

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 March 8, 2023, EPA issued to Respondent 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 March 24, 2023, 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. Congress directed EPA to promulgate regulations establishing emission standards for each category or subcategory of, *inter alia*, major sources of HAPs. CAA §

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112(d)(1), 42 U.S.C. § 7412(d)(1). These emission standards must require the maximum degree of reduction in emissions of HAPs that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for the new or existing sources in the category or subcategory to which the emission standard applies. CAA § 112(d)(2), 42 U.S.C. § 7412(d)(2).

16. To the extent that it is not feasible to prescribe or enforce an emission standard for the control of a HAP, Congress authorized EPA to promulgate “design, equipment, work practice, or operational” standards, which are to be treated as emission standards. CAA § 112(h), 42 U.S.C. § 7412(h).

17. The emission standards promulgated under Section 112 of the 1990 Amendments of the CAA, 42 U.S.C. § 7412, are known as the National Emission Standards for Hazardous Air Pollutants (“NESHAPs”) for Source Categories or “maximum achievable control technology” (“MACT”) standards. These emission standards are found in Part 63 of Title 40 of the Code of Federal Regulations.

18. After the effective date of any emission standard, limitation, or regulation promulgated pursuant to Section 112 of the CAA, no person may operate a source in violation of such standard, limitation, or regulation. 42 U.S.C. § 7412(i)(3).

40 C.F.R. Part 61 – National Emissions Standards for Hazardous Air Pollutants, Subpart

A: General Provisions

19. Pursuant to Section 112 of the CAA, 42 U.S.C. § 7412, as it existed prior to the 1990 Amendments, EPA promulgated regulations that contain NESHAPs for eight hazardous air

pollutants, one of which was benzene. 40 C.F.R. § 61.10(a); 42 Fed. Reg. 29332 (June 8, 1977).

20. 40 C.F.R. § 61.05(c) requires that ninety days after the effective date of any standard, no owner or operator shall operate any existing source subject to that standard in violation of the standard, except under a waiver granted by the Administrator under this part or under an exemption granted by the President under section 112(c)(2) of the CAA.

21. 40 C.F.R. § 61.12(a) provides that compliance with numerical emission limits shall be determined in accordance with emission tests established in § 61.13 or as otherwise specified in an individual subpart.

22. 40 C.F.R. § 61.12(b) provides that compliance with design, equipment, work practice or operational standards shall be determined as specified in an individual subpart.

40 C.F.R. Part 61 – National Emissions Standards for Hazardous Air Pollutants, Subpart Y: National Emission Standard for Benzene Emissions From Benzene Storage Vessels

23. On September 14, 1989, EPA promulgated the National Emissions Standard for Benzene Emissions from Benzene Storage Vessels, now codified at 40 C.F.R. Part 61, Subpart Y. 54 Fed. Reg. 38077.

24. Pursuant to 40 C.F.R. § 61.270(a), an affected source subject to Part 61 Subpart Y is each storage vessel that is storing benzene having a specific gravity within the range of specific gravities specified in ASTM D836–84 for Industrial Grade Benzene, ASTM D835–85 for Refined Benzene-485, ASTM D2359–85a or 93 for Refined Benzene-535, and ASTM D4734–87 or 96 for Refined Benzene-545.

25. Pursuant to 40 C.F.R. § 61.271(c)(1), if the storage vessel is equipped with a closed vent system and a control device, the closed vent system shall be designed to collect all

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benzene vapors and gases discharged from the storage vessel and operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background and visual inspections, as determined in 40 C.F.R. § 61.242-11.

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

26. Following the 1990 Clean Air Act Amendments, EPA promulgated the National Emissions Standards for Hazardous Air Pollutants for Source Categories, now codified at 40 C.F.R. Part 63. 57 Fed. Reg. 61992 (Dec. 29, 1992).

27. On April 22, 1994, EPA promulgated the following National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks, now codified at 40 C.F.R. Part 63, Subpart H. 59 Fed. Reg. 19568.

28. Pursuant to 40 C.F.R. § 63.100(b)(1)(i), the provisions of Subparts F, G, and H of the 40 C.F.R. Part 63 NESHAP regulations (collectively called, the “HON”) apply to facilities that manufacture chemicals listed in Table 1. “Phenylenediamine (p-)” (also called para-phenylenediamine or “PPDA”) is one of those chemicals.

29. Pursuant to 40 C.F.R. § 63.160(a), the provisions of Subpart H apply to “pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, surge control vessels, bottoms receivers, instrumentation systems, and control devices or closed vent systems . . . that are intended to operate in organic hazardous air pollutant service 300 hours or more during the calendar year within a source subject to the provisions of a specific subpart in 40 CFR part 63 that references this subpart.”

30. Under 40 C.F.R. § 63.161, “open-ended valve or line” means any valve, except pressure relief valves, having one side of the valve seat in contact with process fluid and one side open to atmosphere, either directly or through open piping.

31. Pursuant to 40 C.F.R. § 63.167(a)(1), each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve, except as provided in 40 C.F.R. § 63.162(b) of this subpart and paragraphs (d) and (e) of this section.

32. Pursuant to 40 C.F.R. § 63.167(a)(2), the cap, blind flange, plug, or second valve shall seal the open end at all times except during operations requiring process fluid flow through the open-ended valve or line, or during maintenance or repair.

Clean Air Act – Title V

33. Under Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), it is unlawful for any person to, among other things, operate a major source subject to Title V of the CAA (“Title V”) except in compliance with a Title V operating permit after the effective date of any permit program approved or promulgated under Title V.

34. EPA first promulgated regulations governing state operating permit programs on July 21, 1992. 57 Fed. Reg. 32295; 40 C.F.R. Part 70. EPA promulgated regulations governing the federal operating permit program on July 1, 1996. 61 Fed. Reg. 34202; 40 C.F.R. Part 70. The Louisiana Title V operating permit program became effective on October 12, 1995. 40 C.F.R. Part 70, Appendix A. The Title V permits that Louisiana issues under its program are also known as Part 70 Operating Permits.

D. FINDINGS OF FACT AND CONCLUSIONS OF LAW

35. DuPont Specialty Products USA, LLC (“DuPont” or “Respondent”) owns and

operates the Pontchartrain Works located at 586 Hwy 44, LaPlace, LA 70068 (the "Facility").

36. At all times relevant to this proceeding, Respondent has owned and operated the Facility.

37. 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.

38. At all times relevant to this proceeding, Respondent owned and operated a chemical manufacturing processing unit that produces p-Phenylenediamine ("PPDA") and benzene at the Facility.

39. The Facility is a "stationary source" as that term is defined in Section 112(a)(3) of the Act, 42 U.S.C. § 7412(a)(3), and 40 C.F.R. § 63.2.

40. The Facility is subject to the NESHAP provisions of 40 C.F.R. Part 61, Subpart Y, and 40 C.F.R. Part 63, Subpart H.

41. On June 4, 2020, the State of Louisiana approved DuPont's permit renewal and modification for the Title V Permit for the Diamines Unit at its Pontchartrain Facility, which was in effect at the time of the April 13 and 22, 2022 EPA Inspection at the Facility.

42. Table X ("Applicable Louisiana and Federal Air Quality Requirements"), of DuPont's Title V operating permit, states that DuPont shall comply with the applicable provisions of Benzene Storage NESHAP in 40 C.F.R. Part 61, Subpart Y for its benzene storage vessels (the relevant vessel here is described in the permit with the identifier #1500-34C) and flare associated with the vessel (FVH Flare #2, 1500-66).

43. Table X ("Applicable Louisiana and Federal Air Quality Requirements"), of DuPont's Title V operating permit, states that DuPont shall comply with the applicable

provisions of the Subpart H for its Diamines Fugitive Emissions (Permit Description # 1500-58).

44. EPA inspectors conducted an on-site inspection on April 13, 2022 (“Inspection”) at the Facility.

45. On April 22, 2022, the Louisiana Department of Environmental Quality (“LDEQ”) was present for EPA’s Geospatial Measurement of Air Pollution (“GMAP”) survey conducted on the same day. The GMAP survey was conducted to identify any potential emission sources that may contribute to elevated pollutant concentrations.

46. During the Inspection, EPA identified detectable emissions from a pressure/vacuum relief valve emitting at 1,933 ppm and an emergency vent emitting at 20,100 parts per million (ppm) at a benzene storage vessel using EPA Test Method 21.

47. For each benzene storage vessel subject to Subpart Y equipped with a closed vent system that routes to a control device, the Facility must design the closed vent system to collect all benzene vapors and gases discharged from the storage vessel and operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as determined in 40 C.F.R. § 61.242-11.

48. During the Inspection, EPA also identified an open-ended line with no closure device in the process unit associated with a valve subject to 40 C.F.R. Part 63, Subpart H.

49. The Facility is required to equip each open-ended valve or line with a cap, blind flange, plug, or a second valve which must seal the open end at all times except during operations requiring process fluid flow through the open-ended valve or line, or during maintenance or repair.

E. ALLEGED VIOLATIONS

Claim 1: Failure to operate a benzene storage vessel with no detectable emissions.

50. 40 C.F.R. Part 61, Subpart Y applies at the Facility because it operates storage vessels containing benzene, pursuant to 40 C.F.R. § 61.270(a).

51. During the on-site inspection, the inspectors observed emissions over 500 ppm from the pressure/vacuum relief valve (1,933 ppm) and emergency vent on the benzene storage tank (20,100 ppm) using a Thermo toxic vapor analyzer, Model 2020 conducted with Method 21.

52. Respondent violated 40 C.F.R. § 61.271(c) and its Title V operating permit because in detecting emissions over 500 ppm from the benzene storage tank, the Facility failed to control emissions from each benzene storage vessel subject to Subpart Y by equipping the storage vessel with a closed vent system that routes to a control device and is designed to collect all benzene vapors and gases discharged from the storage vessel and operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as determined in 40 C.F.R. § 61.242-11.

Claim 2: Failure to equip each open-ended valve or line with a cap, blind flange, plug, or a second valve.

53. 40 C.F.R. Part 63, Subpart H applies at the Facility because, under 40 C.F.R. § 63.160(a), the Facility contains open-ended valves or lines that are intended to operate in organic hazardous air pollutant service for 300 hours or more during the calendar year within a source subject to the provisions of a specific subpart in 40 C.F.R. Part 63 that references this Subpart H.

54. The “specific subpart in 40 C.F.R. Part 63 that references Subpart H” is Subpart F,

which in 40 C.F.R. § 63.100(b)(1)(i), makes the provisions of Subpart H applicable to facilities that manufacture a “Table 1” chemical – “Phenylenediamine (p-)” is listed as a Table 1 chemical. The Facility operates process units which manufacture para-phenylenediamine, and so Subparts F and H (as well as Subpart G, collectively, the “HON”) apply to the Facility.

55. During the on-site inspection, the inspectors identified an open-ended line with no closure device in the Diamines process unit associated with a valve subject to 40 C.F.R. Part 63, Subpart H.

56. Respondent violated 40 C.F.R. § 63.167(a)(1) and its Title V operating permit because in operating with an open-ended line with no closure device, Respondent failed to equip each open-ended valve or line with a cap, blind flange, plug, or a second valve which must seal the open end at all times except during operations requiring process fluid flow through the open-ended valve or line, or during maintenance or repair.

F. CIVIL PENALTY AND CONDITIONS OF SETTLEMENT

General

57. 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 a 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.
58. 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 an 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

59. 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 \$480,000 ("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.

60. 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

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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”):

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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-06-2024-3308 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-06-2024-3308. 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:

James Haynes
U.S. EPA Region 6
haynes.james@epa.gov

And

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

61. 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.

62. 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.

63. 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

64. As a Condition of Settlement, Respondent agrees to the following:
 - a. Installation of Advanced Equipment. By no later than 180 days after the Effective Date of this CAFO, install advanced conservation vents on Tank 1500-34C with the following specifications and/or capabilities:
 - i. Integration of wired or wireless transmitters and proximity sensors to enable quick identification and response to a conservation vent or emergency vent that is in the open position;
 - ii. Recording and trending the position of the proximity sensors at the conservation and emergency vents described in 64.a.i. to ensure continued operability and to indicate whether the conservation or emergency vent has failed; and
 - iii. Notifying operators of emergency overpressure situations at the storage vessel.

- b. Enhanced Monitoring Using EPA Method 21. By no later than sixty (60) days after the Effective Date of this CAFO, conduct monthly monitoring using EPA Method 21 (as referenced in 40 C.F.R. Part 60, Appendix A-7) at all conservation vents, emergency vents, and closed vent system components at all Facility storage vessels storing benzene or Group 1 liquids routed through a closed vent system to any control device.
 - i. The requirements of Paragraph 64b. do not apply when a component is "difficult to monitor" (DTM). This DTM provision applies when components cannot be monitored without elevating the monitoring personnel more than 2 meters above a support surface and DuPont follows a plan that requires monitoring of the component at least once per calendar year.
- c. Enhanced Monitoring Using Optical Gas Imaging. By no later than sixty (60) days after the Effective Date of this CAFO, conduct quarterly monitoring using optical gas imaging technology at all conservation vents, emergency vents, and closed vent system components at all Facility storage vessels storing benzene or Group 1 liquids routed through a closed vent system to any control device. Optical gas imaging should be conducted consistent with Appendix K to 40 C.F.R. Part 60 ("Requirements for Using Optical Gas Imaging in Leak Detection").
- d. Third-Party Audit. By no later than sixty (60) days after the Effective Date of this CAFO, identify an independent third-party auditor (in accordance with Appendix

A, "Inspector Qualifications") to evaluate the design and pressure settings of conservation and emergency vents at all Facility storage vessels storing benzene or Group 1 liquids, in accordance with Appendix A. Respondent shall develop a corrective action plan to address any findings and/or nonconformities.

Additionally, the Respondent shall, at a minimum, address the following items in their corrective action plan following the audit, to address any issues identified during the audit:

- i. Improved designs of conservation and emergency vents routed through a closed vent system to any control device at all other Facility storage vessels; and
 - ii. Preventative maintenance to ensure conservation and emergency vents are capable of maintaining a standard of no detectable emissions, as measured by EPA Method 21, including any updated frequency of monitoring and any routine measures to be implemented.
- e. Recordkeeping and Reporting. Respondent shall comply with the recordkeeping and reporting requirements as follows:
- i. Maintain records of all enhanced monitoring inspections and repairs performed pursuant to this CAFO if applicable;
 - ii. Maintain design records of all conservation and emergency vents, including any preventative maintenance practices identified by the third-party audit, at all Facility storage vessels storing benzene or Group 1

liquids;

iii. Submit the final third-party audit report findings to EPA within 30 days of issuance; and

iv. Report annually to EPA any detectable emissions, repairs, overpressure scenarios or failures of conservation and emergency vents causing excess emissions at all Facility storage vessels storing benzene or Group 1 liquids.

f. Permits Needed to Meet Compliance Obligations. If any compliance obligation under this Consent Order requires Respondent to obtain federal, state, or local permit or approval, Respondent shall submit timely and complete applications and take all other actions necessary to obtain all such permit or approvals.

g. Permits to Ensure Survival of Consent Order Limits and Standards. By no later than ninety (90) days after the Effective Date of this CAFO, Respondent shall complete and submit to the Louisiana Department of Environmental Quality's ("LDEQ") consolidated preconstruction and Title V CAA permitting program, appropriate applications to incorporate the requirements listed in Paragraphs 64.b and 64.c into a federally enforceable Title V permit for the Facility such that the requirements listed Paragraphs 64.b and 64.c: (i) become and remain "applicable requirements" as that term is defined in 40 C.F.R. § 70.2 and (ii) survive federal enforcement of this Consent Order.

65. At such time as the Respondent believes that it has complied with all terms and

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conditions of this CAFO, Respondent agrees to certify to EPA completion of the Conditions of Settlement in Paragraph 64 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.”

66. 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

67. 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

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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.

68. Respondent agrees that the time period from the Effective Date of this CAFO until all the conditions specified in Paragraphs 64-65 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.

69. 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 68, 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.

70. 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).

71. 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.

72. 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.

73. 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: Lori E. Sanders

lori.e.sanders@dupont.com

74. 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 62, each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

G. MODIFICATIONS

75. 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 66 or 73, will be modified by e-mailing the other party.

H. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

76. 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 64-65.

77. If Respondent fails to timely and satisfactorily complete every condition stated in Paragraphs 64-65, then Complainant may compel Respondent to perform the conditions in Paragraphs 64-65, 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.

78. 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 64-65 is restitution, remediation, or required to come into compliance with the law.

79. 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.

80. 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.

81. 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.

82. 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

83. 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: DuPont Specialty Products USA, LLC
Docket No. CAA-06-2024-3308

The foregoing Consent Agreement In the Matter of DuPont Specialty Products USA, LLC, Docket No. CAA-06-2024-3308, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Date: 9/24/24

Lori E Sanders

DuPont Specialty Products USA, LLC
By: Lori E. Sanders, Chief Environmental Counsel
DuPont Specialty Products USA, LLC
974 Centre Rd, Wilmington, DE 19805

FOR COMPLAINANT:

Date: September 25, 2024

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

APPENDIX A

I. Inspector Qualifications

The Inspector shall satisfy the following independence requirements:

1. The Inspector shall be impartial and independent in conducting all third-party inspection activities.
2. The Inspector shall receive no compensation or financial benefit from the outcome of the inspection, apart from payment for inspecting services.
3. The Inspector shall be:
 - a. Knowledgeable about air quality-related regulatory requirements, applicable and generally accepted good engineering practices, and technical elements related to chemical manufacturing facilities (e.g. NAICS: 325199).
 - b. Trained or certified in proper inspecting techniques.

Re: DuPont Specialty Products USA, LLC
Docket No. CAA-06-2024-3308

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 Email to Respondent:

lori.e.sanders@dupont.com
Lori E. Sanders
DuPont Specialty Products USA, LLC
974 Centre Rd, Wilmington, DE 19805

Office of Regional Counsel
EPA Region 6