at least 90 percent of the amount of money required to be spent for the project, Respondent shall not be liable for any stipulated penalty.

E. If the Respondent fails to timely submit a SEP report or to complete the SEP without prior notice and approval from EPA, Respondent shall pay stipulated penalties as follows:

Period of Noncompliance	Penalty Per Violation Per Day
1st through 15th day	$ 500
16th through 30th day	$ 1,000
31st day and beyond	$ 1,500

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

95. Stipulated penalties 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.

96. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of Paragraph 73 herein. Interest and late charges shall be paid as stated in Paragraphs 76 - 77 herein.

97. EPA may, in its unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this CAFO.

C. NOTIFICATION

98. Unless otherwise specified elsewhere in this CAFO, 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 party that another individual has been designated to receive the communication:

Complainant:

Marie Stucky
Surveillance Section (6EN-AS)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202
stucky.marie@epa.gov

Respondent:

Hillary Garner
Environmental, Health and Safety Manager
Axiall, a Westlake company
26100 Highway 405 S,
Plaquemine, Louisiana 70767
Hillary.Garner@axiall.com

D. COMPLIANCE

99. Respondent hereby certifies that as of the date of the execution of this CAFO, that it has corrected the violations alleged herein.

E. MODIFICATION

100. 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 Respondent, and approved by the Regional Judicial Officer, and such modification or amendment being filed with the Regional Hearing Clerk.

F. RETENTION OF ENFORCEMENT RIGHTS

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

102. Nothing in this CAFO shall relieve 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.

103. 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 Respondent's facility whether related to the violations addressed in this CAFO or otherwise. Furthermore, nothing in this CAFO shall be construed or to prevent or limit EPA's civil and criminal authorities, or that of Federal, State, or local agencies or departments to obtain penalties or injunctive relief under Federal, State, or local laws or regulations.

104. 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, 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, or under federal or state laws, regulations, or permit conditions.

105. 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, 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 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.

106. 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. Respondent also consents to personal jurisdiction in any action to enforce this CAFO in the appropriate Federal District Court.

107. Respondent also waives any right of judicial review of this action under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1).

108. This CAFO is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Respondent is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits. 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. Complainant does not warrant or aver in any manner that Respondent's compliance with any aspect of this CAFO will result in compliance with provisions of the Clean Air Act or with any other provisions of federal, State, or local laws, regulations, or permits.

G. COSTS

109. Except as provided in Paragraph 78, each party shall bear its own costs and attorney's fees. Furthermore, 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.

H. TERMINATION

110. At such time as Respondent believes it is in compliance with all of the requirements of this CAFO, it shall notify EPA that all of the requirements of this CAFO have been satisfied and request termination of this CAFO. Such request shall be in writing and shall provide the necessary documentation to establish whether there has been full compliance with the terms and conditions of this CAFO. EPA will respond to said request in writing within ninety (90) days of receipt of the notification. EPA's failure to object in writing within ninety (90) days of receipt of Respondent's notification will be deemed as concurrence with the notification, and this CAFO will terminate.

I. EFFECTIVE DATE

111. 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 RESPONDENT:

Date: 9-28-2016

Axiall LLC

FOR THE COMPLAINANT:

Date: 9.28.16

John Blevins
Director
Compliance Assurance and
Enforcement Division

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 or 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 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. 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.

Date: 10/4/16

Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of October, 2016, the original and one copy of the foregoing Consent Agreement and Final Order (CAFO) was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by certified mail, return receipt requested:

Maureen Harbourt
Kean Miller LLP
400 Convention Street
Suite 700
Baton Rouge, LA 70802

Toni Jackson