

FILED

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 Elm Street, Suite 500
Dallas, Texas 75270

JUN 27 PM 3:56
REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of	§	
	§	
TotalEnergies Petrochemicals & Refining, USA, Inc.	§	Docket No. CAA-06-2023-3336
	§	
Respondent.	§	

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 6 (“EPA” or “Complainant”), and TotalEnergies Petrochemicals & Refining, USA, Inc. (“Respondent”) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that this matter, which involves a penalty greater than \$446,456 and period of violation occurring more than 12 months prior to the initiation of the action, was appropriate for administrative penalty action.
2. This Consent Agreement and Final Order serves as notice that the EPA has reason

to believe that Respondent has violated the Chemical Accident Prevention Provisions in 40 C.F.R. Part 68, promulgated pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and that Respondent is therefore in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). Furthermore, this Consent Agreement and Final Order serves as notice pursuant to Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), and 40 C.F.R. § 22.34, of the EPA's intent to issue an order assessing penalties for these violations.

Parties

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

4. Respondent is TotalEnergies Petrochemicals & Refining, USA, Inc., a corporation incorporated in the state of Delaware and conducting business in the state of Texas.

Statutory and Regulatory Background

5. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The Amendments added Section 112(r) to Title I of the CAA, 42 U.S.C. § 7412(r). The objective of Section 112(r) is to prevent the accidental release and to minimize the consequences of any such release of any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance.

6. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), requires the Administrator to promulgate a list of regulated substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), that requires that the Administrator to establish a threshold quantity for any

substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). The list of regulated substances and respective threshold quantities is codified at 40 C.F.R. § 68.130.

7. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for stationary sources with threshold quantities of regulated substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). On June 20, 1996, EPA promulgated a final rule known as the Risk Management Program, 40 C.F.R. Part 68 – Chemical Accident Prevention Provisions, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

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

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

10. The regulations at 40 C.F.R. § 68.10 set forth how the Chemical Accident Prevention Provisions of 40 C.F.R. Part 68 apply to each program level of covered processes. Pursuant to 40 C.F.R. § 68.10(i), a covered process is subject to Program 3 requirements if the process does not meet the requirements of Program 1, as described in 40 C.F.R. § 68.10(g), and

if it is in a specified North American Industrial Classification System code or is subject to the OSHA process safety management standard, 29 C.F.R. 1910.119.

11. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to \$25,000 per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and its implementing regulations. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred before November 2, 2015, and to \$55,808 for violations that occur after November 2, 2015, and are assessed after January 6, 2023.

Definitions

12. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” to include any individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency department, or instrumentality of the United States and any officer, agent, or employee thereof.

13. Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A), and the regulation at 40 C.F.R. § 68.3 defines “accidental release” as an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

14. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3 defines “stationary source,” in part, as any buildings, structures, equipment, installations or substance-emitting stationary activities which belong to the same industrial

group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

15. Section 112(r)(2)(B) of the CAA, 42 U.S.C. § 7412(r)(2)(B), and the regulation at 40 C.F.R. § 68.3 defines “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA, as amended, in 40 C.F.R. § 68.130.

16. The regulation at 40 C.F.R. § 68.3 defines “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, as amended, listed in 40 C.F.R. § 68.130 and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

17. The regulation at 40 C.F.R. § 68.3 defines “process” as any activity involving a regulated substance including any use, storage, manufacturing, handling or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

18. The regulation at 40 C.F.R. § 68.3 defines “covered process” as a process that has a regulated substance present in more than a threshold quantity as determined under 40 C.F.R. § 68.115.

EPA Findings of Fact and Conclusions of Law

19. Respondent is, and at all times referred to herein was, a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

20. Respondent is the owner and operator of a facility located at: 11455 Interstate Highway 10, Beaumont, Texas 77713 (the “Facility”).

21. Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, the EPA conducted an inspection of the Facility on June 7-9, 2022, to determine Respondent's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68 (the "Inspection").

22. On November 9, 2022, the EPA sent Respondent a Notice of Potential Violation and Opportunity to Confer letter.

23. The Facility is a "stationary source" pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3.

24. Respondent's activities at the Facility include the manufacturing, use, and storage of petrochemicals. Respondent's activities at the Facility meeting the definition of "process", as defined by 40 C.F.R. § 68.3.

25. Boron trifluoride [borane, trifluoro-], 1,3-pentadiene, and pentane are each a "regulated substance" pursuant to Section 112(r)(2)(B) of the CAA, 42 U.S.C. § 7412(r)(2)(B), and the regulation at 40 C.F.R. § 68.3. The threshold quantity for boron trifluoride [borane, trifluoro-], as listed in 40 C.F.R. § 68.130 is 5,000 pounds. The threshold quantity for 1,3-pentadiene and pentane, as listed in 40 C.F.R. § 68.130 is 10,000 pounds.

26. Respondent has greater than a threshold quantity of boron trifluoride [borane, trifluoro-], 1,3-pentadiene, and pentane in a process at the Facility, meeting the definition of "covered process" as defined by 40 C.F.R. § 68.3.

27. From the time Respondent first had on-site greater than a threshold quantity of boron trifluoride [borane, triflor0-], 1,3-pentadiene, or pentane in a process, Respondent was subject to the requirements of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68 because it was the owner or operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

28. From the time Respondent first had on site boron trifluoride [borane, trifluoro-], 1,3-pentadiene, or pentane in a process, Respondent was required to submit an RMP pursuant to 40 C.F.R. § 68.12(a) and comply with the Program 3 prevention requirements set forth in 40 C.F.R. § 68.12(d) because, pursuant to 40 C.F.R. § 68.10(i), the covered processes at the Facility did not meet the eligibility requirements of Program 1; are in North American Industry Classification System code 325211 - Plastics Material and Resin Manufacturing; and are subject to the OSHA process safety management standard, 29 C.F.R. § 1910.119.

EPA Findings of Violation

29. The facts stated in the EPA Findings of Fact and Conclusions of Law above are herein incorporated.

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

Count 1 - Management

31. The regulation at 40 C.F.R. § 68.12(d)(1) requires the owner or operator of a stationary source with a process subject to Program 3 to develop and implement a management system as provided in § 68.15. Pursuant to 40 C.F.R. § 68.15(c), when responsibility for implementing individual requirements of the risk management program is assigned to persons other than the person identified under 40 C.F.R. § 68.15(b), the names or positions of these people shall be documented, and the lines of authority defined through an organization chart or similar document.

32. The organization chart provided to EPA by Respondent did not address risk management program responsibilities or assignment to names or positions.

33. Respondent's failure to document the names or positions of the assigned people and define the lines of authority with responsibility for implementing the individual requirements of the risk management program pursuant to 40 C.F.R. § 68.15(c), as required for Program 3 processes by 40 C.F.R. § 68.12(d)(1), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 2 - Process Safety Information - Technology

34. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.65(c)(1), the owner or operator shall create a compilation of written process safety information before conducting any process hazard analysis that includes information pertaining to the technology of the process, including at least, among other things, safe upper and lower limits for such items as temperatures, pressures, flows, or compositions pursuant to 40 C.F.R. § 68.65(c)(1)(iv), and an evaluation of the consequences of deviations pursuant to 40 C.F.R. § 68.65(c)(1)(v).

35. During the Inspection, Respondent failed to provide a compilation of written process safety information that included safe upper and lower limits and consequences of deviations.

36. Respondent's failure to complete a compilation of written process information that includes the safe upper and lower limits for such items as temperatures, pressures, flows or compositions, and an evaluation of the consequences of deviations, before conducting any process hazard analysis pursuant to 40 C.F.R. § 68.65(c)(1)(iv) and (v), as required for Program 3 processes by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 3 - Process Safety Information - Equipment

37. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.65(d)(2), the owner or operator shall document that equipment complies with recognized and generally accepted good engineering practices (RAGAGEP).

38. During the Inspection, inspectors observed that Respondent failed to label piping equipment at the Facility as required by American National Standards Institute (ANSI)/American Society of Mechanical Engineers (ASME) A13, which is the applicable RAGAGEP for the Facility.

39. Respondent's failure to label piping as required by RAGAGEP pursuant to 40 C.F.R. § 68.65(d)(2), as required for Program 3 processes by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 4 - Operating Procedures

40. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.69(a)(2)(i) and (ii), the owner or operator shall develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information and shall address, among other things, consequences of deviation for operating limits, and steps required to correct or avoid deviation from operating limits.

41. Operating procedures reviewed during the Inspection did not include consequences of deviation and steps required to avoid deviation from operating limits.

42. Respondent's failure to include the consequences of deviation and steps to correct or avoid deviation in its operating procedures for operating limits pursuant to 40 C.F.R. § 68.69(a)(2)(i) and (ii), as required for Program 3 processes by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 5 - Training

43. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.71(b), the owner or operator shall provide refresher training at least every three years, and more often, if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process. Pursuant to 40 C.F.R. § 68.71(c) the owner or operator shall ascertain that each employee involved in operating a process has received and understood the required training and prepare a record containing the identity of the employee, the date of training, and the means used to verify that the employee understood the training.

44. Respondent's training records demonstrated that Respondent failed to provide refresher training to employees at least every three years and failed to prepare records that included the date of the training and means used to verify that the employee understood the training.

45. Respondent's failures to provide refresher training at least every three years to each employee involved in operating a process and to prepare a record documenting the training date and means used to verify that the employee understood the training pursuant to 40 C.F.R. § 68.71(b) and (c), as required for Program 3 processes by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 6 - Mechanical Integrity Inspection and Testing

46. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.73(d)(3), the owner or operator shall conduct inspections and tests of process equipment at a frequency consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined necessary by prior operating experience.

47. Respondent follows the minimum inspection intervals outlined in the American Petroleum Institute's Pressure Vessel Inspection Code: In-Service Inspection, Rating, Repair, and Alteration (API 510). API 510 requires visual external inspections every five (5) years and visual internal inspections every ten (10) years.

48. Equipment inspection records demonstrated that Respondent conducted an external inspection of a vessel over 5 years from the previous inspection, and conducted an internal inspection of a vessel over 10 years from the previous inspection.

49. Respondent's failure to perform external and internal inspections consistent with the frequencies established by good engineering practices pursuant to 40 C.F.R. § 68.73(d)(3), as required for Program 3 processes by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 7 – Mechanical Integrity Documentation

50. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.73(d)(4), the owner or operator shall document each inspection and test that has been performed on process equipment. The

documentation shall identify the date of the inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test.

51. According to an inspection referral form, Respondent indicated that documentation for the external inspection of a vessel conducted on June 1, 2019, could not be located.

52. Respondent's failure to document an inspection on a vessel pursuant to 40 C.F.R. § 68.73(d)(4), as required for Program 3 processes by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 8 – Compliance Audit

53. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.79(d), the owner or operator shall promptly determine and document an appropriate response to each finding of the compliance audit, and document that deficiencies have been corrected.

54. Respondent's two most recent compliance audits were conducted on September 19, 2016, and August 19-23, 2019. Respondent failed to resolve findings from the 2019 compliance audit. In addition, there were seven repeat findings from the 2016 audit.

55. Respondent's failure to promptly determine and document responses to the September 2016 and August 2019 compliance audit findings, and document that all deficiencies had been corrected pursuant to 40 C.F.R. § 68.79(d), as required for Program 3 processes by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 9 – Emergency Response Program

56. The regulation at 40 C.F.R. § 68.12(d)(5) requires the owner or operator of a stationary source with a process subject to Program 3 to develop and implement an emergency response program and conduct exercises as provided in §§68.90 to 68.96. Pursuant to 40 C.F.R. § 68.95(a)(2) and (4), the owner or operator shall develop and implement an emergency response program for the purpose of protecting public health and the environment that includes, among other things, procedures for the use of emergency response equipment and for its inspection, testing and maintenance, and procedures to review and update, as appropriate, the emergency response plan to reflect changes at the stationary source and ensure that employees are informed of the changes.

57. Respondent's emergency response program did not include procedures for the use of emergency response equipment and for its inspection, testing and maintenance. In addition, Respondent's emergency response program did not include procedures to review and update, as appropriate, the emergency response plan to reflect changes at the facility and ensure that employees are informed of the changes.

58. Respondent's failure to include procedures for the use of emergency response equipment and for its inspection, testing and maintenance, and procedures to review and update, as appropriate, the emergency response plan to reflect changes at the stationary source and ensure that employees are informed of the changes pursuant to 40 C.F.R. § 68.95(a)(2) and (4), as required for Program 3 processes by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

CONSENT AGREEMENT

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

Respondent:

- a. admits the jurisdictional allegations set forth herein;
- b. neither admits nor denies the specific factual allegations stated herein;
- c. consents to the assessment of a civil penalty, as stated herein;
- d. consents to the issuance of any specified compliance or corrective action order;
- e. consents to any conditions specified herein;
- f. consents to any stated Permit Action;
- g. waives any right to contest the allegations set forth herein; and
- h. waives its rights to appeal the Final Order accompanying this Consent Agreement.

60. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein.

61. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

Penalty Payment

62. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of five hundred thirteen thousand six hundred fifty dollars (\$513,650.00), as set forth below.

63. Respondent shall pay the penalty within forty-five (45) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

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

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

64. A copy of the check or other information confirming payment shall simultaneously be sent electronically by email to the following:

Lorena S. Vaughn
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ORC)
Dallas, Texas 75270-2102
vaughn.lorena@epa.gov; and

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

65. Respondent understands that its failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection

including processing and handling costs, and a non-payment penalty charge of six percent (6%) per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

Effect of Settlement and Reservation of Rights

66. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of the CAA or any other applicable law.

67. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in paragraph directly below.

68. Respondent certifies by the signing of this Consent Agreement that it is presently in compliance with all requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), except as reflected in the Administrative Order for Compliance on Consent, Docket No. CAA-06-2023-3307. Fulfillment of the terms of the Administrative Order for Compliance on Consent is intended to bring Respondent into full compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

69. Full payment of the penalty proposed in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the CAA and regulations promulgated thereunder.

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

General Provisions

71. By signing this Consent Agreement, the undersigned representative of Respondent certifies that it is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party it represents to this Consent Agreement.

72. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon filing of the Final Order by the Regional Hearing Clerk for EPA, Region 6. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

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

74. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

75. The EPA and Respondent agree to the use of electronic signatures for this matter pursuant to 40 C.F.R. § 22.6. The EPA and Respondent further agree to electronic service of this Consent Agreement and Final Order by email to the following:

To EPA: *mills.clarissa@epa.gov*

To Respondent: *stella.pulman@totalenergies.com*

RESPONDENT:
TOTALENERGIES PETROCHEMICALS & REFINING, USA, INC.

Date: 06/27/2023

Chuck MATEER Digitally signed by Chuck
MATEER
Date: 2023.06.27 03:33:31 -04'00'

Signature

Charles C Mateer

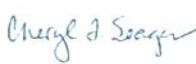
Print Name

Manufacturing Manager

Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: _____


Digitally signed by
CHERYL SEAGER
Date: 2023.06.27 12:42:02
-05'00'

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

FINAL ORDER

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

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

This Final Order shall resolve only those causes of action alleged in the Consent Agreement. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action.

IT IS SO ORDERED.

**THOMAS
RUCKI**

Digitally signed by THOMAS
RUCKI
DN: c=US, o=U.S. Government,
ou=Environmental Protection
Agency, cn=THOMAS RUCKI,
0.9.2342.19200300.100.1.1=6800
1003655804
Date: 2023.06.27 14:26:36 -04'00'

Thomas Rucki
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE

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

Copy via Email to Complainant:

mills.clarissa@epa.gov

Copy via Email to Respondent:

stella.pulman@totalenergies.com

Copy via Email to the Regional Hearing Clerk:

vaughn.lorena@epa.gov

**CLARISSA
MILLS**

Digitally signed by
CLARISSA MILLS
Date: 2023.06.27
16:07:02 -05'00'

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