

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Rivera for Amanda J. Helwig
Name of Case Attorney

5/1/09
Date

in the ORC (RAA) at 918-1113
Office, & Mail Code Phone number

Case Docket Number CAA-01-2008-0098

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

The Dow Chemical Company
1761 Route 12
Gales Ferry, CT 06335

Total Dollar Amount of Receivable \$ 150,000 Due Date: 5/30/09

SEP due? Yes _____ No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1st \$ _____ on _____

2nd \$ _____ on _____

3rd \$ _____ on _____

4th \$ _____ on _____

5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

Phone Number



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1
1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

RECEIVED

2009 APR 30 P 3:40

REG. CLERK
OFFICE OF
REG. CLERK

HAND DELIVERED

April 30, 2009

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
One Congress Street, Suite 1100 (RAA)
Boston, Massachusetts 02114-2023

RE: In the Matter of The Dow Chemical Company
Docket No. CAA-01-2008-0098

Dear Ms. Santiago,

Enclosed for filing in the above-referenced matter, please find the original and one copy of the Consent Agreement and Final Order, signed by both parties and approved by the Regional Judicial Officer, and the Certificate of Service.

Thank you for your attention to this matter.

Sincerely,

Amanda J. Helwig
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1

cc: David M. Friedland, Esq.
Beveridge & Diamond PC

Enclosures

Toll Free • 1-888-372-7341

Internet Address (URL) • <http://www.epa.gov/region1>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 30% Postconsumer)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

RECEIVED

2009 APR 30 P 3: 4

In the Matter of:)
)
)
The Dow Chemical Company)
1761 Route 12)
Gales Ferry, CT 06335)
)
Respondent.)
_____)

Docket No. CAA-01-2008-0098

EPA ORC
CLERK

CONSENT AGREEMENT AND FINAL ORDER

The United States Environmental Protection Agency ("EPA"), issued an Administrative Complaint and Notice of Opportunity for Hearing ("Complaint") to The Dow Chemical Company ("Respondent") on September 26, 2008. EPA and Respondent agree that settlement of this cause of action is in the public interest and that entry of this Consent Agreement and Final Order ("CAFO") without further litigation is the most appropriate means of resolving the enforcement action commenced by the filing of the Complaint. The parties agree to settle the action through the issuance of this CAFO, pursuant to 40 C.F.R. §22.18(b) of EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination, or Suspension of Permits," 40 C.F.R. Part 22.

NOW, THEREFORE, before taking any testimony, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding for the assessment of a civil penalty of \$330,112, pursuant to Sections 113(a) and (d) of the Clean Air Act ("CAA"), 42 U.S.C. §7413(a) and (d).

2. The Complaint alleges that Respondent violated Sections 112 and 608 and Title V of the CAA, and EPA's regulations at 40 C.F.R. Part 63, Subpart U and 40 C.F.R. Part 82, Subpart F, at Respondent's Allyn's Point Facility, located in Gales Ferry, Connecticut ("Facility").

3. The provisions of this CAFO shall apply to and be binding on EPA and on Respondent, its officers and directors (in their corporate capacities only), successors, and assigns.

4. Without admitting or denying the factual allegations contained in the Complaint, Respondent consents to the terms of this Consent Agreement and to the issuance of the Final Order hereinafter recited. Respondent also consents, for the purposes of settlement, to the payment of the civil penalty cited in paragraph 8 herein.

5. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and hereby waives any defenses it might have as to jurisdiction and venue.

6. Respondent hereby waives its right to request a judicial or administrative hearing on any issue of law or fact set forth in the Complaint and waives its right to appeal the Final Order.

II. TERMS OF SETTLEMENT

7. Respondent hereby certifies that the Facility is currently in compliance with the requirements set forth in Counts I through III and V through VII in the Complaint.

III. PENALTY

8. After consideration of the nature of the CAA violations alleged in the Complaint and taking into account such other circumstances as justice may require, EPA has determined that it is fair and proper to assess a total civil penalty in the amount of one hundred and fifty thousand dollars (\$150,000).

9. Respondent shall pay the penalty of \$150,000 within thirty (30) days after the effective date of this CAFO.

10. In accordance with 40 C.F.R. §22.31(b), the effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

11. Respondent shall pay the penalty, and any interest thereon, by submitting a bank, cashier's, or certified check, payable to "Treasurer, United States of America." This check shall be sent to:

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

Respondent shall note the case name and respective docket numbers ("In the Matter of The Dow Chemical Company," EPA Docket No. CAA-01-2008-0098) on the check and in accompanying cover letters and shall provide copies of the checks and letters to:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region I
Suite 1100, Mail Code: RAA
One Congress Street
Boston, MA 02114-2023

and

Amanda J. Helwig
Enforcement Counsel
U.S. Environmental Protection Agency, Region I
One Congress Street
Suite 1100, Mail Code: RAA
Boston, MA 02114-2023
Tel: (617) 918-1180

12. Pursuant to § 113(d)(5) of the Clean Air Act, 42 U.S.C. § 7413(d)(5), if Respondent fails to pay any penalty amount it will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Interest will be assessed on the civil penalty if it is not paid within 30 calendar days of Respondent's receipt of the Consent Agreement and Order signed by the Regional Judicial Officer. In that event, interest will accrue from the date the Consent Agreement and Order was signed by the Regional Judicial Officer, at the "underpayment rate" established pursuant to 26 U.S.C. § 6621(a)(2). For all other penalty amounts, interest will accrue from the date of EPA's penalty demand in accordance with Paragraph IV.C. In the event that a penalty is not paid when due, an additional charge will be assessed to cover the United States' enforcement expenses, including attorneys fees and collection costs. In addition, a quarterly nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondent's outstanding civil penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter.

13. All penalties, interest, and other charges shall represent penalties assessed by EPA, and shall not be deductible for purposes of federal taxes.

14. Payment of the penalties, interest, or other charges does not waive, suspend, or modify the responsibility of Respondent to comply with the requirements of all of the

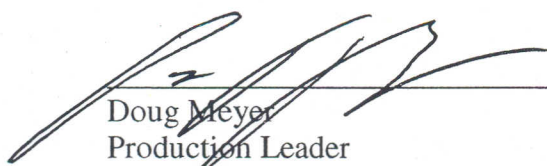
federal laws and regulations administered by EPA and, except as provided in paragraph 22 herein, shall not be a defense to any actions subsequently commenced pursuant to said laws and regulations.

15. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Sections 113(a) and (d) of the CAA for the specific violations alleged in the Complaint. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with said laws and regulations. EPA reserves all its other criminal and civil enforcement authorities, including the authority to address conditions at Respondent's facility that may present an imminent and substantial endangerment to public health or the environment.

16. Each party shall bear its own costs and attorneys' fees in this proceeding.

17. The undersigned representative of Respondent certifies that s/he is fully authorized by The Dow Chemical Company to enter into the terms and conditions of this CAFO and to execute and legally bind The Dow Chemical Company to it.

For Respondent:



Doug Meyer
Production Leader
Responsible Care Leader
The Dow Chemical Company

APRIL 21ST 2009
Date

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date noted below:

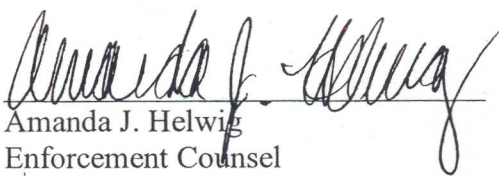
Original and one copy,
by hand:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
One Congress Street, Suite 1100 (RAA)
Boston, MA 02114-2023

One copy, by certified mail:

David M. Friedland, Esq.
Beveridge & Diamond PC
1350 I Street, NW
Suite 700
Washington, D.C. 20005-3311

Date: 4/30/09


Amanda J. Helwig
Enforcement Counsel
U.S. EPA, Region 1
One Congress Street, Suite 1100 (SEL)
Boston, MA 02114-2023
Phone: (617) 918-1180
Fax: (617) 918-0180