



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

June 18, 2013

Mike Tompkins
Senior Vice President, Building Products Operations
Georgia-Pacific Chemicals LLC
133 Peachtree Street, NE
Atlanta, Georgia 30303

Re: In the Matter of Georgia-Pacific Chemicals, LLC,
Lufkin, Angelina County, Texas, EPA Docket No. CAA-06-2013-3314

Dear Mr. Tompkins,

Please find enclosed a copy of the fully-executed Complaint and Consent Agreement and Final Order (CAFO) that was filed today with the Regional Hearing Clerk in EPA Region 6. The Georgia-Pacific Chemicals, LLC (Georgia-Pacific) will have thirty (30) days from the effective date of the CAFO to pay the civil penalty of Seventy Thousand Dollars (\$70,000). Georgia-Pacific must also comply with the Additional Terms of Settlement under the timetable described in the document.

Should you have any questions, please feel free to contact Andrea Carrillo, Assistant Regional Counsel, at (214) 665-8144. Thank you for your assistance with this matter.

Sincerely,

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

Cc: CT Corporation System
1201 Peachtree Street, N.E.
Atlanta, Georgia 30361

Michael De La Cruz
Air Section Manager, Enforcement Division
TCEQ
P.O. Box 13087 Austin, Texas 78711-3087

Ecc: John C. Bottini
Senior Counsel, Environmental
Georgia-Pacific LLC

Kathy Saucedo
Air Section Manager
Beaumont Regional Office, TCEQ

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

FILED
2013 JUN 18 PM 3:19
REGIONAL HEARING CLERK
EPA REGION VI

REGION 6
DALLAS, TEXAS

IN THE MATTER OF:

GEORGIA-PACIFIC
CHEMICALS, LLC

LUFKIN, TEXAS

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EPA DOCKET NO. CAA-06-2013-3314

COMPLAINT AND
CONSENT AGREEMENT AND
FINAL ORDER

The Director of the Compliance Assurance and Enforcement Division of the United States Environmental Protection Agency (“EPA”), Region 6 (“Complainant”) and Georgia-Pacific Chemicals, LLC (“Georgia-Pacific” or “Respondent”) in the above referenced proceeding, hereby agree to resolve this matter through the issuance of this Complaint and Consent Agreement and Final Order.

I. PRELIMINARY STATEMENT

1. This proceeding is for the assessment of civil penalties pursuant to Section 113(d) of the Clean Air Act, as amended (“CAA”), 42 U.S.C. § 7413(d), and for additional terms of settlement as agreed to by Respondent. This proceeding was instituted by the issuance of a Complaint and Notice of Opportunity for Hearing incorporated herein, and is simultaneously concluded by the issuance of this Consent Agreement and Final Order (“CAFO”) against Respondent pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b), and 22.34.

2. The Complaint alleges that Georgia-Pacific violated regulations promulgated under the CAA at its formaldehyde and resins manufacturing facility located at 1429 East Lufkin Avenue, Lufkin, Angelina County, Texas ("Facility").

3. For purposes of this proceeding, Respondent admits the jurisdictional allegations of this Complaint; however, Respondent neither admits nor denies the specific factual allegations contained in this Complaint.

4. Respondent consents to the issuance of this CAFO hereinafter recited and to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO. In addition, Respondent agrees to perform the Additional Terms of Settlement set forth in Paragraphs 42-43.

5. Respondent waives any right to contest the allegations in the CAFO and its right to appeal the Final Order set forth herein, and Respondent waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.

6. Compliance with all the terms and conditions of this CAFO shall resolve Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

7. Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, or claim-splitting for violations not alleged in this Complaint.

8. Nothing in this CAFO shall be construed to prevent or limit the civil and criminal authorities of the United States EPA, or that of other federal, state, or local agencies or departments to obtain penalties or injunctive relief under other federal, state, or local laws or regulations.

9. Respondent represents that it is duly authorized to execute this CAFO and that the party signing this CAFO on behalf of the Respondent is duly authorized to bind the Respondent to the terms and conditions of this CAFO.

10. Respondent agrees that the provisions of this CAFO shall be binding on its officers, directors, employees, agents, servants, authorized representatives, successors, and assigns.

II. STATUTORY AND REGULATORY BACKGROUND

11. Section 112(b)(2) of the CAA, 42 U.S.C. § 7412(b)(2), requires the Administrator of the United States EPA to publish a list of pollutants which present, or may present, through inhalation or other routes of exposure, a threat of adverse human health effects or adverse environmental effects through ambient concentrations, bioaccumulation, deposition, or otherwise.

12. Pursuant to its authority under Section 112 of the CAA, EPA promulgated 40 C.F.R. Part 63, Subpart G (National Emission Standards for Organic Hazardous Air Pollutants [“HAPs”] from the Synthetic Organic Chemical Manufacturing Industry [“SOCMI”] for Process Vents, Storage Vessels, Transfer Operations, and Wastewater).

13. According to 40 C.F.R. § 63.1(b), the provisions of Part 63 apply to the owner or operator of any stationary source that:

- (i) Emits or has the potential to emit any hazardous air pollutant listed in or pursuant to section 112(b) of the Act; and

- (ii) Is subject to any standard, limitation, prohibition, or other federally enforceable requirement established pursuant to Part 63.

14. According to 40 C.F.R. § 63.110, Subpart G applies to all process vents, storage vessels, transfer racks, wastewater streams, and certain in-process equipment within a source that is subject to 40 C.F.R. 63, Subpart F.

15. According to 40 C.F.R. § 63.100, Subpart F, G, and H apply to chemical manufacturing process units that manufacture as a primary product one or more of the listed chemicals, use as a reactant or manufacture as a product or co-product one or more of the listed organic HAPs, and are located on a major source, as defined in Section 112(a) of the CAA, plant site.

16. Section 112(a) of the CAA defines major source as 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 HAP or 25 tons per year or more of any combination of HAPs.

17. Section 63.101 of Subpart F defines storage vessel as a tank or other vessel that is used to store organic liquids that contain one or more of the organic HAPs listed, and has been assigned, by the required procedures, to a chemical manufacturing process unit that is subject to this subpart.

18. Section 63.111 defines Group 1 storage vessel as a storage vessel that meets the listed criteria, depending on whether the source is new or existing, for design storage capacity and stored-liquid maximum true vapor pressure.

19. Section 63.148 of Subpart G sets forth leak inspection requirements for vapor collection systems, closed-vent systems, and required fixed roofs, covers or enclosures.

20. Section 63.111 of Subpart G defines fixed roof as a cover mounted on a waste management unit or storage vessel in a stationary manner and that does not move with fluctuations in liquid level.

21. According to 40 C.F.R. § 63.148(d), leaks, as indicated by an instrument reading greater than 500 parts per million above background or by visual inspections, shall be repaired as soon as practicable, with a first attempt of repair made no later than 5 calendar days after detection, and completion of repair no later than 15 calendar days after detection, unless the delay of repair exception applies. The delay of repair exception requires a completed repair by the end of the next shutdown.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

22. Respondent is incorporated in the State of Delaware and is authorized to do business in the State of Texas.

23. Respondent is a "person" as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

24. At all relevant times, Respondent owned and operated the Facility, a formaldehyde, resins, and oil field products manufacturing facility located at 1429 East Lufkin Avenue, Lufkin, Angelina County, Texas.

25. The Facility is a major source as that term is defined in Section 112(a) of the CAA, 42 U.S.C. § 7412(a).

26. The Facility includes methanol tank TK-MEOH-1, a Group 1 storage tank with a fixed roof, which is used to store the organic HAP methanol and is associated with the

formaldehyde process unit, and is thereby subject to the requirements of 40 C.F.R. Part 63, Subparts F and G.

27. On July 17-19, 2012, EPA conducted an inspection of the Facility.

28. During the inspection, EPA detected a leak from the emergency vent located on the fixed roof of methanol tank TK-MEOH-1.

29. The Facility's formaldehyde process unit underwent a planned process unit shutdown from August 4-August 13, 2012, and from October 28-November 8, 2012, yet did not make a repair attempt on the leaking emergency vent during either planned process unit shutdown.

30. Georgia-Pacific completed permanent repair of the emergency vent on the fixed roof of methanol tank (TK-MEOH-1) on April 26, 2013.

IV. VIOLATION

31. On July 17, 2012, EPA detected a leak from the emergency vent located on the fixed roof of methanol tank TK-MEOH-1.

32. Georgia-Pacific completed permanent repair of the emergency vent on the fixed roof of methanol tank (TK-MEOH-1) on April 26, 2013.

33. By failing to complete repair by the end of the process unit shutdown on August 4-August 13, 2012, Georgia-Pacific violated 40 C.F.R. § 63.148(d).

V. CIVIL PENALTY AND ADDITIONAL TERMS OF SETTLEMENT

A. CIVIL PENALTY

34. For the reasons set forth above, Respondent has agreed to pay a civil penalty which has been determined in accordance with Section 113(d) of the CAA, 42 U.S.C. § 7413(d), which authorizes EPA to assess a civil penalty of up to twenty-five thousand dollars (\$25,000)¹ per day for each violation of the CAA. 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 violator'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, specific facts and equities, litigation risks, and other factors as justice may require, INCLUDING Respondent's agreement to perform the additional terms of settlement set forth below, it is ORDERED that Respondent be assessed a civil penalty in the amount of seventy thousand dollars (\$70,000).

35. Within thirty (30) days of Respondent's receipt of this fully executed CAFO, Respondent shall pay seventy thousand dollars (\$70,000) by cashier's or certified check made payable to "Treasurer, United States of America, EPA - Region 6". Payment shall be remitted in one of five (5) ways: regular U.S. Postal Service mail, to include certified mail; overnight mail; wire transfer; Automated Clearinghouse; or On Line Payment. For regular U.S. Postal Service

¹ The Civil Penalty Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701 provides for increases in the statutory penalty provisions (\$25,000) cited in the Clean Air Act Stationary Source Civil Penalty Policy dated October 25, 1991 (CAA Penalty Policy). It provides for up to \$25,000 per day of violation for violations occurring on or before January 30, 1997; up to \$27,500 per day for each such violation occurring after January 30, 1997 through March 15, 2004; up to \$32,500 per day for each such violation occurring after March 15, 2004 through January 12, 2009; and up to \$37,500 per day for each such violation occurring after January 12, 2009.

mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, the check(s) 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. Fed Ex), the check(s) should be remitted to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Contact: Natalie Pearson
(314) 418-4087

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 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 REX or remittance express):

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 On-line Payment:

WWW.PAY.GOV

Enter sfo 1.1 in search field

Open form and complete required fields.

PLEASE

NOTE:

Docket Number CAA-06-2013-3314 shall be clearly typed on the check to ensure proper credit. The check shall also be accompanied by a transmittal letter and shall reference Respondent's name and address, the case name, and docket number of the administrative complaint and CAFO. 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 transmittal letter to the following:

Jennifer Gibbs (6EN-AT)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Region 6 Hearing Clerk
U.S. EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

36. Respondent agrees not to claim, or attempt to claim, a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States

Treasurer.

37. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that

is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. *See* 40 C.F.R. § 13.11(b).

38. EPA will also assess a fifteen dollar (\$15.00) administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional fifteen dollars (\$15.00) for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. *See* 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. *See* 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

39. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including, but not limited to, attorneys fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be ten (10) percent of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

B. ADDITIONAL TERMS OF SETTLEMENT

40. In March 2013, Georgia-Pacific conducted four separate integrity tests on the methanol tank (TK-MEOH-1), including the industry standard API inspection and a helium test. Georgia-Pacific repaired and tested all issues discovered during these tests.

41. On April 26, 2013, Georgia-Pacific completed permanent repair of the emergency vent on the fixed roof of methanol tank (TK-MEOH-1) by installing a replacement low-leak technology emergency vent. Additionally, Georgia-Pacific replaced the 4" pressure relief valve on the tank with a new pressure relief valve.

42. By no later than January 15, 2014, Georgia-Pacific shall acquire and implement an electronic system for tracking and recording its actions to comply with applicable leak detection and repair regulations.

43. By no later than 365 days after the effective date of this CAFO, Georgia-Pacific shall submit to Texas Commission on Environmental Quality (TCEQ) and EPA an updated Notice of Compliance Status pursuant to 40 C.F.R. § 63.152.

44. 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 the Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for the Respondent's violation of any applicable provision of law.

45. This CAFO shall not relieve the Respondent of its obligation 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, nor shall it be construed to constitute EPA approval of any equipment or technology installed by the Respondent in connection with any additional settlement terms undertaken pursuant to this CAFO. Nothing in

this CAFO shall be construed to prohibit or prevent the federal, state, or local government from developing, implementing, and enforcing more stringent standards through rulemaking, the permit process, or as otherwise authorized or required.

46. This document is a “Final Order” as that term is defined in the CAA Penalty Policy for the purpose of demonstrating a history of “prior such violations”.

VI. RETENTION OF ENFORCEMENT RIGHTS

47. EPA does not waive any rights or remedies available to EPA for any violations by the Respondent of any other Federal laws, regulations, statutes, or permitting programs not the subject of this action.

48. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the CAA.

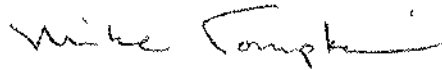
VI. COSTS

49. Each party shall bear its own costs and attorneys fees.

IT IS SO AGREED:

FOR THE RESPONDENT:

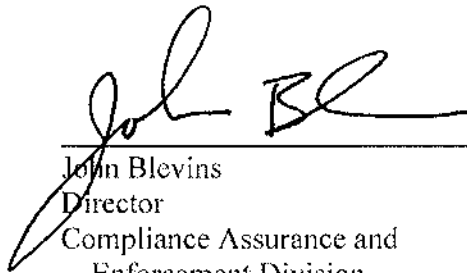
Date: 6-11-2013



Mike Tompkins
Senior Vice President, Building Products Operations
Georgia-Pacific Chemicals, LLC

FOR THE COMPLAINANT:

Date: 6.18.13



John Blevins
Director
Compliance Assurance and
Enforcement Division

FINAL ORDER

Pursuant to Section 113(d) of the CAA, 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 foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in this CAFO. The successful completion of the Additional Terms of Settlement set forth in Paragraphs 42-43 of this CAFO are conditions precedent to the resolution of the claim set forth in Paragraphs 31-33 of this CAFO. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement as they relate to the assessment of civil penalties. In accordance with 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated June 18, 2013



Regional Judicial Officer
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of June, 2013, the original and one copy of the foregoing Complaint and Consent Agreement and Final Order ("Complaint and CAFO") was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and a true and correct copy was delivered to the following individual(s) by the method indicated below:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: *7007 0710 0002 1385 2016*

Mike Tompkins
Senior Vice President, Building Products Operations
Georgia-Pacific Chemicals LLC
133 Peachtree Street, NE
Atlanta, Georgia 30303

CT Corporation System
1201 Peachtree Street, N.E.
Atlanta, Georgia 30361

7007 3020 0002 5102 7723

Michael De La Cruz
Air Section Manager, Enforcement Division
TCEQ
P.O. Box 13087
Austin, Texas 78711-3087

7007 3020 0002 5102 7730

ELECTRONIC COPY

John C. Bottini
Senior Counsel, Environmental
Georgia-Pacific LLC

Kathy Saucedo
Air Section Manager
Beaumont Regional Office, TCEQ

Sandra Hardy

U.S. EPA, Region 6
Dallas, Texas