



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 29 2013

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Scott Hendryx
Operations Manager
Sun Chemical Corporation
4925 Evanston Avenue
Muskegon, Michigan 49442

Re: Sun Chemical Corporation, Muskegon, Michigan, Consent Agreement and Final Order
Docket Nos. MM-05-2013-0005; CERCLA-05-2013-0008; EPCRA-05-2013-0012

Dear Mr. Hendryx:

Enclosed please find a copy of the fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the original CAFO with the Regional Hearing Clerk on May 29, 2013.

Please pay the Comprehensive Environmental Response, Compensation and Liability Act civil penalty in the amount of \$21,658 in the manner prescribed in paragraph 8, and reference your check with the billing document number 2751330B008 and the docket number CERCLA-05-2013-0008.

Please pay the Emergency Planning and Community Right-to-Know Act civil penalty in the amount of \$43,973 in the manner prescribed in paragraph 9, and reference your check with the docket number EPCRA-05-2013-0012.

Your payments are due on June 28, 2013.

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. Please direct any legal questions to Catherine Garypie, Associate Regional Counsel, at (312) 886-5825. Thank you for your assistance in resolving this matter.

Sincerely,

Michael E. Hans, Chief
Chemical Emergency Preparedness
and Prevention Section

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket Nos. MM-05-2013-0005
)	CERCLA-05-2013-0008
Sun Chemical Corporation,)	EPCRA-05-2013-0012
Muskegon, Michigan,)	
Respondent.)	Proceeding to Assess a Civil Penalty Under
)	Section 109(b) of the Comprehensive
)	Environmental Response, Compensation and
)	Liability Act, and Section 325(b)(2) of the
)	Emergency Planning and Community Right-
)	to-Know Act of 1986

RECEIVED
MAY 29 2013
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

Consent Agreement and Final Order

1. The Complainant is, by lawful delegation, the Chief of the Enforcement and Compliance Assurance Branch, Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

2. On April 23, 2013 U.S. EPA filed the Complaint in this action against Respondent Sun Chemical Corporation. The Complaint alleges that Respondent violated Section 103(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9603(a), by failing to immediately notify the National Response Center of a release which occurred at its facility in Muskegon, Michigan on September 3, 2012; violated Section 304(a) of Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11004(a), by failing to immediately notify the Michigan State Emergency Response Commission (SERC) of the September 3, 2012 release, and by failing to immediately notify the community emergency coordinator for the Muskegon County Local Emergency Planning Committee (LEPC) for an area likely to be affected by the release.

Stipulations

3. Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint.

4. Respondent waives any right to contest the allegations in the Complaint and its right to appeal this Consent Agreement and Final Order (CAFO).

5. The parties consent to the terms of this CAFO.

6. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

7. In consideration of the nature, circumstances, extent and gravity of the violations, a violator's ability to pay, prior history of violations, degree of culpability, economic benefit or savings resulting from the violation and any other matters that justice may require, Complainant has determined that an appropriate civil penalty to settle this action is \$21,658 for the CERCLA violation and \$43,973 for the EPCRA violations.

8. Within 30 days after the effective date of this CAFO, Respondent must pay a \$21,658 civil penalty for the CERCLA violations by sending a cashier's or certified check, payable to "EPA Hazardous Substance Superfund," to:

U.S. EPA
Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000

The check must note the following: Sun Chemical Corporation, the docket number of this CAFO (CERCLA-0502013-0008) and the billing document number 2751330B008.

9. Within 30 days after the effective date of this CAFO, Respondent must pay a \$43,973 civil penalty for the EPCRA violations by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

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

The check must note the following: Sun Chemical Corporation and the docket number of this CAFO (EPCRA0-05-2013-0012).

10. A transmittal letter, stating Respondent's name, the case title, Respondent's complete address, the case docket numbers, and the billing document number, if any, must accompany the payment. Respondent must send a copy of the checks and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

James Entzminger (SC-5J)
Chemical Emergency Preparedness and
Prevention Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Catherine Garypie (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

11. This civil penalty is not deductible for federal tax purposes.

12. If Respondent does not timely pay the civil penalty, U.S. 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. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

13. 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 amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

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

15. This CAFO does not affect the rights of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

16. Respondent certifies that it is complying with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and Section 304 of EPCRA, 42 U.S.C. § 11004.

17. This CAFO does not affect Respondent's responsibility to comply with CERCLA, EPCRA, and other applicable federal, state and local laws and regulations.

18. This CAFO is a "final order" for purposes of U.S. EPA's Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act, dated September 30, 1999.

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

20. 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.

21. Each party agrees to bear its own costs and attorney's fees, in this action.

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

Sun Chemical Corporation, Respondent


5/14/2013
Date



Gary Andrzejewski
Corporate Vice President
Environmental Affairs
Sun Chemical Corporation


U.S. Environmental Protection Agency, Complainant

5/17/13
Date



Sharon Jaffess, Chief
Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency
Region 5

5/17/13
Date



for Richard C. Karl, Director
Superfund Division
U.S. Environmental Protection Agency
Region 5

In the Matter of: Sun Chemical Corporation, Muskegon, Michigan
Docket No. MM-05-2013-0005; CERCLA-05-2013-0008; EPCRA-05-2013-0012

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.

5-28-13

Date



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



**In the Matter of: Sun Chemical Corporation, Muskegon, Michigan
Docket No. MM-05-2013-0005; CERCLA-05-2013-0008; EPCRA-05-2013-0012**

Certificate of Service

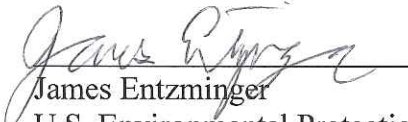
I, James Entzminger, certify that I filed the original and a copy of the Consent Agreement and Final Order (CAFO) with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 5, delivered a copy of the CAFO by intra-office mail to the Regional Judicial Officer, U.S. Environmental Protection Agency, Region 5, and mailed a second original CAFO by first-class, postage prepaid, certified mail, return receipt requested, to Respondent by placing it in the custody of the United States Postal Service addressed as follows:

Mr. Scott Hendryx
Operations Manager
Sun Chemical Corporation
4925 Evanston Avenue
Muskegon, Michigan 49442

Sun Chemical Corporation
c/o Jacqueline M. Vidmar, Esq.
Rooney Rippie & Ratnaswamy LLP
Kingsbury Center
350 West Hubbard, Suite 600
Chicago, Illinois 60654

RECEIVED
MAY 29 2013
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

on the 29 day of May, 2013.


James Entzminger
U.S. Environmental Protection Agency
Region 5