

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

This form was originated by: Jeffene Garcia 11/25/09
Name of Contact person Date

in the Regional counsel at X-2697
Office Phone number

- Non-SF Jud. Order/Consent Decree. DOJ COLLECTS
- Administrative Order/Consent Agreement FMD COLLECTS PAYMENT
- SF Jud. Order/Consent Decree. FMD COLLECTS
- This is an original debt This is a modification

Name of Company making payment: Cabot Corporation

The Total Dollar Amount of Receivable: \$ 5,900.00
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number cercla-03-2010-0011

The Site-Specific Superfund Acct. Number _____

The Designated Regional/HQ Program Office _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
Name of Contact Date

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

- 1. Rosemarie Pacheco
Environmental Enforcement Section
Lands Division, Room 130044
1425 New York Avenue, N.W.
Washington, D.C. 20005
- 2. Originating Office (ORC)
- 3. Designated Program Office

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

- 1. Originating Office
- 2. Designated Program Office
- 3. Regional Hearing Clerk



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

December 21, 2009

HAND DELIVERY

Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Re: Consent Agreement and Final Order
U.S. EPA Docket No. CERCLA-03-2010-0041

Dear Ms. Guy:

Enclosed for filing is a fully executed Consent Agreement and Final Order settling this matter. A courtesy copy of the Consent Agreement and Final Order is also enclosed.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffere E. Garcia".

Jeffere E. Garcia
Assistant Regional Counsel

cc: Gerard A. Caron (via regular mail and email)





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the Matter of:)

Cabot Corporation)
Two Seaport Lane)
Suite 1300)
Boston, MA 02210)

EPA Docket No. CERCLA-03-2010-0041

Respondent.)

Proceedings Pursuant to Sections
103 and 109 of the Comprehensive
Environmental Response
Compensation and Liability Act, as
amended, ("CERCLA"), 42 U.S.C.
§§ 9603 and 9609.

Cabot Corporation)
Route 2 North)
One Cabot Drive)
Waverly, WV 26184)

Facility.)

CONSENT AGREEMENT

STATUTORY AUTHORITY

This Consent Agreement ("CA") is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, ("CERCLA"), 42 U.S.C. § 9609, as well as under the authority provided by the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits" ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, ("Part 22"). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region III, who has in turn delegated them to the Director, Hazardous Site Cleanup Division, EPA Region III ("Complainant").

The parties agree to the commencement and conclusion of this cause of action by issuance of this Consent Agreement and Final Order (referred to collectively herein as "CA/FO") as prescribed by the Consolidated Rules of Practice pursuant to 40 C.F.R. § 22.13(b), and having consented to the entry of this CA/FO, agree to comply with the terms of this CA/FO.

EPA'S FINDINGS OF FACT

EPA makes the following findings of fact, which Respondent neither admits nor denies:

1. Respondent, Cabot Corporation, ("Cabot"), is a Delaware corporation with its principal place of business located at Two Seaport Lane in Boston, Massachusetts.

2. As a corporation, Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), and its respective regulations, 40 C.F.R. §§ 302.3 and 355.20.

3. Upon information and belief beginning in 1968 and at all times relevant to this matter, Respondent was in charge of the Cabot Ohio River Facility at One Cabot Drive, Waverly, WV 26184 within the meaning of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

4. The Cabot facility (hereinafter the "facility") is a "facility", as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), and Section 329(4), and its respective regulations, 40 C.F.R. §§ 302.3 and 355.2.

5. Hydrogen Sulfide ("H₂S") is a hazardous substance, as defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and 40 C.F.R. § 302.4, with a reportable quantity ("RQ") of one hundred (100) pounds, as listed in 40 C.F.R. Part 302, Table 302.4.

6. Carbon Disulfide ("CS₂") is a hazardous substance, as defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and 40 C.F.R. § 302.4, with a reportable quantity ("RQ") of one hundred (100) pounds, as listed in 40 C.F.R. Part 302, Table 302.4.

7. Upon information and belief, beginning on or about January 12, 2007 between about 3:00 p.m. (1500 hours) and continuing until 6:10 p.m. (1810 hours) on January 13, 2007, approximately three-thousand three-hundred and seventy (3,370) total pounds of H₂S, Chemical Abstracts Service ("CAS") No. 7783-06-4, and five-thousand, seven-hundred and twenty-eight (5,728) pounds of CS₂, CAS No. 75-15-0, were released from the Respondent's facility (the "Release"). The H₂S and CS₂ released were, respectively, five-hundred sixty-four (564) pounds above and three-hundred sixty-six pounds (366) above the operating permit limits for those chemicals.

8. The Release from Respondent's facility constitutes a release of hazardous substances in a quantity equal to, or greater than, the RQ of one hundred (100) pounds for H₂S and the RQ of one hundred (100) pounds for CS₂ as listed in 40 C.F.R. Part 302, Table 302.4.

9. On January 16, 2008, a CERCLA Section 103 inspection was conducted at the facility pursuant to 42 U.S.C. § 9603 based on information given to the National Response Center ("NRC") regarding the Release.

10. On or about August 17, 2009, EPA issued a Show Cause letter to Cabot indicating that the Agency was considering the assessment of penalties against Cabot for violations of Section 103 of CERCLA, 42 U.S.C. § 9603.

11. Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), requires the Administrator of EPA to publish a list of substances designated as hazardous substances which, when released into the environment, may present a substantial danger to public health or welfare or to the environment, and to promulgate regulations establishing that quantity of any hazardous substance, the release of which shall be required to be reported under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a) ("Reportable Quantity" or "RQ"). The list of hazardous substances is codified at 40 C.F.R. § 302.4.

12. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), as implemented by 40 C.F.R. Part 302, requires, in relevant part, the owner or operator of a facility at which hazardous chemicals are produced, used or stored, as soon as he/she has knowledge of a release (other than a federally permitted release) of a hazardous substance from such facility in a quantity equal to, or greater than, the RQ, to immediately notify the NRC as established under Section 311(d)(2)(E) of the Clean Water Act, as amended, 33 U.S.C. § 1321(d)(2)(E), of such release.

13. Respondent notified the NRC of the release on or about January 13, 2007 at or about 8:41 p.m. (2041 hours), Eastern Standard Time, or approximately two (2) hours and ten (10) minutes after 6:31 p.m (1831 hours). when the Respondent knew, or should have known that hydrogen sulfide and carbon disulfide had been released at the Respondent's facility in amounts equal to or greater than the RQ and in excess of the permitted amounts for each substance.

**EPA'S CONCLUSION OF LAW RELATED TO THE
VIOLATION OF SECTION 103 OF CERCLA**

14. The Release was not a "federally permitted release" as that term is used in Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6, and defined in Section 101(10) of CERCLA, 42 U.S.C. § 9601(10), and 40 C.F.R. § 302.3.

15. Although Respondent notified the NRC of the Release, Respondent did not immediately notify the NRC of the Release as required by Section 103 of CERCLA, 42 U.S.C. § 9603. Immediate notification is required as soon as the Respondent knew or should have known of the Release.

16. Respondent's failure to immediately notify the NRC as soon as the Respondent knew or should have known of the Release of hydrogen sulfide from the Facility in an amount equal to or in excess of its applicable RQ, is a violation of Section 103 of CERCLA, 42 U.S.C. § 9603.

Therefore, Respondent is subject to the assessment of penalties under Section 109 of CERCLA, 42 U.S.C. § 9609.

17. Respondent's failure to immediately notify the NRC as soon as the Respondent knew or should have known of the Release of carbon disulfide from the Facility in an amount equal to or in excess of its applicable RQ, is a violation of Section 103 of CERCLA, 42 U.S.C. § 9603. Therefore, Respondent is subject to the assessment of penalties under Section 109 of CERCLA, 42 U.S.C. § 9609.

CIVIL PENALTY

18. For the purpose of this proceeding, the Respondent consents to the assessment of a civil penalty for the alleged violations of CERCLA Section 103(a), 42 U.S.C. § 9603(a), in the total amount of \$5,900.00.

PAYMENT TERMS

19. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with the civil penalty described in this CA/FO, the Respondent must pay the civil penalty no later than thirty (30) days after the effective date of the Final Order (the "final due date").

a. Payment may be made via cashier's check, payable to "EPA-Hazardous Substances Superfund," in care of:

U.S. Environmental Protection Agency
Attn: Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000
Contact: Natalie Pearson, (314-418-4087)

If the cashier's check is sent overnight mail, it should be sent to:

U.S. Environmental Protection Agency
ATTENTION: Superfund Payments
U.S. Bank
1005 Convention Plaza
Mail Station FL-MO-C2GL
St. Louis, MO 63101

Contact Natalie Pearson, (314-418-4087)

The Respondent shall note on the CERCLA penalty-payment cashier's check the title and docket number of this case.

b. Payment may be made via EFT (wire transfer) to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"

c. Payment may be made via Automated Clearinghouse (ACH) to:

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact - Jesse White 301-887-6548
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account 310006
CTX Format

d. Payment may be made via Internet to:

WWW.PAY.GOV
Enter sfo 1.1 in the search field
Open form and complete required fields.

20. The Respondent shall submit a copy of the check, or verification of wire transfer or ACH to the following persons:

Lydia Guy (3RC00)
Regional Hearing Clerk
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

and

Jefferie E. Garcia (3RC42)
Assistant Regional Counsel
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029

21. The CERCLA civil penalty stated herein is based upon Complainant's consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 109 of CERCLA, 42 U.S.C. § 9609, and is consistent with 40 C.F.R. Part 19 and the *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, (September 30, 1999)*.

22. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment by the final due date or to comply with the conditions in this CA/FO shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.

23. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this CA/FO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the final due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Interest on any civil penalties assessed pursuant to this CA/FO will begin to accrue on the date that a written demand for such penalties is mailed or hand-delivered to Respondent.

24. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the final due date and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid.

25. A penalty charge of six (6) percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days in accordance with 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent, in accordance with 31 C.F.R. § 901.9(d).

26. Failure by the Respondent to pay the \$5,900.00 penalty assessed by the Final Order ("FO") in full by the final due date may subject Respondent to a civil action to collect the assessed penalties, plus interest, pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609, and Section 325 of EPCRA, 42 U.S.C. § 11045. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

GENERAL PROVISIONS

27. For the purpose of this proceeding, Respondent admits to the jurisdictional allegations set forth above.

28. For the purpose of this proceeding, Respondent agrees not to contest the Environmental Protection Agency's jurisdiction with respect to the execution or enforcement of the CA/FO.

29. For the purpose of this proceeding, Respondent neither admits nor denies factual allegations and conclusions of law set forth in this CA/FO, but expressly waives its rights to contest said allegations in this proceeding.

30. For the purpose of this proceeding, Respondent expressly waives its right to a hearing and to appeal the FO under Section 109 of CERCLA, 42 U.S.C. § 9609.


31. The provisions of the CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this CA on behalf of the Respondent is acknowledging that he or she is fully authorized by the party represented to execute this CA and to legally bind Respondent to the terms and conditions of the CA and accompanying FO.

32. This CA/FO resolves only those civil claims which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including the Respondent in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nothing in this CA/FO shall be construed to limit the United States' authority to pursue criminal sanctions.

33. Each party to this action shall bear its own costs and attorney's fees.

34. By entering into this CA/FO, the Respondent does not admit any liability for the civil claims alleged herein.

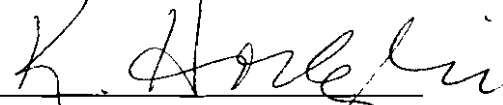
FOR CABOT CORPORATON



SIGNATURE
Title: *Counsel for Cabot Corp.*

12/7/09
DATE

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY



Kathryn A. Hodgkiss, Acting Director
Hazardous Site Cleanup Division

12/9/09
DATE

In the Matter of:)
Cabot Corporation)
Two Seaport Lane)
Suite 1300)
Boston, MA 02210)

Respondent.)

Cabot Corporation)
Route 2 North)
One Cabot Drive)
Waverly, WV 26184)

Proceedings Pursuant to Sections
103 and 109 of the Comprehensive
Environmental Response
Compensation and Liability Act, as
amended, ("CERCLA"), 42 U.S.C.
§§9603 and 9609.

Facility.

FINAL ORDER

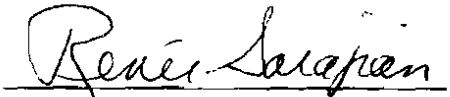
Pursuant to Sections 103 and 109 of the Comprehensive Environmental Response Compensation and Liability Act, as amended, ("CERCLA"), 42 U.S.C. §§ 9603 and 9609, and the delegated authority of the undersigned, and in accordance with 40 C.F.R. Part 22, and based on the representations in the Consent Agreement, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is ordered to comply with the terms of the referenced Consent Agreement.

Effective Date

This Final Order shall become effective upon the date of its filing with the Regional Hearing Clerk.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 12/17/09



Renée Sarajian
 Regional Judicial Officer
 EPA, Region III



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

In the Matter of:)

Cabot Corporation)
Two Seaport Lane)
Suite 1300)
Boston, MA 02210)

EPA Docket No. CERCLA-03-2010-0041

Respondent.)

Cabot Corporation)
Route 2 North)
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**Proceedings Pursuant to Sections
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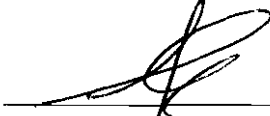
Facility.)

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of the signed Consent Agreement and Final Order with the Regional Hearing Clerk, U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that true and correct copies of the Consent Agreement and Final Order were sent by first class mail to:

Gerard A. Caron
 Cabot Corporation
 Suite 1300, Two Seaport Lane
 Boston, MA 02210

12/21/09
 DATE


 Jefferie E. Garcia (3RC42)
 Assistant Regional Counsel
 Counsel for Complainant
 (215) 814-2697