



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE, SUITE 100, BOSTON, MA 02109-3912

March 8, 2011

VIA HAND-DELIVERY

Ms. Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region I
Mailcode ORA18-1
5 Post Office Square, Suite 100, Boston, MA 02109-3912

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MAR 08 2011
EPA ORC WS
Office of Regional Hearing Clerk

**Re: In the Matter of Pharmco Products, Inc.,
Docket Nos. CAA-01-2010-0013 and EPCRA-01-2010-0014**

Dear Ms. Santiago:

Enclosed for filing please find an Administrative Consent Agreement and Final Order for the above-captioned matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Catherine Smith", with a long horizontal line extending to the right.

Catherine Smith
Senior Enforcement Counsel
U.S. Environmental Protection Agency
Region I

Enclosure

cc: Susan Cooke, Esq.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND

RECEIVED

MAR 08 2010

EPA ORC WS
Office of Regional Hearing Clerk

IN THE MATTER OF)

Pharmco Products, Inc.)
58 Vale Road)
Brookfield, CT 06804)

Docket Nos: CAA-01-2010-0013
EPCRA-01-2010-0014

Proceeding under Section 113(d) of the)
Clean Air Act, 42 U.S.C. § 7413(d); and)
Section 325(c) of Title III of the Superfund)
Amendments and Reauthorization Act,)
42 U.S.C. § 11045(c))
_____)

CONSENT AGREEMENT AND FINAL ORDER

Complainant, the United States Environmental Protection Agency ("EPA"),
having filed a Complaint and Notice of Opportunity for Hearing ("Complaint") against
Respondent, Pharmco Products, Inc. ("Respondent" or "Pharmco"), the Parties herein,
on January 4, 2011;

Respondent having received an extension to file an Answer and Request for
Hearing until March 7, 2011; and

Complainant and Respondent having agreed that settlement of this matter is in the
public interest and that entry of this Consent Agreement and Final Order ("CAFO")
without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleading, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby Ordered and Adjudged as follows:

STATUTORY AND REGULATORY AUTHORITY

1. This CAFO resolves an administrative action for the assessment of monetary penalties and other relief brought pursuant to Section 325(c) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 11045(c), also known as the Emergency Planning and Community Right-to-Know Act of 1986 (“EPCRA”); Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d); and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permit, 40 C.F.R. Part 22.

2. EPA’s Complaint alleged that Pharmco failed to:
- (a) timely submit material safety data sheets or chemical lists to the proper authorities, in violation of Section 311 of EPCRA, 42 U.S.C. § 11021, and its implementing regulations at 40 C.F.R. Part 370;
 - (b) timely submit Tier II hazardous chemical inventory forms to the proper authorities, in violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and its implementing regulations at 40 C.F.R. Part 370;
 - (c) timely provide toxic chemical release inventory reporting forms to EPA and the State of Connecticut in violation of Section 313(a) of EPCRA, 42

U.S.C. § 11023(a), and its implementing regulations at 40 C.F.R. Part 372;
and,

- (d) submit a risk management plan for pentane before storing it in amounts that exceeded the regulatory threshold, in violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and its implementing regulations at 40 C.F.R. Part 68.

TERMS OF SETTLEMENT

3. The provisions of this CAFO shall apply to and be binding on the Parties, their officers, directors, agents, servants, employees, successors and assigns.

4. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent. Respondent waives any defenses it might have as to jurisdiction and venue, and without admitting or denying the factual and legal allegations contained in the Complaint, consents to the terms of this CAFO.

5. Respondent hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint and waives its right to appeal the Final Order.

6. Respondent certifies that it is currently operating and will operate the Facility described in paragraph 23 of the Complaint in compliance with EPCRA and the CAA, and the federal regulations promulgated thereunder.

7. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and taking into account the relevant statutory

penalty criteria, the facts alleged in the Complaint, and such other circumstances as justice may require, EPA has determined that it is fair and proper to assess a civil penalty of \$164,109 dollars for the violations alleged in this matter. The penalty shall be apportioned in the following manner: \$116,263 dollars for the alleged EPCRA violations and \$47,846 for the alleged CAA violations.

8. The total penalty amount of \$164,109 dollars must be paid in full within thirty (30) calendar days of the effective date of this CAFO. In accordance with 40 C.F.R. § 22.31(b), the effective date is the date on which this CAFO is filed with the Regional Hearing Clerk.

9. Respondent shall make payment by submitting a certified or cashier's check payable to the order of the "Treasurer, United States of America." referencing the case name and the EPCRA and CAA docket numbers of this action on the face of the check, to:

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

Respondent shall provide copies of the check to:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code ORA18-1
Boston, MA 02109-3912

and

Catherine Smith
Senior Enforcement Counsel

U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100
Mail Code OES04-4
Boston, MA 02109-3912

10. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim.

11. In the event that the civil penalty amount relating to the alleged EPCRA violations (which shall be deemed to be 71 percent of the total due under paragraph 8, above) is not paid when due, the penalty plus additional interest shall be payable, without demand. Interest shall accrue from the original due date to the date of payment at the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). In addition, a penalty charge of six percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

12. In the event that the civil penalty amount relating to the alleged CAA violations (which shall be deemed to be 29 percent of the total due under paragraph 8, above) is not paid when due without demand, pursuant to Section 113(d)(5) of the CAA, Respondent will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Interest will be assessed on the civil penalty if it is not paid when due. In that event, interest will accrue from the due date at the

"underpayment rate" established pursuant to 26 U.S.C § 6621(a)(2). In the event that a penalty is not paid when due, an additional charge will be assessed to cover the United States' enforcement expenses, including attorneys fees and collection costs. In addition, a quarterly nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondent's outstanding civil penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

13. The civil penalty under this CAFO, and any interest, nonpayment penalties, and charges described in this CAFO, shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state or local law.

14. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 325(c) of EPCRA and Section 113(d) of the CAA for the violations alleged in the Complaint. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in the Complaint or this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state, or local law. Nothing in this CAFO is intended to resolve any criminal liability of the Respondent, and EPA reserves all its other criminal and civil enforcement authorities,

including the authority to seek injunctive relief and the authority to address imminent hazards.

15. Nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this CAFO or of the statutes and regulations upon which the Complaint and this CAFO is based, or for Respondent's violation of any applicable provision of law.

16. This CAFO shall not relieve Respondent of its obligations to comply with all applicable provisions of federal, state, or local law; nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

17. The parties shall bear their own costs and fees in this action, including attorney's fees, and specifically waive any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

18. The undersigned representative of the Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind Respondent to it.

FOR RESPONDENT PHARMCO PRODUCTS, INC.

Paul Drmf President
Name Title

2/11/11
Date

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY

Susan Studien


Susan Studien, Director
Office of Environmental Stewardship
U.S. EPA, Region 1

03/03/11

Date

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby ordered to comply with the terms of the above Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.



Jill T. Metcalf
Acting Regional Judicial Officer



Date

In Re: Pharmco Products, Inc..
EPA Docket Numbers: CAA-01-2010-0013 and
EPCRA-01-2010-0014

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Administrative Consent Agreement and Final Order has been sent to the following persons on the date noted below:

Original and one copy,
hand-delivered:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square
Suite 100 (ORA18-1)
Boston, MA 02109-3912

Two copies of Consent Agreement
via certified mail, return receipt
requested

Susan M. Cooke, Esq.
McDermott, Will & Emery
28 State Street
Boston, MA 02109

Dated: 3/8/2011



Catherine S. Smith
Senior Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square
Suite 100 (OES04-4)
Boston, MA 02109-3912
Tel: (617) 918-1777
FAX: (617) 918-0777
Email: smith.catherine@epa.gov