



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

September 20, 2012

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL

Receipt No.7009 1680 0000 7668 0783

Ms. Patricia McGee
Corporate Counsel
DuPont Legal, D-7094
1007 Market Street
Wilmington, Delaware 19898

Consent Agreement and Final Order, In The Matter of
E.I. du Pont de Nemours and Co. Docket No. EPCRA-05-2012-0033

Dear Ms. McGee

Enclosed is a copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on September 20, 2012, with the Regional Hearing Clerk.

The civil penalty in the amount of \$17,227, is to be paid in the manner described in paragraphs 26 and 27. Please be certain that the number **BD2751244E028** and the docket number are written on both the transmittal letter and on the check. Payment is due by October 20, 2012 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in blue ink that reads "Meghan Dunn".

Meghan Dunn
Pesticides and Toxics Compliance Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:) Docket No. EPCRA-05-2012-0033
)
E.I. du Pont de Nemours and Co.) Proceeding to Assess a Civil Penalty
Mount Clemens, Michigan) Under Section 325(c) of the Emergency
Respondent.) Planning and Community Right-to-Know
Act of 1986, 42 U.S.C. § 11045(c)
_____)

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Consent Agreement and Final Order

1. This is an administrative action commenced and concluded under Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c), and Sections 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. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent is E.I. du Pont de Nemours and Co., a corporation, doing business in the State of Michigan.
4. 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). 40 C.F.R. § 22.13(b).
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 the assessment of the civil penalty specified in this CAFO, and to the terms of this 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 this 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.

9. Respondent certifies that it is complying with Section 313 of EPCRA, 42 U.S.C. § 11023.

Statutory and Regulatory Background

10. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 372.30 require the owner or operator of a facility that has 10 or more full-time employees; is covered by certain Standard Industrial Classification (SIC) codes; meets one of the criteria set forth in 40 C.F.R. § 372.22(b)(1)-(3); and manufactured, processed or otherwise used a toxic chemical in an amount exceeding an applicable threshold quantity of that chemical listed under Section 313(f) of EPCRA and 40 C.F.R. § 372.25, during the calendar year, to complete and submit a toxic chemical release inventory form (Form R) to the Administrator of EPA and to the state in which the subject facility is located by July 1 for each toxic chemical manufactured, processed or otherwise used in quantities exceeding the established threshold during the preceding calendar year.

11. As set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, except as provided in 40 C.F.R. §§ 372.27 and 372.28, the reporting threshold amount for a toxic chemical manufactured or processed at a facility is 25,000 pounds for calendar years including and subsequent to 1989. The reporting threshold for a toxic chemical otherwise used at a facility is 10,000 pounds for calendar years including and subsequent to 1987.

12. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), authorizes the Administrator of EPA to assess a civil penalty of up to \$25,000 per day for each violation of Section 313 of EPCRA. The Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note (1990), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note (1996), required federal agencies to issue regulations adjusting for inflation the maximum civil penalties that may be assessed pursuant to each agency's statutes. EPA may assess a civil penalty of up to \$37,500 per day for each violation of Section 313 of EPCRA that occurred after January 12, 2009, pursuant to Section 325(c)(1) and (3) of EPCRA, 42 U.S.C. § 11045(c)(1) and (3), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

13. Respondent is a "person" as that term is defined at Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

14. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 400 Groesbeck Highway, Mount Clemens, Michigan ("Facility").

15. At all times relevant to this CAFO, Respondent had "10 or more full-time employees," as defined at 40 C.F.R. § 372.3, and was an employer at the Facility.

16. Respondent's Facility consists of buildings, equipment, structures and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person.

17. Respondent's Facility is a "facility" as that term is defined at Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

18. The Facility has a SIC code of 2851, a covered SIC code as defined at Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.22.

19. The violations which are the subject of this CAFO were voluntarily disclosed to EPA by letter dated June 10, 2011 and by Respondent's letter dated January 24, 2012.

Count 1

20. During calendar year 2009, Respondent's facility processed, as that term is defined at 40 C.F.R. § 372.3, methyl acrylate, a chemical category or CAS No. listed under 40 C.F.R. § 372.65, in the amount of 27,099 pounds, which is greater than 25,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

21. Respondent was required to submit to the Administrator of EPA and to Michigan a Form R for methyl acrylate for calendar year 2009 by July 1, 2010.

22. Respondent did not submit to the Administrator of EPA and to Michigan a Form R for methyl acrylate for calendar year 2009 by July 1, 2010.

23. Respondent submitted Form R for methyl acrylate to the Administrator of EPA and to Michigan on June 6, 2011 for calendar year 2009.

24. Respondent's failure to submit timely a Form R for methyl acrylate to the Administrator of EPA and to Michigan for calendar year 2009 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Civil Penalty

25. Pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, Complainant determined that an appropriate civil penalty to settle this action is \$17,227. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violations, and any other matters as justice may require. Complainant

also considered EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990) (amended) (April 12, 2001)*.

26. Within 30 days after the effective date of this CAFO, Respondent must pay a \$17,227 civil penalty for the EPCRA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

Respondent must include the case name, docket number and the billing document number on the check and in the letter transmitting the check.

27. Respondent must send a notice of payment that states Respondent's name, complete address, the case docket number and the billing document number to EPA at the following addresses when it pays the penalty:

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

Meghan Dunn (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Leslie A. Kirby-Miles (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

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

29. 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. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

30. 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, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

31. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

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

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

34. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for Section 313 of EPCRA.

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

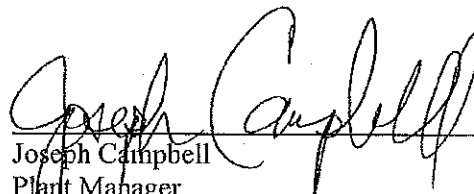
36. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

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

E.I. du Pont de Nemours and Co., Respondent


8-31-12
Date



Joseph Campbell
Plant Manager
MC Clemens Facility
E.I. du Pont de Nemours and Co.

United States Environmental Protection Agency, Complainant

9/18/2012
Date



Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
E.I. du Pont de Nemours and Co.
Docket No. EPCRA-05-2012-0033

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.

9-19-12

Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

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**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY,**

CERTIFICATE OF SERVICE

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving E.I. du Pont de Nemours and Co. was filed on September 20, 2012 with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that I mailed, by Certified Mail, Receipt No. 7009 1680 0000 7668 0783, a copy of the original to the Respondent:

Ms. Patricia McGee
Corporate Counsel
DuPont Legal, D-7094
1007 Market Street
Wilmington, Delaware 19898

and forwarded intra-Agency copies to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J
Leslie A. Kirby-Miles, Counsel for Complainant ORC/C-14J
Eric Volck, Cincinnati Finance/MWD



Frederick Brown, PTCS (LC-8J)
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. EPCRA-05-2012-0033

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