



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

FEB 26 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Lynn R. Noble
Responsible Care Leader
Dow Chemical Company
1468 Prosser Drive
Dalton, GA 30721

SUBJ: Dow Chemical Company
Consent Agreement and Final Order
Docket No. CERCLA-04-2007-2012(b)

Dear Mr. Noble:

Enclosed please find an executed copy of the Consent Agreement and Final Order (CAFO) that resolves the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) matter (Docket No. CERCLA-04-2007-2012(b)) involving Dow Chemical Company. The CAFO was filed with the Regional Hearing Clerk, as required by 40 CFR Part 22 and became effective on the date of the filing.

Also enclosed, please find a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Security and Exchange Commission (SEC) any environmental enforcement actions taken by the Environmental Protection Agency (EPA). If you have any questions with regards to the SEC's environmental disclosure requirements, you may refer to the contact phone number at the bottom of the SEC Notice.

If you have any questions, please call Ms. Karol Berrien at (404) 562-9563.

Sincerely,

A handwritten signature in black ink that reads "Caron B. Falconer".

Caron B. Falconer, Chief
EPCRA Enforcement Section

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:

Thermofluid Technologies, Inc.)
Maryville, Tennessee)
Respondent)
_____)

Docket Number: CAA-04-2007-1509(b)

RECEIVED
EPA REGION IV
2007 FEB 26 PM 2:23
HEARINGS CLERK

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action/Jurisdictional Statements

1. This is a civil penalty proceeding pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Thermofluid Technologies, Inc. (Respondent).

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

3. The authority to take action under Section 113(d) of CAA, 42 U.S.C. § 7413(d), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under the CAA to the Regional Administrators by EPA Delegation 7-6-A. The Regional Administrator, Region 4, has re-delegated this authority to the Director, Air, Pesticides, and Toxics Management Division, by EPA Region 4 Delegation 7-6-A. Pursuant to that delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

4. Respondent is a company is incorporated under the laws of the State of Tennessee.

5. Respondent is a "person" as defined in CAA § 302(e), 42 U.S.C. § 7602(e).

6. Respondent is in the business of selling refrigerants for automotive and business applications.

II. Clean Air Requirements/Factual Allegations

7. Section 612 of the CAA, 42 U.S.C. § 7671k, and the regulations promulgated at 40 C.F.R. Part 82, Subpart G, establish that no person shall introduce a substitute refrigerant for a Class I or II ozone depleting substance without first submitting the substitute refrigerant to EPA for review. Section 114 of the CAA, 42 U.S.C. § 7414, gives EPA authority to require a person who is subject to any requirement of the Clean Air Act to provide information or documents, as EPA may reasonably require, to determine, *inter alia*, whether there has been a violation of the CAA.

8. EPA alleges that on or about March 1, 2006, Respondent introduced into interstate commerce a substitute refrigerant for an ozone depleting substance without first submitting the substitute refrigerant to EPA as required by 40 C.F.R. Part 82, Subpart G.

9. EPA alleges that, by letter dated March 22, 2006, EPA sent Respondent a CAA § 114 information request letter seeking information and documents about sales of Respondent's products within 30 days of receipt of the CAA § 114 information request letter. Respondent responded timely to EPA's letter and asserted that it was not subject to the CAA requirements, but did not fully respond with the information and documents requested by the CAA § 114 information request letter until November 9, 2006, and therefore violated the statute by failing to timely respond to the CAA § 114 letter.

10. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and 40 C.F.R. Part 19, EPA may assess a penalty of not more than \$32,500 for each violation that occurred after March 15, 2004.

III. Consent Agreement

11. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out in Paragraph 1 through 7 above, but Respondent neither admits nor denies the allegations set out in Paragraph 8-9.

12. As provided in 40 C.F.R. § 22.18(b)(2), Respondent waives any right to contest the allegations listed above and its right to appeal the proposed final order accompanying this consent agreement.

13. Respondent consents to the assessment of and agrees to pay the civil penalty in the amount, and pursuant to the schedule, set forth in this CAFO.

14. Respondent certifies that, to the best of its knowledge, information and belief, as of the date of the execution of this CAFO, Respondent is in full compliance with all relevant requirements of the CAA § 612 and its implementing regulations.

15. Compliance with this CAFO shall resolve the allegations of violations contained herein and known to the EPA at this time and EPA hereby releases Respondent from all liability therefore. This CAFO shall not otherwise affect any liability of

Respondent, if any, to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement for allegations of violations not contained in this CAFO.

16. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of the CAA.

IV. Final Order

17. Respondent is assessed a civil penalty of **FIFTEEN THOUSAND THREE HUNDRED DOLLARS (\$15,300)** which is to be paid as follows: **TWO THOUSAND THREE-HUNDRED DOLLARS (\$2,300)** within 30 days of Respondent's receipt of a copy of the fully executed CAFO (as evidenced by the Certified Mail – Return Receipt Request date), and the remainder, **THIRTEEN THOUSAND DOLLARS (\$13,000)**, plus interest at the applicable treasury rate of 4%, shall be paid pursuant to the payment schedule attached hereto as Appendix A.

18. Respondent shall pay the penalty by forwarding a cashiers or certified check, payable to: Treasurer, United States of America, to the following address:

For payments sent by regular US Postal Service mail:

U.S. Environmental Protection Agency
P.O. Box 371099M
Pittsburgh, PA 15251

For non-US Postal Service delivery:

Mellon Client Service Center
ATTN: Shift Supervisor, Room 0690
Lockbox 371099M Account 9109125
500 Ross Street
Pittsburgh, PA 15262-0001

The check shall reference on its face the name of the Respondent and the Docket Number (CAA-04-2007-1509(b)) of the CAFO.

19. At the time of each payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-3104

Ms. Laurie Savoy
Air, Pesticides and Toxics Management Division
Air and EPCRA Enforcement Branch
U.S. EPA - Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

Saundi Wilson (OEA)
U.S. EPA - Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

20. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for the civil penalty payment made pursuant to paragraph 17.

21. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty and shall apply to all time payments made more than 30 days from the date of entry of this CAFO. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717, as set forth on the Payment Schedule and amortization table contained in Appendix A. In the event that any payments required under this CAFO are not timely made, the entire unpaid sum will become immediately due and EPA will be allowed to assess its reasonable costs to cover the costs of debt collection, including assessing interest, handling costs and attorney fees.

22. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

23. This CAFO shall be binding upon the Respondent, its successors and assigns.

24. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

V. Effective Date

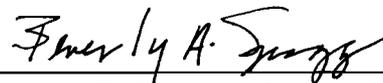
25. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

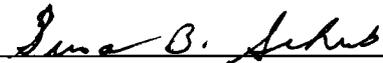
Thermofluid Technologies, Inc.

By:  Date: 2/13/07
F. Gene Brewer
President, Thermofluid Technologies, Inc..

U.S. Environmental Protection Agency

By:  Date: 2/22/07
Beverly H. Banister, Director
Air, Pesticides and Toxics Management Division,
Region 4

APPROVED AND SO ORDERED this 26th day of Feb., 2007.


Susan B. Schub
Regional Judicial Officer

APPENDIX A

Payment Schedule

CAFO settlement amount = \$15,300.00
Total interest added = \$427.40
TOTAL = \$15,727.40

	Payment due date (in # of days after CAFO is filed)	Payment Amount Due (including interest)
No interest 0-30 days	30	\$2,300.00
payment 1	120	\$2,237.90
payment 2	210	\$2,237.90
payment 3	300	\$2,237.90
payment 4	390	\$2,237.90
payment 5	480	\$2,237.90
payment 6	570	\$2,237.90

Amortization Table

CAFO amount	15,300.00							
	Balance	Payment Principle	Principle due	Payment Interest	# of days	Interest rate	interest daily rate	Interest Due
No interest	15,300.00	2,300.00	13,000.00	0	0-30	0		0.00
pay 1	13,000.00	2,166.67	10,833.33	170.958904	0-120	0.04	1.425	170.96
pay 2	10,833.33	2,166.67	8,666.66	106.849282	121-211	0.04	1.187	106.85
pay 3	8,666.66	2,166.67	6,499.99	85.4793863	211-302	0.04	0.95	85.48
pay 4	6,499.99	2,166.67	4,333.32	64.1094904	303-393	0.04	0.712	64.11
pay 5	4,333.32	2,166.67	2,166.65	42.7395945	394-484	0.04	0.475	42.74
pay 6	2,166.65	2,166.65	0.00	21.1322575	485-575	0.04	0.237	21.13
TOTALS	0.00	15,300.00		\$ 427.40				

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: Thermofluid Technologies, Inc., Docket No. CAA-04-2007-1509(b), on the parties listed below in the manner indicated:

Mr. Alan Dion (Via EPA's internal mail)
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, GA 30303

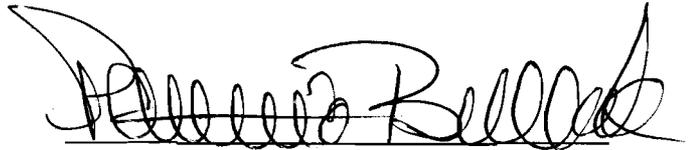
Ms. Laurie Savoy (AEEB) (Via EPA's internal mail)
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

Mr. F. Gene Brewer, President (Via Certified Mail - Return
Thermofluid Technologies, Inc Receipt Requested)
490 Home Avenue
Maryville, TN 37801

Mr. Gary A. Peters (Via US Mail, postage prepaid)
Howard & Howard Attorneys PC
39400 Woodward Ave, Suite 101
Bloomfield Hills, MI 48304

Date:

2-26-07



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental Protection
Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303
(404)562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundri Wilson on 2/22/07
(Name) (Date)

in the OEA, CATGL at (404) 562-9504
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree
USAO COLLECTS

Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree
DOJ COLLECTS

Oversight Billing - Cost Package required:
Sent with bill

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: Thermofluid Technologies Inc
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 15,306
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CAA 04 2007 1509(b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: Peggy Whitney of the Financial Management Section at: (404) 562-8238.

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- | | |
|--|---|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD)
3. Designated Program Office |
|--|---|

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|--|---|
| 1. Originating Office
2. Regional Hearing Clerk | 3. Designated Program Office
4. Regional Counsel (EAD) |
|--|---|