



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

REGIONAL HEARING
CLERK

2015 OCT 14 AM 8:41

U.S. Environmental
Protection Agency-Reg 2

October 7, 2015

CERTIFIED MAIL-
RETURN RECEIPT REQUESTED

Stephen Rahaim
Chief Environmental Counsel
E. I. DuPont de Nemours and Company
974 Centre Road - Building 721/1164
Wilmington, Delaware 19803

Re: Consent Agreement and Final Order, In the Matter of E.I. duPont de Nemours and Company

Dear Mr. Rahaim:

Enclosed please find a fully executed copy of the Consent Agreement and Final Order in this matter. Please do not hesitate to contact me if you have any questions.

Thank you again for your assistance throughout this process.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jean H. Regna".

Jean H. Regna
Assistant Regional Counsel

Enclosure

cc: Regional Hearing Clerk

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

In the Matter of

E.I. duPont de Nemours and Company,

DuPont Yerkes Plant, Buffalo, New York,

Respondent.

Docket No. CAA-02-2015-11211

CONSENT AGREEMENT AND
FINAL ORDER

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PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order (“CAFO”) is issued pursuant to Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d). The Complainant in this action is the Director of the Emergency and Remedial Response Division of the United States Environmental Protection Agency, Region 2 (“EPA”), who has been delegated the authority to institute this action. Respondent is E.I. duPont de Nemours and Company (“Respondent”).

2. EPA and the U.S. Department of Justice have determined, pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), that EPA may pursue this matter through administrative enforcement action.

3. Pursuant to Section 22.13 of the revised Consolidated Rules of Practice, 40 Code of Federal Regulations (“C.F.R.”) § 22.13(b), where parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a CAFO pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3).

4. It has been agreed by the parties that settling this matter by entering into this CAFO pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) is an appropriate means of resolving specified claims against Respondent without litigation. Compliance with the terms and conditions of this CAFO shall resolve those alleged violations which are set forth herein in the counts below.

STATUTORY BACKGROUND

5. Section 113(d) of the CAA provides for the assessment of penalties for violations of Section 112(r) of the CAA.

6. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), the owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance have a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

EPA FINDINGS OF FACT

7. Respondent is the owner and/or operator of the DuPont Yerkes facility located at Sheridan Drive and River Road, Buffalo, New York (the "Facility"). The Facility is a manufacturing facility, where, among other things, a substance with the trade name of TEDLAR® is produced.

8. The production of TEDLAR® at the Facility is organized into the following manufacturing areas: Polymer; Mix; Casting; and Treating/Finishing. Vinyl fluoride is a raw material used at the Facility during the polymerization process in the production of TEDLAR®.

9. The polymerization process is a risk management program covered process. The equipment in the polymerization process includes a supply tank, a reactor, separators, and a slurry flash tank.

10. At the slurry flash tank, steam and vinyl fluoride are flashed off through the flash tank vent. After the slurry flash tank, the slurry, which still contains some vinyl fluoride, is then pumped through a cooler and sent to one of three slurry storage tanks (slurry tanks #1, #2 and #3). At the time of the incident described below, these three slurry tanks were interconnected by a common overflow line.

11. There is a U-leg loop seal pipe which is a liquid trap on the end of the overflow line inside slurry tank #2. The U-leg loop seal pipe is designed to prevent steam and vinyl fluoride vapors from passing directly from the flash tank and entering the slurry tank. However, if the slurry flash tank level was too high, hot slurry would pass through the flash tank overflow line directly into slurry tank #2.

12. Facility staff had noted in late 2009 that the U-leg loop seal pipe in slurry tank #2 was cracked. Prior to the November 2010 Incident, the U-leg loop seal pipe was not repaired.

13. On November 3, 2010, Facility staff noted that the U-leg loop seal pipe in slurry tank #2 had a "fishmouth" split in the pipe. Facility staff concluded that the slurry tank could be returned to service without repairing the split.

