



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

MAR 25 2011

REPLY TO THE ATTENTION OF:

AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Keith Rife, President
DynaChem, Inc.
P.O. Box 19
Maple Grove Road
Georgetown, Illinois 61846

Dear Mr. Rife:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves DynaChem, Inc. (DynaChem), Docket No. CAA-05-2011-0033.

As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on MAR 25 2011.

Pursuant to paragraph 39 of the CAFO, DynaChem must pay the civil penalty within 30 days of April 25, 2011. Its check must display the case name, the docket number, CAA-05-2011-0033, and the billing document number, 2751103A031.

Please direct any questions regarding this case to Cynthia King, Associate Regional Counsel, at (312) 886-6831.

Sincerely yours,

Sara Breneman
Chief
AECAS (MI/WI) Section

Enclosure

cc: Ray Pilapil, Manager
Bureau of Air
Compliance and Enforcement Section
Illinois Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. CAA-05-2011-0033
)	
DynaChem, Inc.)	Proceeding to Assess a Civil Penalty
Westville, Illinois)	Under Section 113(d) of the Clean Air
)	Act, 42 U.S.C. § 7413(d)
Respondent.)	
_____)	

RECEIVED

MAR 25 2011

Consent Agreement and Final Order

Preliminary Statement

REGIONAL HEARING CLERK
USEPA
REGION 5

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. Complainant is the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5.
3. Respondent is DynaChem, Inc. (DynaChem), a corporation doing business in Illinois.
4. Under 40 C.F.R. § 22.13(b), where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.
6. Respondent consents to entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in the CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 112(d) of the Act, 42 U.S.C. § 7412(d), authorizes EPA to promulgate regulations for particular industrial sources that emit one or more of the HAPs listed in Section 112(b) of the Act, 42 U.S.C. § 7412(b), in significant quantities.

10. Pursuant to Section 112(d) of the Act, 42 U.S.C. § 7412(d), EPA promulgated the National Emission Standards for Organic Hazardous Air Pollutants (HAPs) for Equipment Leaks at 40 C.F.R. Part 63, Subpart H (Subpart H) on April 22, 1994, 59 Fed. Reg. 19402 (April 22, 1994). The owner or operator of an affected source under another subpart in Part 63 that references this subpart must be in compliance by the date specified in that subpart, as required under 40 C.F.R. § 63.161.

11. Pursuant to Section 112(d) of the Act, 42 U.S.C. § 7412(d), EPA promulgated the National Emission Standards for HAPs: Miscellaneous Organic Chemical Manufacturing at 40 C.F.R. Part 63, Subpart FFFF (the MON) on November 10, 2003, 68 Fed. Reg. 63888 (November 10, 2003). The owner or operator of an existing affected source as of November 10, 2003 must comply with the provisions of this subpart no later than May 10, 2008, as required under 40 C.F.R. § 63.2445(b).

12. The MON, at 40 C.F.R. § 63.2440, applies to each miscellaneous organic chemical manufacturing affected source, which is the facility-wide collection of miscellaneous organic

chemical manufacturing process units (MPCUs) and heat exchange systems, wastewater, and waste management units that are associated with manufacturing materials described in 40 C.F.R. § 63.2435(b)(1).

13. The MON, at 40 C.F.R. § 63.2435(a), applies to owners or operators of MPCUs that are located at, or are part of, a major source of HAP emissions as defined in Section 112(a) of the Act, 42 U.S.C. § 7412(a).

14. The MON, at 40 C.F.R. § 63.2435(b), states that an MPCU includes equipment necessary to operate a miscellaneous organic chemical manufacturing process, as defined in 40 C.F.R. § 63.2550, that a) produces an organic chemical classified using the 1987 version of Standard Industrial Classification (SIC) code 282, 283, 284, 285, 286, 287, 289, or 386; an organic chemical classified using the 1997 version of North American Industry Classification System (NAICS) code 325; quaternary ammonium compounds and ammonium sulfate produced with caprolactum; hydrazine; or organic solvents classified in any of the SIC or NAICS codes previously listed that are recovered using non-dedicated solvent recovery operations; b) processes, uses, or generates any of the organic HAP listed in Section 112(b) of the Act, 42 U.S.C. § 7412(b), or hydrogen halide and halogen HAP, as defined in 40 C.F.R. § 63.2550; and c) is not an affected source or part of an affected source under another subpart in Part 63, except for process vents from batch operations within a chemical manufacturing process unit, as identified in 40 C.F.R. § 63.100(j)(4). The MPCU also includes any assigned storage tanks and transfer racks; equipment in open systems that is used to convey or store water having the same concentration and flow characteristics as wastewater; and components such as pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves

or lines, valves, connectors, and instrumentation systems that are used to manufacture any material or family of materials described above.

15. The MON, at 40 C.F.R. § 63.2480(a), states that the owner or operator of an affected source must meet each requirement in Table 6 to this subpart that applies to its equipment leaks, except as specified in paragraphs (b) through (d) of this section.

16. The MON, at 40 C.F.R. § 63.2550, defines “equipment” as each pump, compressor, agitator, pressure relief device, sampling connection system, open-ended valve or line, valve, connector, and instrumentation system in organic HAP service; and any control devices or systems used to comply with Table 6 to this subpart.

17. The MON, at 40 C.F.R. § 63.2550, defines “in organic HAP service” as a piece of equipment that either contains or contacts a fluid (liquid or gas) that is at least 5 percent by weight of total organic HAP as determined according to the provisions of 40 C.F.R. § 63.180(d).

18. Table 6 to the MON states that for all equipment that is in organic HAP service, the owner or operator of an affected source must either comply with the requirements of Subpart UU or Subpart H of Part 63 and the requirements referenced therein, except as specified in 40 C.F.R. §§ 63.2480(b) and (d), or comply with the requirements of Subpart F of Part 65 and the requirements referenced therein, except as specified in 40 C.F.R. §§ 63.2480(c) and (d).

19. Subpart H, at 40 C.F.R. § 63.167(a)(1), requires each open-ended valve or line to be equipped with a cap, blind flange, plug, or second valve.

20. Subpart H, at 40 C.F.R. § 63.161, defines an “open-ended valve or line” as any valve, except pressure relief valves, having one side of the valve seat in contact with process fluid and one side open to atmosphere, either directly or through open piping.

21. Subpart H, at 40 C.F.R. § 63.168(b)(1), requires the owner or operator of an affected source to monitor valves in gas/vapor and light liquid service to detect leaks by the method specified in 40 C.F.R. § 63.180(b) of this subpart.

22. Subpart H, at 40 C.F.R. § 63.174(a)(1), requires the owner or operator of an affected source to monitor connectors in gas/vapor and light liquid service to detect leaks by the method specified in 40 C.F.R. § 63.180(b) of this subpart.

23. Subpart H, at 40 C.F.R. § 63.180(b)(1), requires each owner or operator of an affected source to comply with the monitoring procedures and requirements of EPA Reference Method 21, at 40 C.F.R. Part 60, Appendix A (Method 21).

24. Method 21, at 40 C.F.R. Part 60, Appendix A, Section 8.3.1, requires the owner or operator of an affected source to slowly sample the interface of a component where leakage is indicated until the maximum meter reading is obtained.

25. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$27,500 per day of violation, up to a total of \$220,000, for violations that occurred from January 31, 1997 through March 15, 2004, up to \$32,500 per day of violation, up to a total of \$270,000, for violations that occurred from March 15, 2004 through January 11, 2009, and up to \$37,500 per day of violation, up to a total of \$295,000, for violations that have occurred on or after January 12, 2009, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

26. DynaChem owns and operates an industrial resins, aromatic sulfonic acids, and specialty chemicals manufacturing facility at 15662 East 980 Road, Westville, Illinois (the facility).

27. The facility, a major source of HAP emissions, as defined in Section 112(a) of the Act, 42 U.S.C. § 7412(a), contains two MPCUs as that term is defined at 40 C.F.R. § 63.2435(b): the Sulfonic Acid Plant and the Epoxy Resins Plant.

28. EPA inspected the facility on July 19-23, 2010 for compliance with the equipment leak standards of the MON.

29. During the inspection, EPA discovered ten open-ended lines in the Sulfonic Acid Plant and seven in the Epoxy Resins Plant without a cap, blind flange, plug, or second valve, as identified in Table A, below.

Table A: Unblocked Open-Ended Lines

Plant	Component ID
Sulfonic Acid	off V-194
Sulfonic Acid	off CK-20
Sulfonic Acid	off V-96
Sulfonic Acid	off V-122
Sulfonic Acid	off V-350
Sulfonic Acid	off V-55
Sulfonic Acid	off V-94
Sulfonic Acid	off V-297
Sulfonic Acid	off V-330
Sulfonic Acid	off V-394
Epoxy Resins	off FL-1139
Epoxy Resins	off V-1223
Epoxy Resins	off V-809
Epoxy Resins	off V-813
Epoxy Resins	off V-843
Epoxy Resins	off V-822
Epoxy Resins	off V-662

30. During the inspection, DynaChem provided EPA with Leak Detection and Repair (LDAR) monitoring data from January 2008 through June 2010 for the Sulfonic Acid Plant and from June 2008 through June 2010 for the Epoxy Resins Plant.

31. According to the LDAR monitoring data provided by DynaChem, DynaChem found three valves leaking in the Sulfonic Acid Plant (one in October 2008 and two in October 2009) and none in the Epoxy Resins Plant during the respective aforementioned periods.

32. According to the LDAR monitoring data provided by DynaChem, DynaChem never found a connector leaking in either MPCU during the respective aforementioned periods.

33. During the inspection, EPA used a toxic vapor analyzer to conduct LDAR monitoring per Method 21 in the Sulfonic Acid and Epoxy Resin Plants and found the leaks identified in Table B and calculated the leak rates shown in Table C, below.

Table B: Leaking Components Found by EPA

Plant	Component ID	Component Type	EPA Reading (ppm)
Sulfonic Acid	V-212	valve	>10,000
Sulfonic Acid	V-85	valve	2,300
Sulfonic Acid	FL-121	connector	1,150
Sulfonic Acid	near V-416	connector	>10,000
Sulfonic Acid	FL-201	connector	>10,000
Epoxy Resins	V-1208	valve	1,300
Epoxy Resins	V-1003	valve	1,700

Table C: LDAR Monitoring Summary

Plant	Component Type	# Monitored (EPA)	# Leaks (EPA)	DynaChem (2008 -)
Sulfonic Acid	Valves	215	2 (0.93%)	2 (10/09), 1 (10/08)
Sulfonic Acid	Connectors	124	3 (2.42%)	0
Epoxy Resins	Valves	311	2 (0.64%)	0

34. DynaChem's failure to equip each open-ended line with a cap, blind flange, plug, or second valve was in violation of 40 C.F.R. § 63.167(a)(1) and 40 C.F.R. § 63.2480(a).

35. DynaChem's failure to monitor valves in the Sulfonic Acid and Epoxy Resins Plants subject to the MON equipment leak standards in accordance with Method 21 was in violation of 40 C.F.R. § 63.168(b)(1), 40 C.F.R. § 63.180(b)(1), 40 C.F.R. § 63.2480(a), and Method 21, at 40 C.F.R. Part 60, Appendix A, Section 8.3.1.

36. DynaChem's failure to monitor connectors in the Sulfonic Acid Plant subject to the MON equipment leak standards in accordance with Method 21 was in violation of 40 C.F.R. § 63.174(a)(1), 40 C.F.R. § 63.180(b)(1), 40 C.F.R. § 63.2480(a), and Method 21, at 40 C.F.R. Part 60, Appendix A, Section 8.3.1.

37. After the inspection, Dyna-Chem cooperated with EPA and made good faith efforts to comply to resolve the matters covered by this CAFO.

Civil Penalty

38. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, Respondent's cooperation, and Respondent's prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$89,362.

39. Within 30 days after the effective date of this CAFO, Respondent must pay a \$89,362 civil penalty by electronic funds transfer, payable to the "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read:
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state the case name, the docket number of this CAFO, and the billing document number.

40. A transmittal letter stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-13J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Cynthia A. King, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

41. This civil penalty is not deductible for federal tax purposes.
42. If Respondent does not pay timely the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.
43. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

General Provisions

44. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

45. The CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

46. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in paragraph 44, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by Complainant.

47. Respondent certifies that it is complying fully with the Act, Subpart H, and the MON.

48. This CAFO constitutes an "enforcement response" as that term is used in EPA's *Clean Air Act Stationary Source Civil Penalty Policy* to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

49. The terms of this CAFO bind Respondent, its successors, and assigns.

50. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

51. Each party agrees to bear its own costs and attorneys' fees in this action.


52. This CAFO constitutes the entire agreement between the parties.

53. This CAFO is effective when executed by EPA.

54. This CAFO shall terminate when Respondent has paid in full all penalties due and owing.


DynaChem, Inc., Respondent

03/08/2011
Date


Keith Rife
President and CEO
DynaChem, Inc.

United States Environmental Protection Agency, Complainant

3/24/11
Date


Cheryl L. Newton
Director
Air and Radiation Division
U.S. Environmental Protection Agency,
Region 5 (A-18J)

CONSENT AGREEMENT AND FINAL ORDER

In the Matter of: DynaChem, Inc.

Docket No.CAA-05-2011-0033

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

3-24-2011

Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency,
Region 5

RECEIVED

MAR 25 2011

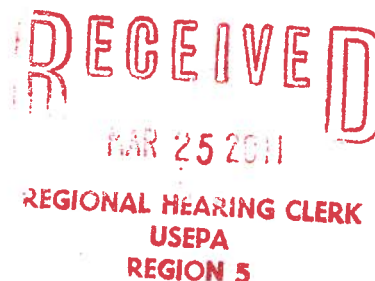
REGIONAL HEARING CLERK
USEPA
REGION 5

In the Matter of: DynaChem, Inc., Westville, Illinois
Docket No. CAA-05-2011-0033

CERTIFICATE OF SERVICE

I, Betty Williams, certify that I hand delivered the original and one copy of the Consent Agreement and Final Order (CAFO), docket number, CAA-05-2011-0033, to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies of the CAFO by first-class, postage prepaid, certified mail, return receipt requested, to the Respondent by placing them in the custody of the United States Postal Service addressed as follows:

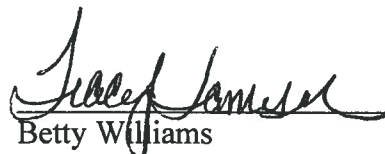
Keith Rife, President
DynaChem, Inc.
P.O. Box 19
Maple Grove Road
Georgetown, Illinois 61846



I also certify that a copy of the CAFO was sent by first-class mail to:

Ray Pilapil, Manager
Bureau of Air
Compliance and Enforcement Section
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

on the 25 day of March, 2011.


Betty Williams
Administrative Program Assistant
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7660 8619