UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FEB 12 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

Richard L. Dickenson
Director, Environmental Services
Tate & Lyle Ingredients Americas LLC
2200 East Eldorado Street
Decatur, Illinois 62525

Re: In the Matter of: Tate & Lyle Ingredients Americas LLC, Decatur, Illinois
Docket No. **CAA-05-2015-0019**

Dear Mr. Dickenson:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Tate & Lyle Ingredients Americas LLC (Tate & Lyle). As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on FEB 12 2015.

Pursuant to paragraph 60 of the CAFO, Tate & Lyle must pay the civil penalty within 30 days of FEB 12 2015. Your check must display the case name, case docket number **CAA-05-2015-0019**

Please direct any questions regarding this case to Michael Berman, Associate Regional Counsel, 312-886-6837.

Sincerely,

Nathan A. Frank, P.E.
Air Enforcement and Compliance Assurance Branch, (IL/IN)

Enclosure

cc: Regional Hearing Clerk/E-19J
Regional Judicial Officer/C-14J
Michael Berman/C-14J
Eric Jones/Illinois Environmental Protection Agency

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RECEIVED
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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 5

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:	)	**Docket No. CAA-05-2015-0019**
	)	
Tate & Lyle Ingredients Americas LLC	)	**Proceeding to Assess a Civil Penalty**
Decatur, Illinois	)	**Under Section 113(d) of the Clean Air Act**
	)	**42 U.S.C. § 7413(d)**
Respondent.	)	
	)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) 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 Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Tate & Lyle Ingredients Americas LLC, a corporation doing business in Illinois. Respondent owns and/or operates a facility located at 2200 East Eldorado Street, Decatur, Illinois 62521 (the Facility).

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations or legal conclusions in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Applicable Statutory and Regulatory Background

Title V Requirements

9. Title V of the Act, 42 U.S.C. §§ 7661-7661f, established an operating permit program for major sources of air pollution. Section 502(d) of the Act, 42 U.S.C. § 7661a(d), provides that each state must submit to the EPA a permit program meeting the requirements of Title V.

10. In accordance with Section 502(b) of the Act, 42 U.S.C. § 7661a(b), the EPA promulgated regulations implementing Title V of the Act. See 57 Fed. Reg. 32295 (July 21, 1992). Those regulations are codified at 40 C.F.R. Part 70.

11. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the Act, no source subject to Title V may operate except in compliance with a Title V permit.

12. 40 C.F.R. § 70.6(b)(1) provides that Title V permits are federally enforceable and that all terms and conditions in a Title V permit are enforceable by the EPA.

13. 40 C.F.R § 70.2 defines "major source" as, among other things, any stationary source that directly emits, or has the potential to emit, 100 tons per year or more of any air pollutant subject to regulation.

14. 40 C.F.R. § 70.1(b) provides that "All sources subject to these regulations shall have a permit to operate that assures compliance by the source with all applicable requirements."

15. 40 C.F.R. § 70.2 defines "applicable requirement" to include "(1) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including revisions to that plan promulgated in Part 52 of this chapter..."

16. 40 C.F.R. § 70.5(b) provides that: "Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to the release of a draft permit."

17. EPA gave interim approval of Illinois' Title V program on March 7, 1995. 60 Fed. Reg. 12478. EPA fully approved the Illinois Title V program on December 4, 2001. 66 Fed. Reg. 62946. The approved Illinois Title V program is known as the Illinois Clean Air Act Permit Program (CAAPP).

Illinois Environmental Protection Agency (EPA) Construction Permits

18. 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, 42 U.S.C. § 7413.

19. EPA promulgated approval of 35 Illinois Administrative Code (IAC) Part 201, "Permits and General Conditions," as part of the federally enforceable SIP for the State of Illinois on May 31, 1972. See 37 Fed. Reg. 10862. Since then, EPA has approved several revisions of 35 IAC Part 201 into the federally enforceable SIP.

20. For violations occurring from January 12, 2009 through December 6, 2013, the Administrator may assess a penalty greater than $295,000 where the Administrator and the Attorney General of the United States jointly determine that a matter involving a larger penalty is appropriate for an administrative penalty action. 42 U.S.C. § 7413(d)(1) and 40 C.F.R. Part 19.

21. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that this matter involving a larger penalty is appropriate for an administrative penalty action.

22. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

23. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

24. Respondent is a corporation that does business in Illinois.

25. Respondent is a "person" as that term is defined in Section 302(e) of the Act, 42 U.S.C. §7602(e).

26. At all times relevant to this CAFO, Respondent owned and operated emissions units at the Facility.

27. The Facility is a major source of particulate matter (PM) and particulate matter < 10 μm (PM10) as defined by 40 C.F.R. § 70.2 and 40 C.F.R. § 52.21(b)(1)(i)(b).

28. A Soda Ash Neutralization System, was constructed at the Facility in August 1988 and began operation in November 1988. It is identified as Emission Unit 111-14.

Tate & Lyle's Title V Permit

29. Illinois EPA issued a CAAPP Permit, Application No.: 96020099 (Title V Permit), to the Facility (listed as A. E. Staley Manufacturing Company) on August 12, 2003.

30. Pursuant to Condition 9.14 of the Title V Permit, the terms and conditions of the Title V Permit remain in effect until the issuance of a renewal permit.

31. Condition 5.1.1. of the Title V Permit states that the permit is issued based on the source requiring a CAAPP Permit as a major source of volatile organic material (VOM), nitrogen oxides, sulfur dioxide (SO_2), PM10, carbon monoxide, and hazardous air pollutants emissions.

Title V Permit Renewal Application

32. The Respondent submitted a Title V Permit Renewal Application to Illinois EPA, dated October 2007.

33. The Title V Permit Renewal Application states that the actual PM emission rate from Emission Unit 111-14 is 0.26 lbs/hr and 1.14 tons/yr and that the allowable emission rate is 4.77 lbs/hr.

34. Illinois EPA has not issued a renewed Title V Permit in response to Tate & Lyle's renewal application.

Tate & Lyle's Construction Permits

2004 Construction Permit

35. In 2004, the Respondent applied for a construction permit to install a new venturi and packed column scrubber system (Venturi Scrubber System).

36. The Illinois EPA issued a Construction Permit for a Venturi Scrubber System, Application No.: 04050013 (2004 Construction Permit), to the Facility (listed as A. E. Staley Manufacturing Company) on September 22, 2004.

37. The Venturi Scrubber System, emission unit 111-14, was installed in or around 2004 and replaced the existing packed tower scrubber and catenary grid scrubber (Emission Units 111-14A and 111-14B).

38. The 2004 Construction Permit replaced Emission Units 111-14A and 111-14B from the Title V Permit with Emission Unit 111-14.

39. 2004 Construction Permit Condition 6.a states the PM/PM10 emissions from Emission Unit 111-14 shall not exceed 1.0 lbs/hr or 4.4 tons/yr. The limits were derived based

on the understanding of the Respondent and the Illinois EPA that the Venturi Scrubber System itself would not be a source of PM or hydrochloric acid (HCl) emissions.

40. Condition 6.a of the 2004 Construction Permit states the VOM emissions from Emission Unit 111-14 shall not exceed 3.0 lbs/hr or 14 tons/yr.

41. The 2004 Construction Permit states the HCl emissions from Emission Unit 111-14 shall not exceed 0.45 lbs/hr or 2.0 tons/yr. The limits were derived based on the understanding of the Respondent and the Illinois EPA that the Venturi Scrubber System itself would not be a source of PM or HCl emissions.

42. The 2004 Construction Permit includes language on page seven, which states that the Permitee is allowed to operate the affected units under the construction permit until the Title V Permit is next reissued.

2012 Construction Permit

43. In 2011, the Respondent applied for a construction permit to install additional emission units and air pollution control equipment as part of the "VICO Reliability Project." The new air pollution control equipment included a wet electrostatic precipitator (WESP) following the existing Venturi Scrubber System at Emission Unit 111-14.

44. The Illinois EPA issued a Construction Permit for the VICO Reliability Project, Application No. 11100012 (2012 Construction Permit), to the Facility on March 29, 2012.

45. The WESP was installed at the Facility in late 2012.

46. Condition 6.a of the 2012 Construction Permit states that the VOM emissions from the Soda Ash Neutralization System (Emission Unit 111-14) shall not exceed 2.4 lbs/hr and 17.2 tons/yr.

47. Condition 14 of the 2012 Construction Permit states that the Permittee is allowed to operate the affected processes under the permit until the Title V Permit for the source is reissued.

48. In January 2011, the Respondent conducted a test at the outlet of the scrubber associated with Emission Unit 111-14 using Method 5, Method 202 and Conditional Method 027 to determine the source of an unknown haze affecting the ambient air near the administrative building (Diagnostic Test).

49. The Diagnostic Test indicated the elevated PM and HCl emissions were generated at the scrubber itself and not the system it was designed to control, Emission Unit 111-14.

50. The Diagnostic Test identified an average emission rate for PM of 14.01 lbs/hr.

51. The Diagnostic Test identified an average emission rate for HCl of 0.81 lbs/hr.

52. The Respondent violated 2004 Construction Permit Condition 6.a for the PM/PM10 emission rates of 1.0 lbs/hr for a period that may have extended from 2004 to September 2012.

53. The Respondent violated 2004 Construction Permit Condition 6.a for HCl emission rates of 0.45 lbs/hr for a period that may have extended from 2004 to September 2012.

54. The Respondent violated 40 C.F.R. § 70.5(b) by not promptly providing corrected information to Illinois EPA following the 2011 Performance Test at Emission Unit 111-14.

55. In August 2013, the Respondent conducted a performance test at Emission Unit 111-14 for VOM using Method 18 (2013 Performance Test).

56. The 2013 Performance Test identified an average emission rate for VOM of 3.54 lbs/hr.

57. At an emission rate of 3.54 lbs/hr, the Respondent violated Condition 6.a of the 2004 Construction Permit VOM emission rates of 3.0 lbs/hr for a period that may have extended from 2004 through 2012.

58. At an emission rate of 3.54 lbs/hr, the Respondent violated Condition 6.a of the 2012 Construction Permit VOM emission rate of 2.4 lbs/hr from March 29, 2012 through 2014.

Civil Penalty

59. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, Respondent's cooperation, self-reporting to Illinois EPA, prompt return to compliance and agreement to complete the Supplemental Environmental Projects (SEPs) set forth below, Complainant has determined that an appropriate civil penalty to settle this action is $150,000.

60. Within 30 days after the effective date of this CAFO, Respondent must pay a $150,000 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

For checks sent by regular U.S.
Post Service mail

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

(For checks sent by express mail)

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis Missouri 63101

The check must note Respondent's name and the docket number of this CAFO.

61. Respondent must send a notice of payment that states Respondent's name, the docket number of this CAFO and the billing document number to the Compliance Tracker, Air Enforcement and Compliance Assurance Branch and to Michael Berman at the following addresses when it pays the penalty:

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Michael Berman (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

62. This civil penalty is not deductible for federal tax purposes.

63. If Respondent does not timely pay the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

64. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a

quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

Supplemental Environmental Projects

65. Respondent must complete SEPs at the Facility designed to protect the environment and public health by voluntarily reducing allowable SO_2 emissions. Respondent will reduce SO_2 emissions at the Germ Drying System (Emission Units 11-12, 11-13, 11-14, 11-16, 11-17, 11-18, and 11-19) by modifying an existing scrubber (Germ Drying System SEP). Respondent will also reduce SO_2 emissions at an aspiration system for the Fiber Filtrate Tank (Emission Unit 155-01) by installing a new scrubber (Fiber Filtrate Tank SEP).

66. Respondent must complete the SEPs as described below:

a. Within 60 calendar days of the effective date of this CAFO, Respondent must apply to the Illinois EPA for a construction permit for the modification of the scrubber used to control emissions at the Germ Drying System and for the construction and operation of a scrubber at the Fiber Filtrate System. Respondent must submit a copy of its construction permit application to EPA within seven (7) calendar days of submitting the application to Illinois EPA.

i. Germ Drying System SEP - The Respondent will request a modification to the scrubber currently in place at the Germ Drying System. The modification will be the addition of a permanent caustic supply to the scrubber, which will include a caustic tank and associated piping and controls. The addition of caustic to the scrubbant liquid will allow for the reduction of allowable SO_2 emissions from 34.9 lbs/hr and 145 tons/yr to 3.49 lbs/hr and 14.5 tons/yr. The Respondent will add pH to the list of operating parameters monitored on a continuous basis at the scrubber. An operating setpoint for pH (at a minimum) will be established during a performance test conducted to demonstrate initial compliance at the scrubber. This minimum pH setpoint will be used to demonstrate continuous compliance with the SO_2 emission limit based on hourly averages. These SO_2 emission limits, monitoring requirements, and initial compliance demonstration requirements will be incorporated into the construction permit application.

ii. Fiber Filtrate Tank SEP - The Respondent will request the construction and operation of a new scrubber at the Fiber Filtrate Tank. The Fiber

Filtrate Tank does not currently control SO_2 emissions. The scrubber will use caustic addition to the scrubbant liquid to reduce SO_2 emissions. The installation and operation of this scrubber will allow for the reduction of allowable SO_2 emissions from 2.39 lbs/hr and 10.50 tons/yr to 0.24 lbs/hr and 1.05 tons/yr. Respondent will request that the scrubbant liquid flow rate and pH be operating parameters monitored on a continuous basis at the scrubber. Operating setpoints for scrubbant liquid flow rate and pH will be established during a performance test conducted to demonstrate initial compliance at the scrubber. The minimum pH setpoint and minimum scrubbant liquid flow rate will be used to demonstrate continuous compliance with the SO_2 emission limit based on hourly averages. These SO_2 emission limits, monitoring requirements, and initial compliance demonstration requirements will be incorporated into the construction permit application.

b. Within 60 calendar days of applying for the construction permit from Illinois EPA, Respondent must place a firm order for all equipment required for construction permit projects. Respondent must submit a copy of the final construction permit to EPA within 7 calendar days of receipt.

c. Within 270 calendar days of obtaining a final construction permit from Illinois EPA, for the scrubber for the Germ Drying System, Respondent must complete modification of the scrubber at the Germ Drying System, and conduct performance testing to determine the SO_2 emission rates from the scrubber in pounds per hour. Respondent shall submit a copy of the performance testing plan to EPA and Illinois EPA at least 60 calendar days prior to the test date. A final performance test report shall be submitted to EPA within 30 days of completion of the test.

d. Within 270 calendar days of obtaining a final construction permit from Illinois EPA, for the scrubber at the Fiber Filtrate Tank, Respondent must complete installation of the scrubber and conduct performance testing to determine the SO_2 emission rates from the scrubber in pounds per hour. Respondent shall submit a copy of the performance testing plan to EPA and Illinois EPA at least 60 calendar days prior to the test date. A final performance test report shall be submitted to EPA within 30 days of completion of the test.

e. Within 60 calendar days of the completion of the performance tests at the Germ Drying System and Fiber Filtrate Tank, Respondent will submit a request to Illinois EPA to include the construction permit modifications with SO_2 emission limits from Paragraph 66.a into the Facility's Title V Permit.

67. Respondent agrees to spend at least $300,000 to implement the SEPs.

68. Respondent certifies as follows:

I certify that Tate & Lyle Ingredients Americas LLC is not required to perform or develop the SEPs by any law, regulation, order, or agreement or as injunctive relief as of the date that I am signing this CAFO. I further certify that Tate & Lyle Ingredients Americas LLC has not received, and is not negotiating to receive, credit for the SEPs in any other enforcement action.

I certify that Tate & Lyle Ingredients Americas LLC is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEPs. I further certify that, to the best of my knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEPs, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date that I am signing this CAFO (unless the project was barred from funding as statutorily ineligible). For purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not expired.

69. EPA may inspect the Facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

70. Respondent must submit a SEP completion report to EPA by no later than 60 days from completion of the SEPs. This report must contain the following information:

a. Detailed descriptions of the SEPs as completed;

b. Description of any operating problems and the actions taken to correct the problems;

c. Itemized cost of goods and services used to complete the SEPs, documented by copies of invoices, purchase orders or canceled checks that specifically identify and itemize the individual cost of the goods and services;

d. Certification that Respondent has completed the SEPs in compliance with this CAFO, or a statement of any known deviations from the SEP requirements; and

e. Description of the environmental and public health benefits resulting from the SEPs (quantify the benefits and pollution reductions, if feasible).

71. Respondent must submit all notices and reports required by this CAFO by first class mail to the Compliance Tracker in the Air Enforcement and Compliance Assurance Branch at the address provided in paragraph 61, above.

72. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers or an authorized plant manager:

> I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

73. Following receipt of the SEP completion report described in paragraph 70, above, EPA must notify Respondent in writing that:

a. It has satisfactorily completed the SEPs and the SEP report;

b. There are deficiencies in the SEPs as completed or in the SEP report and EPA will give Respondent 30 days to correct the deficiencies; or

c. It has not satisfactorily completed the SEPs or the SEP report and EPA will seek stipulated penalties under paragraph 75.

74. If EPA exercises option b, above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, EPA will give Respondent a written decision on its objection. If Respondent does not complete the SEPs as required by this CAFO, Respondent will pay stipulated penalties to the United States under paragraph 75, below.

75. If Respondent violates any requirement of this CAFO relating to the SEPs, Respondent must pay stipulated penalties to the United States as follows:

a. Except as provided in subparagraph b, below, if Respondent did not complete the SEPs satisfactorily according to the requirements of this CAFO, including the schedule in paragraph 66, Respondent must pay a stipulated penalty of $300,000.

b. If Respondent did not complete the SEPs satisfactorily, but EPA determines that Respondent made good faith and timely efforts to complete the SEPs and the Respondent has certified, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 67, Respondent will not be liable for any stipulated penalty under subparagraph a, above.

c. If Respondent completed the SEPs satisfactorily, but spent less than 90 percent of the amount set forth in paragraph 67, Respondent must pay a stipulated penalty of $48,000.

d. If Respondent did not timely submit the SEP completion report or any other report required by paragraph 70, Respondent must pay stipulated penalties in the following amounts for each day after the report was due until it submits the report:

Penalty per violation per day	Period of violation
$50	1st through 14th day
$100	15th through 30th day
$200	31st day and beyond

76. EPA's determinations of whether Respondent satisfactorily completed the SEPs and whether Respondent made good faith and timely efforts to complete the SEPs will bind Respondent.

77. Respondent must pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraph 60, above, and will pay interest and nonpayment penalties on any overdue amounts.

78. Any public statement that Respondent makes referring to the SEPs must include the following language, "Tate & Lyle Ingredients Americas LLC. undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Tate & Lyle Ingredients Americas LLC for violations of the Clean Air Act."

79. If an event occurs which causes or may cause a delay in completing the SEPs as required by this CAFO:

a. Respondent must notify EPA in writing within 10 days after learning of an event which caused or may cause a delay in completing the SEPs. The notice must describe the anticipated length of the delay, its cause(s), Respondent's past and proposed actions to prevent or minimize the delay and a schedule to carry out those actions. Respondent must take all reasonable actions to avoid or minimize any delay. If Respondent fails to notify EPA according to this paragraph, Respondent will not receive an extension of time to complete the SEPs.

b. If the parties agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEPs, the parties will stipulate to an extension of time no longer than the period of delay.

c. If EPA does not agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEPs, EPA will notify Respondent in writing of its decision and any delays in completing the SEPs will not be excused.

d. Respondent has the burden of proving that circumstances beyond its control caused or may cause a delay in completing the SEPs. Increased costs for completing the SEPs will not be a basis for an extension of time under subparagraph b, above. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.

80. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any cost or expenditures incurred in performing the SEPs.

General Provisions

81. This CAFO resolves Respondent's liability for federal civil penalties for the violations alleged in this CAFO, the violations alleged in the Notices of Violation dated September 28, 2012, and December 5, 2013, and with respect to test data from the September 21, 2004 engineering test conducted on the germ and gluten dryers at Tate & Lyle's Decatur facility.

82. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

83. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state and local laws. Except as provided in paragraph 81, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

84. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

85. The terms of this CAFO bind Respondent, its successors and assigns.

86. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

87. Each party agrees to bear its own costs and attorneys fees in this action.

88. This CAFO constitutes the entire agreement between the parties.

[Signature page follows.]

Tate & Lyle Ingredients Americas LLC,
Respondent

2/3/2015
Date

Peter M. Castelli
Vice President and General Counsel
Tate & Lyle Ingredients Americas LLC

United States Environmental Protection Agency, Complainant

2/6/15
Date

George T. Czerniak
Director
Air and Radiation Division
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the Matter of: Tate & Lyle Ingredients Americas LLC
Docket No. CAA-05-2015-0019

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

2-10-15
Date

Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

In the Matter of: Tate & Lyle Ingredients Americas LLC
Docket No: CAA-05-2015-0019

CERTIFICATION OF SERVICE

I certify that I served a true and correct copy of the foregoing ***Consent Agreement and Final Order***, which was filed on February 12, 2015, this day in the following manner to the addressees:

Original by Certified Mail
Return-Receipt Requested: 7009 1680 0000 7670 1198

Richard L. Dickenson, Director Environmental Services
Tate & Lyle Ingredients America LLC
2200 East Eldorado Street
Decatur, Illinois 62525

Copy by E-mail to
Attorney for Complainant: Michael Berman
berman.michael@epa.gov

Copy by E-mail to
Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: February 12, 2015 LaDawn Whitehead

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5