



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

JUL 12 2013

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

REPLY TO THE ATTENTION OF:

Eric S. Nichols, Vice President  
Solutia, Inc.  
5100 W. Jefferson Avenue  
Trenton, Michigan 48183

Dear Mr. Nichols:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves CAA-05-2013-0030. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on JUL 12 2013.

Pursuant to paragraph 32 of the CAFO, Solutia, Inc. must pay the civil penalty within 30 days of JUL 12 2013. Your check must display the case name Solutia, Inc. and the docket number CAA-05-2013-0030.

Please direct any questions regarding this case to Michael Berman, Office of Regional Counsel, 312-886-6837.

Sincerely,

Eileen L. Furey  
Acting Chief  
Air Enforcement and Compliance Assurance Branch

Enclosure

cc: Ann Coyle, Regional Judicial Officer, C-14J  
Regional Hearing Clerk, E-19J  
Brett Sago, Eastman Chemical Company  
Michael Berman, C-14J  
Tom Hess, MDEQ

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No. CAA-05-2013-0030</b>
	)	
<b>Solutia, Inc.</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>Trenton, Michigan,</b>	)	<b>Under Section 113(d) of the Clean Air Act,</b>
	)	<b>42 U.S.C. § 7413(d)</b>
<b>Respondent.</b>	)	
_____	)	

**Consent Agreement and Final Order**

**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA or 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, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Solutia, Inc. (Solutia or Respondent), a corporation doing business in 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.

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2013 JUL 12 AM 11:52

### **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.

### **Statutory and Regulatory Background**

9. Section 608 of the Act, 42 U.S.C. § 7471g, requires the Administrator of EPA (the Administrator) to promulgate regulations establishing standards and requirements regarding the use and disposal of "Class I" and "Class II" ozone-depleting substances.

10. On May 14, 1993, in accordance with Section 608 of the Act, EPA promulgated regulations at 40 C.F.R. Part 82, Subpart F, applicable to Recycling and Emissions Reduction (the Subpart F regulations).

11. 40 C.F.R. § 82.150(b) provides that the Subpart F regulations apply to any "person" servicing, maintaining, or repairing "appliances," as those terms are defined at 40 C.F.R. § 82.152.

12. The Subpart F regulations, at 40 C.F.R. § 82.156(i)(2), require that an owner or operator of industrial process refrigeration equipment normally containing more than 50 pounds of refrigerant must have leaks repaired if the appliance is leaking at a rate such that the loss of refrigerant will exceed 35 percent of the total charge during a 12-month period. Repairs must bring annual leak rates to below 35 percent during a 12-month period.

13. The Subpart F regulations, at 40 C.F.R. § 82.156(i)(9), require that owners or operators of industrial process refrigeration equipment must repair leaks pursuant to 40 C.F.R. § 82.156(i)(2) within 30 days after discovery of the leak.

14. The Subpart F regulations, at 40 C.F.R. § 82.156(i)(3), require that an owner or operator of industrial process refrigeration equipment conduct a follow-up verification test within 30 days of the initial verification test.

15. The Subpart F regulations, at 40 C.F.R. § 82.156(i)(6), state that an owner or operator of industrial process refrigeration equipment is not required to repair a leak within 30 days of discovering the exceedance of the applicable leak rate, or within 30 days of a failed follow-up verification test if they develop a one-year retrofit and retirement plan for the leaking appliance. The plan must be dated and kept at the site of the appliance.

16. The Subpart F regulations, at 40 C.F.R. § 82.156(i)(3)(ii), require that an owner or operator of industrial process refrigeration equipment must retrofit or retire such equipment within one year of failing the follow-up verification test.

17. The Subpart F regulations, at 40 C.F.R. § 82.156(i)(3)(iii), require that an owner or operator of industrial process refrigeration equipment that fails a follow-up verification test must notify EPA within 30 days of the failed follow-up verification test.

18. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for violations that occurred after January 12, 2009 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

19. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

20. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

**Factual Allegations and Alleged Violations**

21. Solutia owns and operates a manufacturing facility for resins located in Trenton, Michigan (the Facility). The Facility owns and operates at least six active industrial process refrigeration units with a normal charge of over 50 pounds, including units AC-R2 circuit 2 (disintegrator chiller, circuit 2), and AC-R5 (north VOC chiller). Each industrial refrigeration unit referenced above is an "appliance," as defined in 40 C.F.R. § 82.152, and uses the class II refrigerant R-22.

22. Between March 10, 2009 and June 21, 2010, AC-R2 circuit 2 (disintegrator chiller, circuit 2) experienced leaks that resulted in an annual leak rate exceeding 35 percent, in violation of 40 C.F.R. § 82.156(i)(2) and Section 608 of the Act, 42 U.S.C. § 7471g.

23. Between March 10, 2009 and June 21, 2010, Solutia failed to perform follow-up verification tests on AC-R2 circuit 2 (disintegrator chiller, circuit 2) to verify that the repairs performed on the unit had brought the leak rate to below 35 percent, in violation of 40 C.F.R. § 82.156(i)(3) and Section 608 of the Act, 42 U.S.C. § 7471g.

24. Between March 10, 2009 and June 21, 2010, Solutia failed to develop a retrofit or retirement plan for AC-R2 circuit 2 (disintegrator chiller, circuit 2) when repairs performed on the unit were unable to bring the leak rate below 35 percent, in violation of 40 C.F.R. § 82.156(i)(6) and Section 608 of the Act, 42 U.S.C. § 7471g.

25. Between March 10, 2009 and June 21, 2010, Solutia failed to retrofit or retire AC-R2 circuit 2 (disintegrator chiller, circuit 2) following an exceedance of the applicable leak rate

or a failed follow-up verification test, in violation of 40 C.F.R. § 82.156(i)(3)(ii) and Section 608 of the Act, 42 U.S.C. § 7471g.

26. Between March 10, 2009 and June 21, 2010, Solutia failed to notify EPA of failed follow-up verification tests on AC-R2 circuit 2 (disintegrator chiller, circuit 2), in violation of 40 C.F.R. § 82.156(i)(3)(iii) and Section 608 of the Act, 42 U.S.C. § 7471g.

27. Between May 21, 2009 and October 16, 2009, Solutia failed to perform follow-up verification tests on AC-R5 (north VOC chiller) to verify that the repairs performed on the unit had brought the leak rate to below 35 percent, in violation of 40 C.F.R. § 82.156(i)(3) and Section 608 of the Act, 42 U.S.C. § 7471g.

28. Between May 21, 2009 and October 16, 2009, Solutia failed to develop a retrofit or retirement plan for AC-R5 (north VOC chiller) when repairs performed on the unit were unable to bring the leak rate below 35 percent, in violation of 40 C.F.R. § 82.156(i)(6) and Section 608 of the Act, 42 U.S.C. § 7471g.

29. Between May 21, 2009 and October 16, 2009, Solutia failed to retrofit or retire AC-R5 (north VOC chiller) following an exceedance of the applicable leak rate or a failed follow-up verification test, in violation of 40 C.F.R. § 82.156(i)(3)(ii) and Section 608 of the Act, 42 U.S.C. § 7471g.

30. Between May 21, 2009 and October 16, 2009, Solutia failed to notify EPA of failed follow-up verification tests on AC-R5 (north VOC chiller), in violation of 40 C.F.R. § 82.156(i)(3)(iii) and Section 608 of the Act, 42 U.S.C. § 7471g.

#### **Civil Penalty**

31. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, Respondent's cooperation, including self-disclosure

of the violations, and agreement to perform a supplemental environmental project, Complainant has determined that an appropriate civil penalty to settle this action is \$55,391.

32. Within 30 days after the effective date of this CAFO, Respondent must pay a \$55,391 civil penalty by utilizing an electronic funds transfer, payable to "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, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D68010727 Environmental Protection Agency"

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

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

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

Michael Berman (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

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

36. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

37. 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 pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. 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. 42 U.S.C. § 7413(d)(5).

#### **Supplemental Environment Project**

38. Respondent must complete a supplemental environmental project (SEP) designed to protect the environment by reducing the use of ozone-depleting substances which lead to an increase in the depletion of stratospheric ozone (the "ozone layer"). The ozone layer protects humans as well as many plants and animals by filtering harmful ultraviolet radiation from the sun.

39. At its Trenton, Michigan facility, Respondent must complete the SEP as follows. Replace a 12 ton Mycom Mypro V evaporative water cooled chiller utilizing R-22 refrigerant, AC-R4, with a 14 ton Tempest water-cooled twin screw compressor chiller utilizing non-ozone depleting substance refrigerant R-507. The SEP will take eight months to complete beginning from August 1, 2013. A scope of the work and schedule is contained in Exhibit A.



40. Respondent must spend at least \$395,100 to complete the SEP as indicated in Exhibit A.

41. Respondent certifies as follows:

I certify that Solutia, Inc. is not required to perform or develop the SEP by any law, regulation, order, or agreement or as injunctive relief as of the date that I am signing this CAFO. I further certify that Solutia, Inc. has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

I certify that Solutia, Inc. is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. I further certify that, to the best of my knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date that I am signing this CAFO (unless the project was barred from funding as statutorily ineligible). For purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not expired.

42. EPA may inspect the Facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

43. Respondent must submit a SEP completion report to EPA by May 31, 2014. This report must contain the following information:

- a. Detailed description of the SEP as completed;
- b. Description of any operating problems and the actions taken to correct the problems;
- c. Itemized cost of goods and services used to complete the SEP documented by copies of invoices, purchase orders or cancelled checks that specifically identify and itemize the individual cost of the goods and services;
- d. Certification that Respondent has completed the SEP in compliance with this CAFO; and

- e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

44. Respondent must submit all notices and reports required by this CAFO by first-class mail to the Compliance Tracker of the Air Enforcement and Compliance Assurance Branch at the address provided in paragraph 34, above.

45. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

46. Following receipt of the SEP completion report described in paragraph 43, above, EPA must notify Respondent in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and EPA will seek stipulated penalties under paragraph 48.

47. If EPA exercises option b or c above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, EPA will give Respondent a written decision on its objection. Respondent will comply with any requirement that EPA imposes in its decision. If Respondent does not complete the SEP as required by EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 48, below.

48. If Respondent violates any requirement of this CAFO relating to the SEP,

Respondent must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent did not complete the SEP satisfactorily according to the requirements of this CAFO, including submitting the SEP completion report by May 31, 2014, Respondent must pay a penalty of \$166,174.
- b. If Respondent did not complete the SEP satisfactorily, but EPA determines that Respondent made good faith and timely efforts to complete the SEP and certified, with supporting documents, that it spent at least \$149,557, Respondent will not be liable for any stipulated penalty under subparagraph a, above.
- c. If Respondent completed the SEP satisfactorily, but spent less than \$149,557, Respondent must pay a penalty of \$22,156.
- d. If Respondent did not submit timely the SEP completion report or any other report required by Exhibit A, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$100	1 <sup>st</sup> through 14 <sup>th</sup> day
\$200	15 <sup>th</sup> through 30 <sup>th</sup> day
\$300	31 <sup>st</sup> day and beyond

49. EPA's determinations of whether Respondent completed the SEP satisfactorily and whether Respondent made good faith and timely efforts to complete the SEP will bind Respondent.

50. Respondent must pay any stipulated penalties within 30 days of receiving EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraph 32 above, and will pay interest and nonpayment penalties on any overdue amounts.

51. Any public statement that Respondent makes referring to the SEP must include the following language: "Solutia, Inc. undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Solutia, Inc. for violations of 40 C.F.R. § 82.156."

52. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

#### **General Provisions**

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

54. The 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 violation of law.

55. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 53, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

56. Respondent certifies that it is complying fully with 40 C.F.R. Part 82, Subpart F.

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

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

59. 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.

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

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

**Solutia, Inc., Respondent**

6/27/13  
Date

T. L. Ratcliff, Jr.  
T. L. Ratcliff, Jr., Vice President  
Solutia, Inc.

**United States Environmental Protection Agency, Complainant**

7/2/13  
Date

George T. Czerniak  
George T. Czerniak  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5

## Exhibit A

### Supplemental Environmental Project (SEP) Scope of Work and Schedule

#### Replace AC-R4

Respondent shall plan and implement the replacement of a 12 ton, 100 horse power (hp) Mycom Mypro V evaporative water cooled chiller, identified as AC-R4. Respondent shall replace AC-R4 with a new 14 ton Tempest water-cooled twin screw 125 hp compressor chiller (South D-Limonene chiller) charged with the non-ODS refrigerant R-507.

Since the new chiller is physically larger, the project also involves the construction of a new metal fabricated building to house the South D-Limonene chiller, along with piping and electrical connections, new instrumentation systems and the required water supply and return lines to provide adequate cooling. Following installation of the South D-limonene chiller, Solutia will disconnect and cease operation of AC-R4. Solutia is prepared to begin the project as early as August 2013, and complete it by March 31, 2014.

#### Replace AC-R4 Report Schedule

Report of planning and design progress, must be submitted by 60 days after the effective date of the Consent Agreement and Final Order (CAFO). This report must include at least a brief background summary, the scope of work, and project schedule identifying key milestones.

Report that the new AC-R4 chiller has been purchased and received must be submitted to EPA by October 30, 2013.

#### SEP COST

One-time costs associated with the project are estimated to be \$395,100. No additional annual maintenance costs are anticipated. The break-down of the SEP costs is as follows:


DESCRIPTION	ESTIMATED COST
Purchase Chiller & Freight	\$197,000
Installation	\$15,000
Building and Foundation	\$32,400
Piping & Electrical	\$85,000
Cooling Tower Supply & Return Piping	\$30,000
Contract Engineering	\$20,700
Plant Engineering	\$15,000
<b>ESTIMATED TOTAL PROJECT COST:</b>	<b>\$395,100</b>

**Consent Agreement and Final Order**  
**In the Matter of: Solutia, Inc.**  
**Docket No. CAA-05-2013-0030**

**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.

7-10-13  
Date

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

  
JUL 12 2013  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

**Consent Agreement and Final Order**

**In the Matter of: Solutia, Inc.**

**Docket No. CAA-05-2013-0030**

**Certificate of Service**

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number ~~CAA-05-2013-0030~~ with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

Eric S. Nichols, Vice President  
Solutia, Inc.  
5100 W. Jefferson Avenue  
Trenton, Michigan 48183

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REGIONAL HEARING CLERK  
U.S. EPA-REGION 5  
JUL 12 AM 11:52

I certify that I delivered a correct copy of the CAFO by intra-office mail, addressed as follows:

Ann Coyle  
Regional Judicial Officer (C-14J)  
U.S. Environmental Protection Agency  
77 W. Jackson Boulevard  
Chicago, Illinois 60604


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

Tom Hess  
Michigan Department of Environmental Quality  
Lansing District Office  
P.O. Box 30260  
Lansing, Michigan 48909

Brett A. Sago  
Senior Counsel  
Legal Department  
Eastman Chemical Company  
P.O. Box 511  
Kingsport, Tennessee 37662-5075



On the 12<sup>th</sup> day of July 2013.

  
Loretta Shaffer  
Administrative Program Assistant  
AECAB, Planning and  
Administration Section

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7676 0649