UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF: Westlake Chemicals and Vinyls, LLC LaPlace, Louisiana RESPONDENT	(	DOCKET NO. CAA-06-2024-3380

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is an administrative penalty assessment proceeding brought under Section 113(d) of the Clean Air Act, (the "CAA" or the "Act"), 42 U.S.C. § 7413(d), and Sections 22.13, 22.18, and 22.34 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), as codified at 40 C.F.R. Part 22.

2. Complainant is the United States Environmental Protection Agency, Region 6 ("EPA"). On EPA's behalf, the Director of the Enforcement and Compliance Assurance Division has been delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

3. Respondent, Westlake Chemicals & Vinyls, LLC ("Westlake") is a limited liability company doing business in the state of Louisiana. Respondent is a "person" as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this Consent Agreement along with the corresponding Final Order hereinafter known together as "CAFO" without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this CAFO.

B. JURISDICTION

5. This CAFO is entered into under Section 113(d) of the Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules, 40 C.F.R. Part 22. The alleged violations in this CAFO are pursuant to Section 113(a)(1)(B) and (a)(3)(A), 42 U.S.C. § 7413(a)(1)(B) and (a)(3)(A).

6. EPA and the United States Department of Justice jointly determined that this matter, although it involves a penalty assessment above $460,926 and alleged violations that occurred more than a year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

7. On October 19, 2020, EPA issued to Respondent (then called "Axiall, LLC") a Notice of Violation and Opportunity to Confer ("NOVOC") and provided a copy of the NOVOC to the State of Louisiana. In the NOVOC, EPA provided notice to both Respondent and the State of Louisiana that EPA found that Respondent committed the alleged violations described in Section E of this CAFO and provided Respondent an opportunity to confer with EPA. On December 8, 2020, representatives of Respondent and EPA discussed the NOVOC.

8. The Regional Judicial Officer is authorized to ratify this CAFO which memorializes

a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b).

9. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

C. GOVERNING LAW

10. The Act is designed "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." CAA § 101(b)(1), 42 U.S.C. § 7401(b)(1).

11. EPA is authorized by Section 113 of the CAA, 42 U.S.C. § 7413, to take action to ensure that air pollution sources comply with all federally applicable air pollution control requirements. These include requirements promulgated by EPA and those contained in SIPs.

National Emission Standards for Hazardous Air Pollutants

12. Section 112 of the CAA, 42 U.S.C. § 7412, sets forth a national program for the control of hazardous air pollutants ("HAPs"). Under Section 112(b), Congress has listed 188 HAPs believed to cause adverse health or environmental effects. 42 U.S.C. § 7412(b)(1).

13. Congress directed EPA to publish a list of all categories and subcategories of, *inter alia*, major sources of HAPs. CAA § 112(c), 42 U.S.C. § 7412(c).

14. Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1), defines a "major source" to mean "any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants." *See also* 40 C.F.R. § 63.2.

15. Under CAA Section 502(a), 42 U.S.C. § 7661a(a), "[I]t shall be unlawful for any

person ... to operate ... a major source ... except in compliance with a permit issued by a permitting authority under this subchapter."

16. EPA first promulgated the HON on April 22, 1994. See 59 Fed. Reg. 62608, located at 40 C.F.R. § 63, Subparts F, G, H, and I.

17. The HON applies to chemical manufacturing process units that: (1) manufacture, as a primary product, one or more of the chemicals listed in 40 C.F.R. § 63, Subpart F, Table 1; (2) use as a reactant or manufacture as a product, or co-product, one or more of the organic HAPs listed in 40 C.F.R. § 63, Subpart F, Table 2; and (3) are located at a plant site that is a "major source" as defined in Section 112(a) of the CAA, 42 U.S.C. § 7412(a). See 40 C.F.R. § 63.100(b).

40 C.F.R. Part 63, Subpart A – National Emission Standards for Hazardous Air Pollutants for Source Categories, General Provisions

18. 40 C.F.R. § 63.6(e)(1)(i) requires an owner or operator to, at all times, including periods of startup, shutdown, and malfunction, operate and maintain any affected source (including associated air pollution control equipment and monitoring equipment) in a manner consistent with safety and good air pollution control practices to minimize emissions. During a period of startup, shutdown, or malfunction, this general duty to minimize emissions requires that the owner or operator reduce emissions from the affected source to the greatest extent which is consistent with safety and good air pollution control practices.

19. 40 C.F.R. § 63.6(e)(3)(i) requires the owner or operator of a facility subject to a NESHAP standard to "develop a written startup, shutdown, and malfunction plan ("SSM Plan") that describes, in detail, procedures for operating and maintaining the source during periods of

startup, shutdown, and malfunction ("SSM Event"); and a program of corrective action for malfunctioning process, air pollution control, and monitoring equipment used to comply with the relevant standard." 40 C.F.R. § 63.6(e)(3)(i)(A) requires the owner or operator the ensure that, at all times, each affected source (including associated air pollution control and monitoring equipment) is operated and maintained in a manner which satisfies the general duty to minimize emissions established in 40 C.F.R. § 63.6(e)(1)(i).

20. If a SSM Plan fails to address or inadequately addresses an event that meets the characteristics of a malfunction but was not included in the SSM Plan at the time the owner or operator developed the plan, the owner or operator is required to revise the SSM Plan within 45 days of the SSM Event to include detailed procedures for operating and maintaining the source during similar malfunction events and a program of corrective action for similar malfunctions of process or air pollution control and monitoring equipment. 40 C.F.R. § 63.6(e)(3)(viii).

40 C.F.R. Part 63, Subpart F – National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry

21. Under 40 C.F.R. § 63.100(e), a "source" to which Subpart F of the NESHAP applies is the collection of all chemical manufacturing process units and the associated equipment (including transfer racks) at a major source that meet the criteria specified in § 63.100(b)(1-3).

22. Pursuant to 40 C.F.R. § 63.102(a)(1)–(a)(3), the requirements of 40 C.F.R. § 63, subparts F, G, and H do not apply to owners or operators of facilities subject to the HON during SSM Events, but 40 C.F.R. § 63.102(a)(4) requires owners or operators of facilities subject to the

HON to "implement, to the extent reasonably available, measures to prevent or minimize excess emissions to the extent practical" during SSM Events.

23. 40 C.F.R. § 63.102(a)(4) further states that "[t]he general duty to minimize emissions during a [SSM Event] does not require the owner or operator to achieve emission levels that would be required by the applicable standard at other times if this is not consistent with safety and good air pollution control practices, nor does it require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved." Instead, the determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator of the EPA which may include, but is not limited to, monitoring results, review of operation and maintenance procedures (including the SSM Plan required in 40 C.F.R. § 63.6(e)(3)), review of operation and maintenance records, and inspection of the source. 40 C.F.R. § 63.102(a)(4)

24. For each SSM Event during which the excess emissions identified by 40 C.F.R. § 63.102(a)(4) occur, 40 C.F.R. § 63.103(c)(2)(ii) requires owners or operators of facilities subject to the HON "to maintain the records that the procedures specified in the source's start-up, shutdown, and malfunction plan were followed, and documentation of actions taken that are not consistent with the plan."

25. Under 40 C.F.R. § 63.102(c)(1), the owner or operator of each source subject to Subpart F must acquire a permit under 40 C.F.R. Part 70 if the EPA has approved an operating permit program for the state, which it has for Louisiana.

40 C.F.R. Part 63, Subpart G – National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process

Vents, Storage Vessels, Transfer Operations, and Wastewater

26. NESHAP Subpart G establishes control requirements for process vents, storage vessels, transfer operations, and wastewater for the synthetic organic chemical manufacturing industry.

27. The owner or operator of a facility subject to the HON must establish a range that indicates proper operation of the control or recovery device for each parameter monitored under 40 C.F.R. § 63.114(a), (b), and (c). 40 C.F.R. § 63.114(e). To establish such a range, the owner or operator must submit the information required in 40 C.F.R. § 63.152(b) in a Notification of Compliance Status ("NOCS") or in an operating permit application or amendment. *Id.*

40 C.F.R. Part 63 – National Emissions Standards for Hazardous Air Pollutants for Source Categories, Subpart H: National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks

28. NESHAP Subpart H establishes requirements for equipment leaks for the synthetic organic chemical manufacturing industry.

29. Pressure relief devices in gas/vapor service are required to be operated with an instrument reading of less than 500 parts per million above background except as provided in 40 C.F.R. § 63.165(b). 40 C.F.R. § 63.165(a).

30. After each pressure release, the pressure relief device shall be returned to a condition indicated by an instrument reading of less than 500 parts per million above background, as soon as practicable, but no later than 5 calendar days unless any of the delay of repair exceptions listed at 40 C.F.R. § 63.171 apply. 40 C.F.R. § 63.165(b)(1).

31. Within five (5) calendar days of a pressure release and of the return of the pressure relief device to organic HAP service, the pressure relief device must be monitored to confirm the condition indicated by an instrument reading of less than 500 parts per million above background. 40 C.F.R. § 63.165(b)(2).

32. A "pressure release" means "the emission of materials resulting from the system pressure being greater than the set pressure of the relief device." 40 C.F.R. § 63.161.

Title 33, Part III of the Louisiana Administrative Code

33. Section 110(a) of the CAA, 42 U.S.C. § 7410(a), requires each state to adopt and submit to the EPA Administrator a plan which provides for implementation, maintenance, and enforcement for each promulgated National Ambient Air Quality Standard ("NAAQS") in each air quality control region (or portion thereof). Each such plan, known as a State Implementation Plan ("SIP"), must include enforceable emission limitations and other control measures, and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQSs are maintained. 42 U.S.C. § 7410(a)(2)(A). The SIP must also provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, compile and analyze data on ambient air quality and upon request make such data available to the EPA. 42 U.S.C. § 7410(a)(2)(B).

34. Pursuant to Section 113(a) and (b) of the CAA, 42 U.S.C. § 7413(a) and (b), upon EPA approval, SIP requirements are federally enforceable under Section 113. Under 40 C.F.R. § 52.23, any permit limitation or condition contained within a permit issued under an EPA-approved program that is incorporated in a SIP, is a requirement of the SIP, and is federally

enforceable under Section 113 of the CAA, 42 U.S.C. § 7413.

35. Under the Louisiana SIP, any source meeting the definition of "major source" set forth in Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1), and receiving a Part 70 permit must comply with the Part 70 General Conditions set forth at 33 L.A.C. Part III, § 535.

36. 33 L.A.C. Part III, § 535(R) in the Part 70 General Conditions requires a Part 70 permittee to submit prompt reports of all permit deviations "as specified below" to Louisiana's Office of Environmental Compliance. General Condition R specifies in paragraph 1 that the written report shall be submitted within seven days of any emission in excess of permit requirements by an amount greater than the reportable quantity established for that pollutant in L.A.C. 33.I. Chapter 39. General Condition R specifies in paragraph 2 that a written report shall be submitted no later than 14 days from the initial occurrence of a release event for any emission in excess of permit emission limitations, regardless of the amount, where such emission occurs over a period of seven days or longer. General Condition R specifies in paragraph 3 that a written report shall be submitted semiannually to address all permit deviations not included in paragraph 1 or 2 of Part 70 General Condition R.

37. L.A.C. Title 33:III, § 507 contains specific requirements for Part 70 operating permits. L.A.C. Title 33:III, § 507(A)(3) requires that Part 70 operating permit must incorporate all federally applicable requirements for each emissions unit at the source.

D. FINDINGS OF FACT AND CONCLUSIONS OF LAW

38. Westlake Chemicals and Vinyls, LLC ("Respondent") owns and operates the Lake Charles North Plant located at 1600 VCM Plant Road, Westlake, Louisiana 70669 (the "Facility").

39. At all times relevant to this proceeding, Respondent has owned and operated

the Facility.

40. Respondent is the owner and operator of the Facility within the meaning of the Act, Section 112(a)(9), 42 U.S.C. § 7412(a)(9), and 40 C.F.R. § 63.2.

41. The Facility has undergone several ownership and name changes. In August 2016, Westlake Chemical acquired Axiall Corporation. In July 2017, Westlake Chemical submitted a change of ownership request to LDEQ, due to the merger of Georgia Gulf, Lake Charles with Axiall, LLC, and requested that all permits and pending Axiall, LLC permits be transferred to Axiall, LLC and the Facility be renamed Westlake, Lake Charles North. LDEQ granted the request in August 2017. In 2022, Westlake Chemical Corporation was renamed Westlake Corporation. In 2023, Respondent notified EPA Region 6 that Axiall, LLC had changed its name to "Westlake Chemicals & Vinyls, LLC."

42. On January 24, 2019, LDEQ issued the Facility Louisiana Part 70 Permit No. 0520-00012-V6 (the "2019 Permit"). LDEQ issued the Facility prior versions of this Permit on December 12, 2017, September 7, 2017, November 6, 2016, August 13, 2012, and May 15, 2009.

43. The Facility is a major source, pursuant to Section 112(a)(1) of the CAA. 42 U.S.C. § 7412(a)(1).

44. Respondent owns and operates a chemical manufacturing process unit subject to the regulations of 40 C.F.R. 63, Subparts F, G, and H. Respondent manufactures vinyl chloride monomer ("VCM") as a primary product at the Facility and uses dichloroethane as a reactant, both of which are found in Table 1 and 2 to Subpart F of Part 63. Additionally, the 2019 Permit and the prior versions of the permit identify the entire Facility as a VCM unit subject to, among

others, the requirements of 40 C.F.R. Part 63 Subparts F, G, and H.

45. As a Facility subject to 40 C.F.R. § 63, Subparts F, G, and H, the Facility is also subject to the NESHAP regulations' General Provisions under 40 C.F.R. § 63, Subpart A.

46. The Facility reacts ethylene and chlorine in a direct chlorination process to produce 1,2-dichloroethane ("EDC"), which is then cracked to produce VCM. This process takes place within the Facility's VCM unit, where much of the process equipment uses release valve/rupture discs ("RV/RDs") to prevent catastrophic pressurization. These RV/RDs release to a piping header system ("RV Header") that under normal circumstances routes to the process or to the thermal oxidizers. Under upset conditions, the RV Header routes to a wet scrubber, known as the "C-500 Scrubber", which ultimately releases to atmosphere. The C-500 scrubber does not control for HAPs, including VCM and ethylene dichloride.

47. EPA's National Enforcement Investigations Center ("NEIC") conducted an inspection of the Facility on February 27 – March 8, 2018 (the "Inspection"). EPA Region 6 inspectors participated in and observed the inspection.

48. At the time of the Inspection, the Facility operated under the approved 0520-00012-V5 Permit.

49. The Facility's SSM Plan was revised in February 2019. Prior to that revision, it operated under an SSM Plan dated July 7, 2011 (the "2011 SSM Plan").

50. The 2011 SSM Plan states that the Facility's Standard Operating Procedures ("SOPs") "are intended to minimize emissions of HAPs and/or prevent malfunctions when they are performed." The 2011 SSM Plan incorporates these SOPs, stating that "[d]uring abnormal operating conditions, the SOPs will be followed."

51. The 2011 SSM Plan did not describe how to minimize emissions using good air pollution control practices during malfunctions. Several malfunctions occurred and were described in the October 2014 SSM Report, April 2015 SSM Report, and October 2015 SSM Report. During the Inspection, Respondent's staff at the Facility claimed that the April 2015 SSM Event and the October 2015 SSM Event were caused by an excess venting of anhydrous hydrogen chloride ("HCl").

52. The Facility's October 1, 2014, through March 31, 2015 Semi-Annual Hazardous Organic NESHAP Periodic and SSM Report ("October 2014 SSM Report") identified eleven (11) instances of "Low Flow Due to Restriction in 906 C/D Common Suction Caused Low L/G."

53. The Facility's April 1, 2015, through September 30, 2015 Semi-Annual Hazardous Organic NESHAP Periodic and SSM Report ("April 2015 SSM Report") identified one (1) instance of "Heavy Vents Caused pH to Drop" and two (2) instances of "High Vents caused pH to drop out off and on."

54. The Facility's October 1, 2015, through March 30, 2016 Semi-Annual Hazardous Organic NESHAP Periodic and SSM Report ("October 2015 SSM Report") identified one (1) instance of "Low pH from high HCl vents because of clearing C-202", two (2) instances of "High Venting of HCl from clearing/depressuring of C-202", and fourteen (14) instances of "High venting of HCl from C-202; Startup", all of which occurred from October 24, 2015, to October 30, 2015.

55. Respondent did not update the Facility's 2011 SSM Plan within 45 days to include a specific procedure to address the malfunctions identified in the October 2014 SSM Report, in the April 2015 SSM Report, and in the October 2015 SSM Report.

56. Neither the 2011 SSM Plan, nor SOPs cited by Respondent during the Inspection (including "Normal Shutdown Procedure" and "Startup After Turnaround Procedure") explain how to minimize emissions using good air pollution control practices during rapid shutdowns caused by HCl leaks.

57. From February 2016 to February 2018, the Facility's RV/RDs experienced 107 ruptures that released gases and/or liquids to the Relief Valve Header System.

58. From February 2016 to February 2018, Respondent failed to return ruptured RV/RD devices to less than 500 parts per million above background within five (5) calendar days of rupture on 15 occasions.

59. After replacing or repairing the 107 RV/RD devices that ruptured from February 2016 to February 2018, Respondent failed to monitor, within five (5) calendar days, the replaced or repaired devices to confirm an instrument reading of less than 500 parts per million above background.

60. The Facility's Title V Deviation Reports submitted pursuant to Title 33, Part III of the Louisiana Administrative Code and dated May 29, 2015, November 19, 2015, May 26, 2016, November 29, 2016, May 29, 2017, and November 29, 2017 all omit SSM deviations identified in the Facility's Semi-Annual Hazardous Organic NESHAP Periodic Reports covering the same time periods.

E. ALLEGED VIOLATIONS

Claim 1: The 2011 SSM Plan Was Not Designed to Minimize Emissions Using Good Air Pollution Control Practices

61. 40 C.F.R. Part 63, Subparts F, G, and H apply to the Facility because it

manufactures vinyl chloride monomer ("VCM") as a primary product and uses dichloroethane as a reactant, both of which are found in Table 1 and 2 to Subpart F of Part 63.

62. 40 C.F.R. Part 63, Subpart A applies to the Facility due to its emissions of HAPs listed in Section 112(b) of the CAA.

63. As a HON-subject facility it is subject to the general duty to prevent or minimize excess emissions, including during periods of SSM, and per 40 C.F.R. § 63.6(e)(3)(i)(A), the SSM Plan must account for this general duty.

64. The 2011 SSM Plan did not describe how to minimize emissions using good air pollution control practices during such malfunctions as described in the October 2014 SSM Report, April 2015 SSM Report, and October 2015 SSM Report.

65. Respondent violated its general duty to reduce emissions during SSM Events under 40 C.F.R. § 63.6(e)(3)(i)(A) because its 2011 SSM Plan did not contain sufficient good air pollution control practices to reduce excess emissions during those SSM Events.

Claim 2: The 2011 SSM Plan Was Not Updated Following Unanticipated Malfunctions

66. 40 C.F.R. Part 63, Subpart A applies to the Facility due to its emissions of HAPs listed in Section 112(b) of the CAA.

67. Respondent did not update its 2011 SSM Plan following the SSM Events described in the October 2014 SSM Report, April 2015 SSM Report, and October 2015 SSM Report.

68. Respondent violated 40 C.F.R. § 63.6(e)(3)(viii) because, following an SSM Event in which an SSM Plan fails to address or inadequately addresses an event that meets the characteristics of a malfunction but was not included in the SSM Plan at the time the owner or

operator developed the plan, Respondent did not revise the 2011 SSM Plan within 45 days after the event to include detailed procedures for operating and maintaining the source during similar malfunction events and a program of corrective action for similar malfunctions of process or air pollution control and monitoring equipment.

Claim 3: Respondent Made no Demonstration That The 2011 SSM Plan Was Followed During SSM Events

69. 40 C.F.R. Part 63, Subpart F applies to the Facility because it manufactures vinyl chloride monomer ("VCM") as a primary product and uses dichloroethane as a reactant, both of which are found in Table 1 and 2 to Subpart F of Part 63.

70. Respondent did not keep documentation showing that the procedures specified in the Facility's 2011 SSM Plan were followed during the October 2014, April 2015, or the October 2015 SSM Events, nor did it document actions taken during those SSM Events that were not consistent with the 2011 SSM Plan.

71. Respondent violated 40 C.F.R. § 63.103(c)(2)(ii) because it did not, for each SSM Event during which excess emissions occurred, keep records that the procedures specified in the 2011 SSM Plan were followed, and document actions taken that are not consistent with the plan.

Claim 4: HAP Vapors Emitting From Vapor Collection System of Transfer Rack

72. 40 C.F.R. Part 63, Subpart G applies to the Facility because it manufactures vinyl chloride monomer ("VCM") as a primary product and uses dichloroethane as a reactant, both of which are found in Table 1 and 2 to Subpart F of Part 63.

73. During truck loading, Respondent did not properly control all HAP vapors from its Group 1 transfer racks via a vapor collection system, and route all HAP vapors to a process, to a fuel gas system, or to control device.

74. Respondent violated 40 C.F.R. § 63.126(a)(1) because it did not equip each transfer rack with a vapor collection system and control device, and design and operate each vapor collection system to collect the organic HAP vapors displaced from tank trucks or railcars during loading, and to route the collected HAP vapors to a process, or to a fuel gas system, or to a control device.

Claim 5: Failure to Establish Updated Operating Range for Thermal Oxidizers

75. 40 C.F.R. Part 63, Subpart G applies to the Facility because it manufactures vinyl chloride monomer ("VCM") as a primary product and uses dichloroethane as a reactant, both of which are found in Table 1 and 2 to Subpart F of Part 63.

76. The operating range for the Facility's two thermal oxidizers (which function as control devices for the Facility's process vents) was established in the Facility's 1997 NOCS at 501 standard cubic feet per minute ("SCFM"). Data from February 2018 shows that the Facility's thermal oxidizers operated with an inlet duct flow rate of 1,096 SCFM, more than twice the tested flow rate established in the Facility's 1997 NOCS.

77. Respondent violated 40 C.F.R. § 63.114(e) because it did not establish an updated operating range for its thermal oxidizers, which had significantly changed since the 1997 NOCS, and submit the required information in 40 C.F.R. § 63.152(b) (which includes values of monitored parameters established during performance tests) in the NOCS, or the operating permit application or amendment.

Claim 6: Respondent Did Not Effectively Monitor to Ensure That Pressure Relief Devices be Returned to a Condition of Less Than 500 Parts Per Million Above Background

78. 40 C.F.R. Part 63, Subpart H applies to the Facility because it manufactures vinyl chloride monomer ("VCM") as a primary product and uses dichloroethane as a reactant, both of which are found in Table 1 and 2 to Subpart F of Part 63.

79. From February 2016 to February 2018, the Facility's PRDs experienced 107 ruptures that released gases and/or liquids to the Relief Valve Header System. After replacing or repairing the 107 PRDs that ruptured from February 2016 to February 2018, Respondent failed to monitor, within five (5) calendar days, the replaced or repaired devices to confirm an instrument reading of less than 500 parts per million above background.

80. Respondent violated 40 C.F.R. § 63.165(b)(2) because it did not monitor 107 PRD ruptures by no later than 5 calendar days after a pressure release and being returned to organic HAP service, to confirm the PRD's operating condition, indicated by an instrument reading of less than 500 parts per million above background.

Claim 7: Title V Periodic Reports do not Report Emissions Deviations

81. The Facility is a major source of air pollution (permitted for 115 tpy NOX, 125 tpy CO, and 73 tpy HAPs) per Section 112 of the Clean Air Act, and thus it is required to obtain a Title V permit per L.A.C. Title 33:III, § 507(1)(A).

82. As a Title V permit holder of a major source in Louisiana, Respondent is subject to the General Conditions of Title V Operating Permits (known in Louisiana as "Part 70 permits") laid out in L.A.C. Title 33:III, § 535.

83. The Facility's HON-required semiannual reports from 2014 to 2017 report SSM Events.

84. Respondent violated L.A.C. Title 33:III, § 535(R) because it did not report SSM Events as deviations from requirements of the Facility's Title V Operating Permit in its L.A.C. Title 33:III, § 535(R) semiannual reporting for May 29, 2015, November 19, 2015, May 26, 2016, November 29, 2016, May 29, 2017, and November 29, 2017.

F. CIVIL PENALTY AND CONDITIONS OF SETTLEMENT

General

85. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

i. admits that EPA has jurisdiction over the subject matter alleged in this CAFO;

ii. neither admits nor denies the specific factual allegations contained in this CAFO;

iii. consents to the assessment of a civil penalty as stated below;

iv. consents to the issuance of any specified compliance or corrective action order;

v. consents to the conditions specified in this CAFO;

vi. consents to any stated Permit Action;

vii. waives any right to contest the alleged violations set forth in Section E of this CAFO; and

viii. waives its rights to appeal the Final Order included in this CAFO.

86. For the purpose of this proceeding, Respondent:

i. agrees that this CAFO states a claim upon which relief may be granted against Respondent;

ii. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;

iii. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law 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);

iv. consents to personal jurisdiction in any action to enforce this CAFO in the United States District Court for the Eastern District of Louisiana.

v. waives any right it may possess at law or in equity to challenge the authority of EPA 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; and

vi. agrees that in any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other 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 on any contention that the claims raised by

the Complainant or the United States were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to this CAFO.

Penalty Assessment and Collection

87. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business, the Respondent's full compliance history and good faith efforts to comply, the duration of the violation, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and other factors as justice may require, EPA has assessed a civil penalty in the amount of $825,000 ("EPA Penalty"). The EPA Penalty has been determined in accordance with Section 113 of the Act, 42 U.S.C. § 7413 and at no time exceeded EPA's statutory authority.

88. Respondent agrees to:

a. pay the EPA Penalty within 30 calendar days of the Effective Date of this CAFO, and

b. pay the EPA Penalty by cashier's check, certified check, or wire transfer made payable to "Treasurer, United States of America, EPA – Region 6." Payment shall be remitted in one of five (5) ways: (1) regular U.S. Postal Service mail including certified mail; (2) overnight mail; (3) wire transfer; (4) Automated Clearinghouse for receiving U.S. currency; or (5) Online Payment.

For regular U.S. Postal Service mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, payment should be remitted to:

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

For overnight mail (non-U.S. Postal Service, e.g. FedEx), payment should be remitted to:

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, MO 63045

Contact: Natalie Pearson
(314) 418-4087

For wire transfer, payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 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"

For Automated Clearinghouse (also known as "remittance express" or "REX"):

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: Jesse White
(301) 887-6548

For Online Payment:

https://www.pay.gov/paygov/
Enter sfo 1.1 in search field
Open form and complete required fields.

PLEASE NOTE: The docket number CAA-06-2023-3380 should be clearly typed on the check to ensure proper credit. The payment shall also be accompanied by a transmittal letter that shall reference Respondent's name and address, the case name, and docket number CAA-06-2023-3380. Respondent's adherence to this request will ensure proper credit is given when penalties are received for the Region. Respondent shall also send a simultaneous notice of such payment, including a copy of the money order, or check, and the transmittal letter to the following addresses:

Justin Chen
U.S. EPA Region 6
chen.justin@epa.gov

And

Lorena Vaughn
Region 6 Hearing Clerk
U.S. EPA Region 6
vaughn.lorena@epa.gov

89. Respondent agrees to pay the following on any overdue EPA Penalty:

i. Interest. Pursuant to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5), any unpaid portion of a civil penalty must bear interest at the rates established pursuant to 26 U.S.C. § 6621(a)(2).

ii. Nonpayment Penalty. On any portion of a civil penalty more than ninety (90) calendar days delinquent, Respondent must pay a nonpayment penalty,

pursuant to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5), which shall accrue from the date the penalty payment became delinquent, and which shall be in addition to the interest which accrues under subparagraph a. of this paragraph.

90. Respondent shall pay a charge to cover the cost of processing and handling any delinquent penalty claim, pursuant to 42 U.S.C. § 7413(d)(5), including but not limited to attorneys' fees incurred by the United States for collection proceedings.

91. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may:

i. refer the debt to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court (in which the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review) to secure payment of the debt, which may include the original penalty, enforcement and collection expenses, nonpayment penalty and interest, 42 U.S.C. § 7413(d)(5) and 40 C.F.R. §§ 13.13, 13.14, and 13.33;

ii. collect the above-referenced debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and

iii. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

Conditions of Settlement

92. As a Condition of Settlement, Respondent agrees to the following:

a. Respondent attests that the Facility is in compliance with all applicable regulatory standards, and the terms and conditions of its CAA Title V permit. Specifically, the Facility's Startup, Shutdown, and Maintenance Plan must include specific procedures for anticipated and past startup, shutdown, and maintenance scenarios at the Facility.

b. By 60 days from the Effective Date of this CAFO, Respondent will submit a performance testing plan to EPA of the Facility's thermal oxidizers (EQT 0039 VS-901 – I901 A/B, Permit No. 0520-00012) in accordance with the parameters of 40 C.F.R. § 63.116(c) and 40 C.F.R. § 63.116(d).

i. Upon EPA's approval of the Facility's thermal oxidizer performance testing plan, Respondent shall conduct the performance test within 120 days of the plan approval and submit the following information to EPA upon completion:

1) Respondent shall submit a performance test report, including:

a) Descriptions of how Respondent complied with each requirement of 40 C.F.R. § 63.116(c) and 40 C.F.R. § 63.116(d), and the results of the test;

b) The minimum firebox temperatures required to achieve compliance with 40 C.F.R. § 63.113(a)(2) regarding the reduction of HAPs;

c) The operational parameters required to achieve compliance with 40 C.F.R. § 63.113(c) regarding the reduction of hydrogen halides and halogens; and

d) The inlet duct flow rate(s) used during the performance test.

ii. The Respondent shall submit to LDEQ and provide a copy to EPA an updated NOCS including the performance test report referred to in Paragraph 92(b)(i)(1) of this CAFO, containing the updated operating parameters to achieve compliance with 40 C.F.R. § 63.113(a)(2) and 40 C.F.R § 63.113(c).

c. By 20 days from the Effective Date of this CAFO, Respondent shall submit a list of all PRDs in organic HAP service that route to the Relief Valve/Rupture Disk Header System or release directly to the atmosphere, both gas/vapor and liquid, as defined in 40 C.F.R. § 63.161, and for each PRD listed, provide a description of any existing device, monitoring system, or instrumentation capable of identifying the pressure release of the individual PRD, recording the time and duration of each pressure release, and notifying operators immediately that a pressure release is occurring. If there are additions or reductions in the number of PRDs in

organic HAP service after the initial response, please provide an updated list identifying any changes.

d. By 30 days from the Effective Date of this CAFO, Respondent shall conduct audio/visual/olfactory (AVO) inspections of each PRD listed in response to Paragraph 92(c) above every 5 days, including — for PRDs with a rupture disk — evaluating whether the rupture disk has ruptured allowing flow, and for spring activated or other PRDs, whether the PRD is allowing flow; and provide reporting data for these inspections that includes each parameter in Subparagraphs (i) through (viii) below to EPA on a monthly basis within fourteen (14) days of the end of each month, with the last response required to be submitted ten (10) months following the initial submittal:

   i. Record of five (5) day inspection conducted per PRD in organic HAP service;

   ii. The number of pressure releases;

   iii. The date, time, and duration of each pressure release and the corresponding PRD for each release;

   iv. An estimation, including the basis used for the estimation, of HAPs emitted during each pressure release, including the specific HAP or HAPs released and amount (in pounds);

   v. A detailed explanation for the cause of each pressure release, including whether, and how, any equipment caused or affected the release;

vi. Whether the PRD required a repair after the pressure release, and, if so, a description of the repair (e.g., replacement of a ruptured disc) and the date when the repair was completed;

vii. The date and time the PRD was returned to a condition indicated by an instrument reading of less than 500 parts per million above background using Method 21 of 40 C.F.R. Part 60, Appendix A; and

viii. After the return of the PRD to organic HAP service following a pressure release, the date the PRD was monitored using Method 21 of 40 C.F.R. Part 60, Appendix A to confirm the condition indicated by an instrument reading of less than 500 parts per million above background.

93. At such time as the Respondent believes that it has complied with all terms and conditions of this CAFO, Respondent agrees to certify to EPA completion of the Conditions of Settlement in Paragraph 92 above and provide any necessary documentation. Respondent represents that the signing representative will be fully authorized by Respondent to certify that the terms and conditions of this CAFO have been met. The certification should include the following statement:

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

94. Any information or correspondence submitted by Respondent to EPA under this CAFO shall be submitted by email to:

James Leathers, Supervisor
Air Toxics Enforcement Section (ECDAT)
U.S. EPA Region 6
Leathers.James@epa.gov

Additional Conditions of Settlement

95. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, $50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at https://www.irs.gov/pub/irs-pdf/fw9.pdf;

b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;

c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at Chalifoux.Jessica@epa.gov, within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and

d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding subparagraph, shall further:

i. notify EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the Effective Date of this Order per Section H of this CAFO; and

ii. provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

96. Respondent agrees that the time period from the Effective Date of this CAFO until all the conditions specified in Paragraphs 92-93 are completed (the "Tolling Period") shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by Complainant on any claims set forth in Section E of this CAFO (the "Tolled Claims"). Respondent shall not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolled Claims.

97. The provisions of this CAFO shall apply to and be binding upon Respondent and

its officers, directors, employees, agents, trustees, servants, authorized representatives, successors and assigns. From the Effective Date of this Agreement until the end of the Tolling Period, as set out in Paragraph 96, Respondent must give written notice and a copy of this CAFO to any successors in interest prior to 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 EPA. In the event of any such transfer, assignment or delegation, Respondent shall continue to be bound by the obligations or liabilities of this CAFO until EPA has provided written approval.

98. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information. *See* 40 C.F.R. Part 2, Subpart B (Confidentiality of Business Information).

99. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has legal capacity to bind the party he or she represents to this CAFO.

100. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

101. EPA and Respondent agree to the use of electronic signatures for this matter. EPA and Respondent further agree to electronic service of this CAFO by email to the following

addresses:

To EPA: rosnell.christian@epa.gov

To Respondent: lauren.rucinski@keanmiller.com

102. Respondent specifically waives its right to seek reimbursement of its costs and attorneys' fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17. Except as qualified by Paragraph 90, each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

G. MODIFICATIONS

103. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of all parties and approval of the Regional Judicial Officer, except that the Regional Judicial Officer need not approve written agreements between the parties for nonmaterial changes. The enforcement branch manager shall sign the written agreements that do not require Regional Judicial Officer approval. Written agreements will be filed with the Regional Hearing Clerk. Revisions to the names of individuals in the notification provisions set forth in Paragraphs 94 or 101, will be modified by e-mailing the other party.

H. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

104. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged above and the Conditions of Settlement set forth in Paragraphs 92-93.

105. If Respondent fails to timely and satisfactorily complete every condition stated in Paragraphs 92-93, then Complainant may compel Respondent to perform the conditions in

Paragraphs 92-93, seek civil penalties that accrue from the Effective Date of this CAFO until compliance is achieved, and seek other relief in a civil judicial action pursuant to the Clean Air Act, pursuant to contract law, or both. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

106. 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 Paragraphs 92-93 is restitution, remediation, or required to come into compliance with the law.

107. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

108. Any violation of the included Final Order may result in a civil judicial action for an injunction or civil penalties of up to $121,275 per day of violation, or both, as provided in Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

109. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit.

110. Nothing herein shall be construed to limit the power of EPA to undertake any

action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

I. EFFECTIVE DATE

111. Respondent and Complainant agree to the issuance of the included Final Order. Upon filing, EPA will transmit a copy of the filed CAFO to the Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Hearing Clerk.

Re: Westlake Chemicals & Vinyls, LLC
Docket No. CAA-06-2024-3380

The foregoing Consent Agreement In the Matter of Westlake Chemicals & Vinyls, LLC, Docket No. CAA-06-2024-3380, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Date: 9/24/2024

Westlake Chemicals & Vinyls, LLC
By: Todd Honeycutt, Sr. Plant Manager, Chemicals
Westlake Chemicals & Vinyls, LLC
1600 VCM Plant Road, Westlake, Louisiana 70669

FOR COMPLAINANT:

Digitally signed by CHERYL SEAGER
Date: 2024.09.25 12:46:03 -05'00'

Date: September 25, 2024

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

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF: Westlake Chemicals & Vinyls, LLC Westlake, Louisiana RESPONDENT	((((((((((((	DOCKET NO. CAA-06-2024-3380

FINAL ORDER

Pursuant to Section 113(d) of the Clean Air Act ("CAA" or the "Act"), 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

Westlake Chemicals & Vinyls, LLC is ORDERED to comply with all terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated _____

THOMAS RUCKI
Digitally signed by THOMAS RUCKI
Date: 2024.09.25 15:11:21 -04'00'

Thomas Rucki
Regional Judicial Officer
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was filed with the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that I sent a true and correct copy on this day in the following manner to the email addresses:

Copy via Email to Complainant:

rosnell.christian@epa.gov

Copy via mail and Email to Respondent:

lauren.rucinski@keanmiller.com
Tom Honeycutt
1600 VCM Plant Road, Westlake,
Louisiana 70669

Vaughn, Lorena

Digitally signed by Vaughn, Lorena
Date: 2024.09.25 14:43:55 -05'00'

Office of Regional Counsel
EPA Region 6