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**REGIONAL HEARING CLERK
EPA REGION 6**

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS**

IN THE MATTER OF:	(
	(
Vopak Industrial Infrastructure	(
Americas St. Charles, LLC	(
Hahnville, Louisiana	(
	(DOCKET NO. CAA-06-2024-3372
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	(
	(
RESPONDENT	(
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	(

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

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

2. Complainant is the United States Environmental Protection Agency, Region 6 ("EPA"). On EPA's behalf, the Director of the Enforcement and Compliance Assurance Division, EPA Region 6, has been delegated the authority to settle civil administrative penalty and

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compliance proceedings under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

3. Vopak Industrial Infrastructure Americas St. Charles, LLC (“VIIA” or “Respondent”) is a limited liability company doing business in the State of Louisiana. Respondent is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this Consent Agreement along with the corresponding Final Order hereinafter known together as the “CAFO” without adjudication of any issues of law or fact alleged 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)(3) of the Act, 42 U.S.C. § 7413(a)(3).

6. EPA and the United States Department of Justice jointly determined that this matter, although it involves 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 August 25, 2023, EPA issued to Respondent a Notice of Violation and Opportunity to Confer (the “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 Respondent committed the alleged violations of the National Emission

Standards for Hazardous Air Pollutants (“NESHAP”) for Benzene Waste Operations described in Section F of this CAFO and provided Respondent an opportunity to confer with EPA.

Representatives of Respondent and EPA initially discussed the violations alleged in the NOVOC on November 6, 2023.

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. DEFINITIONS

10. “Control device” means any equipment used for recovering, removing, or oxidizing organic hazardous air pollutants. Such equipment includes, but is not limited to, absorbers, carbon absorbers, condensers, incinerators, flares, boilers, and process heaters.

11. “External floating roof” means a pontoon-type or double-deck type cover with certain rim sealing mechanisms that rests on the liquid surface in a waste management unit with no fixed roof.

12. “Flare” means a combustion device lacking an enclosed combustion chamber that uses an uncontrolled volume of ambient air to burn gases.

13. “Fugitive emissions” means those emissions from a stationary source that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

Under section 112 of the Act, all fugitive emissions are to be considered in determining whether a stationary source is a major source.

14. “Hazardous air pollutant” or “HAP” means one of the chemicals listed in section 112(b) of the Clean Air Act.

15. “Storage vessel” means a stationary unit that is designed to hold an accumulation of liquids or other materials. Storage vessel includes surge control vessels and bottom receiver vessels.

16. “Tank” means a stationary waste management unit that is designed to contain an accumulation of waste and is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

17. “Visible emission” means the observation of an emission of opacity or optical density above the threshold of vision.

18. “Waste management unit” means a piece of equipment, structure, or transport mechanism used in handling, storage, treatment, or disposal of waste. Examples of waste management unit include a tank, surface impoundment, container, oil-water separator, individual drain system, steam stripping unit, thin-film evaporation unit, waste incinerator, and landfill.

19. “Waste stream” means the waste generated by a particular process unit, product tank, or waste management unit. The characteristics of the waste stream (e.g., flow rate, HAP concentration, water content) are determined at the point of waste generation. Examples include process wastewater, product tank drawdown, sludge and slop oil removed from waste management units, and landfill leachate.

D. GOVERNING LAW

20. 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.” 42 U.S.C. § 7401(b)(1).

21. 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 federally-enforceable permits.

22. Under Section 112(d) of the CAA, 42 U.S.C. § 7412(d), EPA promulgated the NESHAP for Source Categories: Generic MACT Standards (“NESHAP for Generic MACT Standards”) on October 14, 1998. See 63 Fed. Reg. 198.

23. The NESHAP for Generic MACT Standards became effective on June 29, 1999, and is codified at 40 C.F.R. Part 63, Subpart YY.

24. Ninety (90) 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. 40 C.F.R. § 61.05(c).

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

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

27. The owner or operator of each stationary source shall maintain and operate the source, including associated equipment for air pollution control, in a manner consistent with good air pollution control practice for minimizing emissions. 40 C.F.R. § 61.12(c).

28. Under Section 112(d) of the CAA, 42 U.S.C. § 7412(d), EPA promulgated the NESHAP for Benzene Waste Operations on March 7, 1990. See 55 Fed. Reg. 8346.

29. The Benzene Waste Operations NESHAP, as amended pursuant to Section 112(q) of the CAA, became effective on January 7, 1993, and is codified at 40 C.F.R. Part 61, Subpart FF.

30. 40 C.F.R. § 61.340(a) states that the provisions of this subpart apply to owners and operators of chemical manufacturing plants, coke by-product recovery plants, and petroleum refineries.

31. 40 C.F.R. § 61.340(b) states that the provisions of this subpart apply to owners and operators of hazardous waste treatment, storage, and disposal facilities that treat, store, or dispose of hazardous waste generated by any facility listed in 40 C.F.R. § 61.340(a). The waste streams at hazardous waste treatment, storage, and disposal facilities subject to the provisions of this subpart are the benzene-containing hazardous waste from any facility listed in 40 C.F.R. § 61.340(a).

32. 40 C.F.R. § 61.351(a)(2) states that as an alternative to the standards for tanks specified in § 61.343 of this subpart, an owner or operator may elect to comply by using [...] an external floating roof meeting the requirements of 40 C.F.R. § 60.112b(a)(2).

33. 40 C.F.R. § 61.351(b) states that if an owner or operator elects to comply with the provisions of this section, then the owner or operator is exempt from the provisions of § 61.343 applicable to the same facilities.

34. 40 C.F.R. § 60.112b(a)(2) states that the owner or operator of each storage vessel either with a design capacity greater than or equal to 151 m³ containing a volatile organic liquid (VOL) that, as stored, has a maximum true vapor pressure equal to or greater than 5.2 kilopascals (kPa) but less than 76.6 kPa or with a design capacity greater than or equal to 75 m³ but less than 151 m³ containing a VOL that, as stored, has a maximum true vapor pressure equal to or greater than 27.6 kPa but less than 76.6 kPa, shall equip each storage vessel with one of the following: ... An external floating roof.

35. 40 C.F.R. § 60.112b(a)(2)(ii) states that except for automatic bleeder vents and rim space vents, each opening in a noncontact external floating roof shall provide a projection below the liquid surface. Except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof is to be equipped with a gasketed cover, seal, or lid that is to be maintained in a closed position at all times (i.e., no visible gap) except when the device is in actual use. Automatic bleeder vents are to be closed at all times when the roof is floating except when the roof is being floated off or is being landed on the roof leg supports. Rim vents are to be set to open when the roof is being floated off the roof legs supports or at the

manufacturer's recommended setting. Automatic bleeder vents and rim space vents are to be gasketed. Each emergency roof drain is to be provided with a slotted membrane fabric cover that covers at least 90 percent of the area of the opening.

36. Table 7(b)(1)(i) of 40 C.F.R. § 63.1103(e)(3) states that if a storage vessel (as defined in 40 C.F.R. § 63.1101) stores liquid containing organic HAP with a maximum true vapor pressure of total organic HAP is ≥ 3.4 kPa but < 76.6 kPa; and has a capacity of ≥ 95 cubic meters, then the owner or operator of such storage vessel it must comply with the requirements of Subpart WW of this part except as specified in paragraph (b)(1)(iii) of this table.

37. 40 C.F.R. § 63.1063(b) is part of the National Emission Standard for Storage Vessels (Tanks) – Control Level 2, 40 C.F.R. Part 63, Subpart WW. 40 C.F.R. § 63.1063(b) provides the following operational requirements:

(1) The floating roof shall float on the stored liquid surface at all times, except when the floating roof is supported by its leg supports or other support devices (e.g., hangers from the fixed roof).

(2) When the storage vessel is storing liquid, but the liquid depth is insufficient to float the floating roof, the process of filling to the point of refloating the floating roof shall be continuous and shall be performed as soon as practical.

(3) Each cover over an opening in the floating roof, except for automatic bleeder vents (vacuum breaker vents) and rim space vents, shall be closed at all times, except when the cover must be open for access.

(4) Each automatic bleeder vent (vacuum breaker vent) and rim space vent shall be closed at all times, except when required to be open to relieve excess pressure or vacuum, in accordance with the manufacturer's design.

E. FINDINGS OF FACT AND CONCLUSIONS OF LAW

38. Respondent owns and/or operates a for-hire bulk storage terminal, located at 355 LA Highway 3142, Hahnville, Louisiana (the "Facility"), which supports operations at the adjacent Union Carbide Corporation ("UCC facility").

39. The Facility is operated under Part 70 Permit No. 2520-00186-V1. Louisiana Department of Environmental Quality ("LDEQ") issued the Part 70 Operating Permit (the "Permit") to Respondent on August 31, 2022.

40. Respondent is the owner and/or operator of the Facility and stores raw materials, product, and benzene-containing wastewater for the UCC facility. The co-located UCC facility owns and/or operates a chemical manufacturing plant that produces benzene-containing hazardous waste.

41. At all times relevant to this proceeding, Respondent owned and/or operated units that emit HAPs and Volatile Organic Compounds ("VOCs") at the Facility.

42. The Facility operates at least three (3) external floating roof tanks which store benzene-containing wastewater for the UCC facility.

43. Between April 11 and April 23, 2022, EPA used the Geospatial Measurement of Air Pollution ("GMAP") vehicle to monitor facilities in Louisiana as a part of the Pollution Accountability Team project.

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44. On April 20, 2022, EPA drove the perimeter of the Facility with the GMAP vehicle and detected emissions. On April 21, 2022, Region 5 inspectors conducted an onsite inspection of the Facility using an Optical Gas Imaging (“OGI”) camera (the “Inspection”).

45. Using the OGI camera, emissions were observed venting from the external floating roof at one of the tank legs on Tank 1301 (EQT 037). Tank 1331 (EQT 016) was observed to have an open stilling well connected to the top of the external floating roof through a slotted emissions sleeve.

46. On May 12, 2022, Respondent provided information to EPA that corrective actions were completed on May 4, 2022, at the Facility to address some of the compliance issues observed during the Inspection.

47. On August 25, 2023, EPA sent Respondent the NOVOC and provided a copy to the State of Louisiana.

48. On November 6, 2023, and on various other occasions, EPA conferred with Respondent regarding the violations alleged herein and provided an opportunity for Respondent to submit additional information or materials.

49. Based on the April 20, 2022, video captures, the Inspection, subsequent review of documents provided by the Facility during and after the Inspection, and other disclosures made by Respondent, EPA identified alleged violations of the CAA at the Facility as described in Section F of this CAFO.

F. ALLEGED VIOLATIONS

50. EPA has conducted a comprehensive review of the Facility-specific information gathered based upon observations made from the OGI video captures, Facility-permitted operations, and information provided by Respondent. Based on this review, EPA alleges the following violations for the Facility:

51. At the time of the Inspection, the roof leg on Tank 1301 was not equipped with a leg sleeve, gasketed cover, seal, or lid that was maintained in a closed position, in violation of 40 C.F.R. § 60.112b(a)(2)(ii). By not complying with its chosen alternative, 40 C.F.R. § 60.112b(a)(2), Respondent is in violation of 40 C.F.R. § 61.351(a)(2).

52. The stilling well on Tank 1331 was open, in violation of 40 C.F.R. § 60.112b(a)(2)(ii). By not complying with its chosen alternative, 40 C.F.R. § 60.112b(a)(2), Respondent is in violation of 40 C.F.R. § 61.351(a)(2). The stilling well on Tank 1331 being open was also in violation of 40 C.F.R. § 63.1063(b)(3). By not complying with the applicable provisions of 40 C.F.R. § 63 Subpart WW, Respondent is in violation of 40 C.F.R. § 63.1103(e)(3).

G. CIVIL PENALTY AND CONDITIONS OF SETTLEMENT

a. General

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

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

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- b. neither admits nor denies the specific factual allegations contained in the CAFO;
- c. consents to the assessment of a civil penalty, as stated below;
- d. consents to the issuance of any specified compliance or corrective action order¹;
- e. consents to the conditions specified in this CAFO;
- f. consents to any stated Permit Action;
- g. waives any right to contest the alleged violations set forth in Section F of this CAFO; and
- h. waives its rights to appeal the Final Order included in this CAFO.

54. For the purpose of this proceeding, Respondent:

- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
- b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement action;
- c. 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 CAA, 42 U.S.C. § 7607(b)(1);

¹ Although 40 C.F.R. § 22.18(b)(2) requires each item in this list to be stated in this CAFO, subparagraphs (d) and (f) are not applicable to this particular case.

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

e. 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

f. 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.

b. Penalty Assessment and Collection

55. 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, Respondent's full compliance history and good faith efforts to comply, the duration of the violations, payment by the violator of any penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violations, and other factors as

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justice may require, EPA has assessed a civil penalty in the amount of \$168,000.00 (the “EPA Penalty”). The EPA Penalty has been determined in accordance with Section 113 of the CAA, 42, U.S.C. § 7413, and at no time exceeded EPA’s statutory authority.

56. Respondent agrees to:

a. pay the EPA Penalty within thirty (30) calendar days of the Effective Date of this CAFO; and

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

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

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

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

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

Contact: Natalie Pearson
(314) 418-4087

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For wire transfer, payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

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

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

Contact: Jesse White
(301) 887-6548

For Online Payment:

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

PLEASE NOTE: The docket number CAA-06-2024-3372 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-06-2024-3372. Respondent's adherence to this request will ensure proper credit is given when penalties are received for Region 6. Respondent shall also email a simultaneous notice of such payment, including a copy of the money order, or check,

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and the transmittal letter to the following email addresses:

Ben Donaldson
U.S. EPA Region 6
Donaldson.Benjamin@epa.gov

And

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

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

a. Interest. Pursuant to Section 113(d)(5) of the CAA, 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).

b. 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 CAA, 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.

58. 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, attorney's fees incurred by the United States for collection proceedings.

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

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a. 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;

b. 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

c. 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.

H. Conditions of Settlement

60. Respondent shall conduct a total of four (4) quarterly visual inspections at each external and internal floating roof tank at the Facility within eleven (11) months from the Effective Date of this CAFO. The inspections shall be conducted quarterly at least forty-five (45) days apart. Each visual inspection shall follow the Facility's procedures and include OGI surveys

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of all components located on each tank's roof. The initial inspection shall be conducted within thirty (30) days of the Effective Date of this CAFO.

a. Inspections of external floating roof ("EFR") tanks shall be conducted to observe the entirety of the floating roof, deck fittings, and rim seals. Each inspection must verify the position of all automatic bleeder vents. Respondent shall take photographs of the floating roof visible to the inspector during each visual inspection.

b. Inspections of internal floating roof ("IFR") tanks shall be conducted through multiple manways and hatches (if necessary) to observe the entirety of the floating roof, deck fittings, and rim seals. Respondent shall take photographs of the floating roof visible to the inspector during each visual inspection.

61. Within thirty (30) days of completing each inspection required by Paragraph 60, Respondent shall submit to EPA documentation of the following information: (a) the date each inspection was completed; (b) a description of observations (including the position of automatic bleeder vents); (c) the nature and timing of all modifications, corrective actions, or other actions planned or undertaken as a result of the inspections; (d) the photographs taken during each inspection; and (e) the OGI video capture documenting emissions if observed during the inspection. Such documentation shall be emailed to:

Benjamin Donaldson
U.S. EPA Region 6
Donaldson.Benjamin@epa.gov

62. Respondent shall conduct one primary and two secondary seal gap measurements at all EFR tanks at the Facility in accordance with the procedures in 40 C.F.R. §

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60.113b(b)(2). The primary seal gap measurement shall be conducted within one-hundred and eighty (180) days of the Effective Date. The first secondary seal gap measurement shall be conducted within sixty (60) days of the Effective Date and the second shall be no less than five (5) months and no more than seven (7) months apart from the first measurement.

63. Within thirty (30) days of completing each of the primary and secondary seal gap measurements required by Paragraph 62. Respondent shall submit to EPA documentation of the following: (a) the date each measurement was taken; (b) the tank level at which the measurement was taken; (c) a description of observations; and (d) the nature and timing of all modifications, corrective actions, or other actions planned or undertaken, as a result of the measurements. Such documentation shall be emailed to the enforcement officer identified in Paragraph 61.

64. Within sixty (60) days of the Effective Date of this CAFO, Respondent shall review its operation and maintenance procedures for inspecting tanks, closed-vent systems, and control devices at the Facility, and update the procedures, as necessary, to ensure that these procedures, at a minimum, meet the requirements described in Section IV of Appendix A. If Respondent does not have such procedures, it shall create such procedures in accordance with Section IV of Appendix A.

65. Within sixty (60) days of the Effective Date of this CAFO, Respondent will select an independent third-party auditor (the "Auditor") who satisfies the Auditor Qualifications listed in Section I of Appendix A to perform the Independent Audit described in Paragraph 67.

66. Respondent shall bear all expenses of selecting and retaining the Auditor.

67. The Independent Audit shall consist of the following:

a. Respondent shall: (1) provide the Auditor with a copy of this CAFO and all attachments; (2) grant the Auditor reasonable access to the Facility; and (3) provide or otherwise make available any necessary personnel, documents, trainings, and other resources to enable the Auditor to fully perform all activities required by this CAFO.

b. Respondent shall ensure that within ninety (90) days of the Effective Date of this CAFO, the Auditor completes all permitting and operations reviews at the Facility in accordance with Section II of Appendix A. The Auditor may conduct additional steps beyond those identified in Section II of Appendix A as part of the permitting and operations review if it determines that such steps are necessary to complete the Audit.

c. Respondent shall work with the Auditor in a commercially reasonable manner consistent with this CAFO to assist the Auditor so that within ninety (90) days of the Effective Date of this CAFO, the Auditor completes the site inspection and evaluation at the Facility in accordance with Section III of Appendix A. The Auditor may conduct additional steps beyond those identified in Section III of Appendix A as part of the site inspection and evaluation if it determines that such steps are necessary to complete the Audit.

d. Respondent shall work with the Auditor in a commercially reasonable manner consistent with this CAFO so that within thirty (30) days of the Auditor completing the permitting and operations reviews and the site inspection and evaluation described in subparagraphs (b) and (c) of this Paragraph, the Auditor

completes an assessment of the operation and maintenance procedures, in accordance with Section IV of Appendix A at the Facility. The Auditor may conduct additional steps beyond those identified in Section IV of Appendix A as part of the operations and maintenance review if it determines that such steps are necessary to complete the Audit.

e. Respondent shall work with the Auditor in a commercially reasonable manner consistent with this CAFO so that within thirty (30) days of the Auditor completing the work described in subparagraph (d) of this Paragraph, the Auditor simultaneously provides a report of the Audit (the "Audit Report") to EPA and Respondent that includes, at a minimum, the information identified in Section V of Appendix A.

f. If the Auditor provides a draft of the Audit Report to Respondent, it must simultaneously also provide a copy of the draft to EPA.

g. Respondent shall not assert that any documents reviewed, cited, or relied on by the Auditor and the audit team in undertaking the Audit are privileged as attorney-client communications or attorney work products, even if written for or reviewed by legal staff.

h. As soon as possible, but no later than sixty (60) days of receipt of the Audit Report, Respondent shall send a letter report to EPA ("Letter Report") containing all information identified in Section VI of Appendix A.

The Letter Report shall be emailed to:

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Benjamin Donaldson
U.S. EPA Region 6
Donaldson.Benjamin@epa.gov

68. EPA reserves the right to pursue enforcement of any violations identified as a result of failure to comply with Paragraphs 60 through 67.

c. Additional Terms of Settlement

69. Respondent agrees that the time period from the Effective Date of this CAFO until all the conditions specified in Paragraphs 60 through 67 of this CAFO 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 F 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.

70. 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 69 of this CAFO, 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

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transfer, assignment or delegation, Respondent shall continue to be bound by the obligations or liabilities of this CAFO until EPA has provided written approval.

71. 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).

72. 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.

73. 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.

74. 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: Sharlow.LeeAnne@epa.gov

To Respondent: DWatson@foley.com

75. Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17. Except as qualified by Paragraph 58

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of this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

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

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

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

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c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at Chalifoux.Jessica@epa.gov, within thirty (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 thirty (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 thirty (30) days after the thirty (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.

I. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

77. 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 in Sections E and F above.

78. If Respondent fails to timely and satisfactorily complete every condition stated in Paragraphs 60 through 67 of this CAFO (including payment of any stipulated penalties owed), then Complainant may compel Respondent to perform the conditions in Paragraphs 60 through 67, 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.

79. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

80. 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.

81. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

82. 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.

83. 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. EPA does not, by its consent to the entry of this CAFO, warrant or aver in any manner that Respondent's compliance with any aspect of this CAFO will result in compliance

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with provisions of the Clean Air Act, 42 U.S.C. § 7401, et seq., or with any other provisions of federal, state, or local laws, regulations, or permits.

84. 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.

J. EFFECTIVE DATE

85. Respondent and Complainant agree to the issuance of the included Final Order. Upon filing, EPA will transmit a copy of the filed CAFO to 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.

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Docket No. CAA-06-2024-3372

The foregoing Consent Agreement In the Matter of VIIA, Docket No. CAA-06-2024-3372, is
Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Date: 16-Sep-2024 | 18:05 CEST

DocuSigned by:

E544B986E4C84DB...

John Caamano
Managing Director
2000 West Loop South, Suite 1040
Houston, TX 77027
Vopak Industrial Infrastructure
Americas St. Charles, LLC

FOR COMPLAINANT:

Date: September 16, 2024

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

APPENDIX A

I. Auditor Qualifications

The Auditor shall satisfy the following independence requirements:

1. The Auditor shall be impartial and independent in conducting all third-party audit activities.
2. The Auditor shall receive no compensation or financial benefit from the outcome of the audit, apart from payment for auditing services.
3. The Auditor shall be:
 - a. Knowledgeable about all regulatory requirements, all applicable and generally accepted good engineering practices, and technical elements related to this Facility including but not limited, wastewater containing benzene requirements, 40 C.F.R. Part 63 Subpart YY and 40 C.F.R. Part 63 Subpart EEEE (e.g. NAICS: 493190, Other Warehousing and Storage).
 - b. Trained or certified in proper auditing techniques.
4. If the Auditor has performed work for Respondent within the last two (2) years as of the effective date of the contract or agreement between Respondent and the Auditor (the phrase “performed work” shall not include being an auditor in an independent third-party audit that meets the requirements of independence described in this CAFO), the Auditor may not perform elements of the Independent Audit on the same equipment or processes.
5. Respondent may not hire, as either employees or contractors, the Auditor or audit team members for a period of two (2) years following the submission of the final audit report from the Auditor to Respondent (the phrase “hire” shall not include being an auditor in

an independent third-party audit that meets the requirements of independence described in this CAFO).

6. The Auditor and audit team members shall each sign and date a conflict-of-interest statement verifying that they are eligible to perform the audit under the terms of this CAFO. As soon as possible, but no later than thirty (30) days after the Effective Date of the CAFO, the signed and dated statement shall be emailed to:

Benjamin Donaldson
U.S. EPA Region 6
Donaldson.Benjamin@epa.gov

7. Retired employees who otherwise satisfy the requirements of independence may qualify as independent if their sole continuing financial attachment to Respondent are employer-financed or managed retirement and/or health plans.

II. Permitting and Operations Review

The permitting and operations review shall include, at a minimum, the following:

1. For all tanks, closed vent systems, and control devices at the Facility, review current permit representations (i.e., applications), pending permit applications, current equipment inventories, current reported production and emissions data (for all operating scenarios), and all maintenance and operating logs and repair/replacement work orders generated within the twelve (12) months preceding the Effective Date, in order to evaluate and ascertain current or possible recurring non-compliance issues associated with equipment and process controls at the Facility.

2. A review of how wastewater, and all other material, is transferred to and from the Facility and how those processes are reflected in current permits and standard operating procedures.

III. Site Inspection and Evaluation

The site inspection shall consist, at a minimum, of the following at the Facility:

1. For all tanks:
 - a. Inspect tanks and associated hatches, valves, gaskets, regulators, and pressure relief devices.
 - b. Evaluate whether the materials used for each tank are compatible with the compositions of gases stored in such tank to the extent required by law.
 - c. Evaluate whether emergency pressure relief devices are set at pressure set points consistent with relevant industry standard practice.
 - d. Confirm that every thief hatch is either welded to the storage tank or bolt-mounted with a suitable gasket to the storage tank, in accordance with good engineering practices and applicable manufacturer specifications.
2. Confirm the following Facility updates and provide any other repair or workorder documentation since the Inspection for the effected tanks:
 - a. Replacement of flange on Tank 1331 stilling well; and
 - b. Repair of roof leg on Tank 1330
3. For all control devices (i.e., flares, thermal oxidizers, and thermal treatment units):

- a. Evaluate whether flares are operating with a continuous pilot flame and that flame arrestors are properly installed.
 - b. Evaluate whether control devices are operated and maintained in conformance with their designs, including recommendations and specifications provided by the device manufacturers, and in a manner consistent with permit requirements.
 - c. Evaluate whether reconfiguration of flare tips and installation of thermocouples with Supervisory Control and Data Acquisition capability, auto ignitors with pilots, air assist packages, and pressure gauges for flame arrestors would be appropriate.
4. Identify and inspect liquid leaks and staining at permitted equipment (i.e., tanks, closed-vent systems, compressors, separators, and control devices).
 5. Evaluate whether equipment inventories and process operational descriptions for tanks, closed-vent systems, separators, and control devices are current and accurate.
 6. Evaluate whether there are unauthorized emissions during routine operations by conducting an optical gas imaging survey to detect any gas leaks or fugitive emissions from tanks, closed-vent systems, separators, and control devices.

IV. **Operation and Maintenance Procedures**

For the Facility, review operation and maintenance procedures for inspecting tanks, closed vent systems, and control devices to ensure that unauthorized emissions are timely identified and addressed to minimize emissions from such equipment. The operation and maintenance procedures, at a minimum, shall include written Standard Operating Procedures (“SOPs”) for the following:

1. Inspections. SOPs shall address conducting inspections of tanks, closed-vent systems, and control devices at the Facility.
2. Preventative Maintenance. SOPs shall include maintenance, inspection, and replacement schedules for equipment related to tanks, closed-vent systems, and control devices that are subject to wear and tear.
3. Oversight. SOPs shall establish and ensure the quality and performance of facility maintenance activities; and appropriate and regular training for personnel implementing the operation and maintenance procedures. The SOP shall include a procedure by which Respondent evaluates compliance with operation and maintenance procedures on a regular basis.
4. Recordkeeping and Reporting. SOPs shall establish and implement requirements for documenting compliance with operation and maintenance procedures, including recordkeeping of the date of inspection/maintenance activities, the performance of any corrective actions, and all training conducted.
5. Documentation Protocol. SOPs shall establish document generation and retention protocols, personnel roles and responsibilities, safety protocols, and work order systems to ensure problems are timely identified and addressed.

V. **Audit Report**

The Audit Report shall, at a minimum, comply with the following:

1. Explain the audit scope, provide a summary of the audit process, and explain any obstacles encountered.

2. State the period of time covered by the Audit and list the date(s) any on-site portion of the audit was conducted.
3. Identify the audit team members, including names, titles, and summaries of qualifications.
4. Identify any representatives of EPA or Respondent who observed any portion of the Audit.
5. Identify the recipients of the Audit Report.
6. Include a written explanation of the instances of non-compliance noted during the Audit, and the areas of concern identified during the course of the Audit, regardless of whether, in the Auditor's judgement, they require corrective action or merit further review or evaluation for potential environmental or regulatory impacts ("Audit Findings").
7. Contain an explanation of the basis for each of the Audit Findings.
8. Include any necessary corrective actions for Respondent to take in order to address the Audit Findings for instances of noncompliance noted during the Audit. At its option, Auditor may also identify any recommended actions that Respondent may choose to take to improve its environmental performance and to make any programs, procedures, or policies consistent with EPA Environmental Management Systems Guidance. Such recommendations shall not be required to be addressed by Respondent in its Letter Report.
9. If applicable, include a summary of Respondent's comments on, and identify any adjustments made by the Auditor to, any draft of the Audit Report provided by the Auditor to Respondent for review and comment.

10. Identify any instances of noncompliance noted during the Audit that Respondent's operation and maintenance procedures have in meeting the requirements of the operation and maintenance procedures described in Section IV of this Appendix A.

11. Identify any instances of noncompliance corrected during the Audit, including a description of the corrective measures and when they were implemented.

12. Include the following certification, signed, and dated by the Auditor or supervising manager for the Audit:

I certify that this compliance audit report was prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information upon which the audit is based. I further certify that the audit was conducted, and this report was prepared, pursuant to all applicable auditing, competency, independence, impartiality, and conflict of interest standards and protocols. Based on my personal knowledge and experience, the inquiry of personnel involved in the audit, the information submitted herein is true, accurate, and complete. I am aware that there are significant penalties for making false material statements, representations, or certifications, including the possibility of fines and imprisonment for knowing violations.

VI. Letter Report

Respondent shall provide a Letter Report to EPA containing the following:

1. A copy of the final Audit Report.
2. An appropriate response to each of the Audit Findings.
3. A description of the following steps that Respondent has taken or will take in

response to the Audit Findings:

- a. A schedule for promptly addressing deficiencies.

b. A list of new equipment and piping to be procured (e.g., control devices, combustors, vapor recovery system, tank hatches, pressure relief valves, piping, and gaskets).

c. The repair, replacement, upgrade, and/or installation of equipment (e.g., vapor recovery system, control devices, combustors, tank pressure relief valves, tank hatches and gaskets, and compressors).

d. The replacement of any piping, valves, flame arrestors, or other equipment that is inadequately sized for the flow of condensate and volume of emissions.

4. Confirmation that there are no unauthorized emissions from any necessary repair, replacement, upgrade, and/or installation of equipment (e.g., conduct optical gas imaging survey to detect and correct any gas leaks or fugitive emissions).

5. A summary of any updates made, in accordance with Section IV of Appendix A, to Respondent's operations and maintenance procedures.

6. A statement of whether Respondent is applying for, or will apply for, new or modified permits, repairing or replacing any equipment in accordance with the Audit Findings.

7. A certification, signed and dated by a senior corporate officer or other officer in an equivalent position of Respondent, stating:

I certify under penalty of law that the attached compliance audit report was received, reviewed, and responded to under my direction or supervision by qualified personnel. I further certify that appropriate responses to the findings have been identified and deficiencies were corrected, or are being corrected, as documented herein. Based on my personal knowledge and experience, the inquiry of personnel involved in the audit, the information submitted herein is true, accurate, and complete. I am aware that there are significant penalties for making false material statements, representations, or certifications, including the possibility of fines and imprisonment for knowing violations.

FILED

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REGIONAL HEARING CLERK
EPA REGION 6

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF:

Vopak Industrial Infrastructure
Americas St. Charles, LLC
Hahnville, Louisiana

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DOCKET NO. CAA--06-2024-3372

RESPONDENT

FINAL ORDER

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

Vopak Industrial Infrastructure Americas St. Charles, LLC is ORDERED to comply with all terms of the Consent Agreement. In accordance with 40 C.F.R. §22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated _____

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

CERTIFICATE OF SERVICE

I hereby 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 addressees:

Copy via Email to Complainant - READ RECEIPT REQUESTED

Sharlow.LeeAnne@epa.gov

Copy via Email to Respondent – READ RECEIPT REQUESTED

John.Caamano@vopak.com
John Caamano
Managing Director
2000 West Loop South, Suite 1040
Houston, TX 77027

DWatson@foley.com
Dottie Watson
1000 Louisiana Street
Suite 2000
Houston, TX 77002

Office of Regional Counsel
U.S. EPA, Region 6
Dallas, Texas