

**EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS**

This form was originated by Wanda I. Santiago for Kevin P. Pechulis 12/21/10  
Name of Case Attorney Date

in the ORC (RAA) at 918-1113  
Office & Mail Code Phone number

Case Docket Number FIFRA-01-2010-0077

Site-specific Superfund (SF) Acct. Number \_\_\_\_\_

This is an original debt  This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Millipore Corporation  
290 Concord Road  
Billerica, MA 01821

Total Dollar Amount of Receivable \$ 526,500 Due Date: 1/20/11

SEP due? Yes  No  Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:

- 1<sup>ST</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 2<sup>nd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 5<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

For RHC Tracking Purposes:

Copy of Check Received by RHC \_\_\_\_\_ Notice Sent to Finance \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
in the Financial Management Office

Phone Number

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I  
5 Post Office Square Suite 100  
Boston, MA 02109

Steven C. Schlang  
Enforcement Counsel  
617-918-1773 (phone)  
617-918-1809 (fax)

RECEIVED  
DEC 21 2010  
EPA ORC  
Office of Regional Hearing Clerk

December 21, 2010

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

Re: In the Matter of: Hudson Color Concentrates, a division of L&A Molding Corporation  
Docket Number: RCRA-01-2010-0026

Dear Ms. Santiago,

Please find enclosed for filing an original and one copy of the Consent Agreement and Final Order and Memorandum to Jill T. Metcalf, Acting Regional Judicial Officer, regarding the above-matter.

Please do not hesitate to contact me should you have any questions regarding the enclosed.

Sincerely,



Steven C. Schlang

cc: Susan Bernstein, Esq.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1 (NEW ENGLAND)

RECEIVED  
DEC 21 2010  
EPA ORC  
Office of Regional Hearing Clerk

In the Matter Of: )  
 )  
Millipore Corporation )  
290 Concord Road )  
Billerica, MA 01821 )  
Respondent. )

EPA Docket No. FIFRA-01-2010-0077

**CONSENT AGREEMENT and  
FINAL ORDER**

**INTRODUCTION**

1. The United States Environmental Protection Agency, Region 1 ("EPA") as Complainant, and Millipore Corporation ("Millipore" or "Respondent"), as Respondent, enter into this Consent Agreement and Final Order ("CAFO") by mutual consent.

2. Complainant and Respondent (collectively, the "Parties") agree that settlement of this matter is in the public interest and that entry of this CAFO without further litigation is the most appropriate means of resolving this matter.

3. Therefore, before any hearing or the taking of any testimony, without adjudication of any issue of fact or law herein, the Parties agree to comply with the terms of this CAFO.

**PRELIMINARY STATEMENT**

4. On September 30, 2010, EPA filed a Complaint and initiated this proceeding for the assessment of a civil penalty pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), as amended, 7 U.S.C. § 136l(a).

5. The Complaint alleges that: (a) Respondent distributed or sold an unregistered pesticide, namely, Millipore Chlorine Tablets, between 2005 and 2008, in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), and the regulations promulgated pursuant to FIFRA at 40 C.F.R. Part 152 *et seq.*; (b) Respondent failed to file reports (i.e., Notice of Arrival

of Pesticides and Devices Form, EPA Form 3540-1 (“NOA”)) with EPA prior to the import of the Millipore Chlorine Tablets, as required by Section 17 of FIFRA, 7 U.S.C. § 136o, and 19 C.F.R. § 12.112(a), in violation of Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N); and (c) Respondent failed to file reports (i.e., NOAs) with EPA prior to the import of at least 10 separate models of pesticide devices, as required by Section 17 of FIFRA and 19 C.F.R. § 12.112(a), in violation of Section 12(a)(2)(N) of FIFRA.

6. Pursuant to orders issued by EPA’s Acting Regional Judicial Officer, the date for filing an Answer has been extended to December 27, 2010.

7. For purposes of this proceeding, without trial or litigation of the issues or any adjudication of the facts, Respondent: (1) admits that EPA has jurisdiction over the subject matter alleged in the Complaint, (2) neither admits nor denies the factual allegations contained in the Complaint, and (3) consents to the terms of this CAFO as a settlement of the allegations raised by EPA in the Complaint.

8. Respondent hereby waives any defenses it might have as to jurisdiction and venue, its right to request a judicial or administrative hearing on any issue of law or fact set forth in the Complaint, and its right to appeal the Final Order accompanying the Consent Agreement.

#### **TERMS OF SETTLEMENT**

9. In light of the above, and taking into account the factors enumerated in Section 14(a) of FIFRA, the December 2009 “FIFRA Enforcement Response Policy” issued by the Waste and Chemical Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, the Monetary Penalty Inflation Adjustment Rules promulgated on February 13, 2004 (69 Fed. Reg. 7121) and December 11, 2008 (73 Fed. Reg. 75340) in accordance with the Debt Collection Improvement Act of 1996 (“DCIA”), Pub. L. No. 104-134,

110 Stat. 1321 (1996), and other factors as justice may require, EPA has determined that it is fair and appropriate that Respondent pay a civil penalty in the amount of \$526,500 in settlement of the violations alleged in the Complaint.

10. Respondent shall pay the penalty of \$526,500 within thirty (30) days of the effective date of this CAFO.

11. Respondent shall make payment by submitting a bank or certified check, to the order of the "Treasurer, United States of America" in the amount of \$526,500 to:

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

and shall provide copies of the check to:

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

and

Kevin P. Pechulis  
Enforcement Counsel  
U.S. Environmental Protection Agency  
Region 1 (Mail Code: OES04-3)  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Respondent shall include the case name and docket number (i.e., *In re: Millipore Corporation*, FIFRA-01-2010-0077) on the face of the check.

12. If Respondent fails to pay the civil penalty, it will be subject to an action to compel payment, plus interest, enforcement expenses and a nonpayment penalty. Pursuant to 31

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

Interest will therefore begin to accrue on the civil penalty (or any portion thereof) on the date it is due under this CAFO if such penalty (or portion thereof) is not paid in full by such due date.

Interest will be assessed at the rate of 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 (6%) per year and an amount to cover the costs of collection will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due. 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).

13. The civil penalty due and any interest, non-payment penalties, or charges that arise pursuant to this CAFO shall represent penalties assessed by EPA and shall not be deductible for the purposes of Federal taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of Section 1.162-21 of the Internal Revenue Code, 26 U.S.C. § 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 civil penalties pursuant to Section 14(a) of FIFRA for the violations alleged in the Complaint and for any other violations of Sections 12(a)(1)(A) and 12(a)(2)(N) of FIFRA, which may have occurred with respect to the Millipore Chlorine Tablets and Millipore pesticide devices (or pesticide devices within the same family of pesticide devices) referenced in the Complaint from September 30, 2005 to September 30, 2010, inclusive. Except as otherwise provided herein, EPA reserves all civil and criminal enforcement authorities, and specifically reserves its authority to address imminent hazards.

Except as otherwise provided herein, compliance with this CAFO shall not be a defense to any action subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with said laws and regulations.

15. The Parties each shall bear its own costs and attorneys' fees in the action resolved by this CAFO, and Respondent specifically waives any right to seek attorneys' fees under the Equal Access to Justice Act, 5 U.S.C. § 504.

16. The undersigned representative of 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:



David P. Hutchinson, President  
Millipore Corporation  
290 Concord Road  
Billerica, MA 01821

Date: 12/7/10

In the Matter of Millipore Corporation, Docket No. FIFRA-01-2010-0077  
CONSENT AGREEMENT AND FINAL ORDER

For EPA Region 1:



Joanna B. Jerison, Legal Enforcement Manager  
Office of Environmental Stewardship  
EPA-Region 1

Date: 12/16/10

and:



Kevin P. Pechulis, Enforcement Counsel  
Regulatory Legal Office  
Office of Environmental Stewardship  
EPA-Region 1

Date: 12/15/2010



**FINAL ORDER**

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

December 20, 2010  
Date

Jill T. Metcalf  
Jill T. Metcalf, Acting Regional Judicial Officer  
EPA-Region 1

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1 (NEW ENGLAND)

In the Matter of: )  
)  
Millipore Corporation )  
290 Concord Road )  
Billerica, MA 01821 )  
)  
Respondent. )  
\_\_\_\_\_ )

**EPA Docket No. FIFRA-01-2010-0077**

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Consent Agreement and Final Order ("CAFO") and associated cover letter to the Regional Hearing Clerk have been provided to the following persons, in the manner specified on the date noted below:

Original and one copy,  
hand-delivered:

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

One copy by certified mail, return  
receipt requested, and email:

David P. Hutchinson, President  
Millipore Corporation  
290 Concord Road  
Billerica, Massachusetts 01821  
david\_hutchinson@millipore.com

One copy by certified mail, return  
receipt requested, and email:

James A. Thompson, Jr.  
Dewey & LeBoeuf LLP  
1101 New York Avenue, N.W.  
Washington, D.C. 20005  
JThompson@deweyleboeuf.com

Date: 12/21/2010



Kevin P. Pechulis  
Enforcement Counsel  
U.S. Environmental Protection Agency, Region I  
5 Post Office Square, Suite 100 (OES04-3)  
Boston, MA 02109-3912  
(617) 918-1612  
pechulis.kevin@epa.gov