



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

July 5, 2011

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL

Receipt No.7009 1680 0000 7665 8980

Mr. Charles F. Helsten  
Hinshaw & Culbertson LLP  
100 Park Avenue  
Rockford, Illinois 61105-1389

Consent Agreement and Final Order, Docket No. EPCRA-05-2011-0024

Dear Mr. Helsten:

Enclosed is a copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on July 5, 2011, with the Regional Hearing Clerk.

The civil penalty in the amount of \$49,500 is to be paid in the manner described in paragraphs 111 and 112. Please state that the check is from Mapei Corporation and include the docket number and the following billing document number BD 2751144E022 . Payment is due by August 5, 2011 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Terry Bonace".

Terry Bonace  
Pesticides and Toxics Compliance Section

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**In the Matter of:** ) **Docket No. EPCRA-05-2011-0024**  
)  
**Mapei Corporation** ) **Proceeding to Assess a Civil Penalty**  
**West Chicago, Illinois** ) **Under Section 325(c) of the Emergency**  
) **Planning and Community Right-to-Know**  
**Respondent.** ) **Act of 1986, 42 U.S.C. § 11045(c)**

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**RECEIVED**  
**JUL 05 2011**

**Consent Agreement and Final Order**

**REGIONAL HEARING CLERK**  
**U.S. ENVIRONMENTAL**  
**PROTECTION AGENCY.**

1. This is an administrative action commenced and concluded under Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c), and Sections 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. The Complainant is the Director of the Land and Chemicals Division, U. S. Environmental Protection Agency, Region 5.
3. Respondent is Mapei Corporation, a corporation doing business in the State of Illinois.
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.

### **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.

9. Respondent certifies that it is complying with Section 313 of EPCRA, 42 U.S.C. § 11023.

### **Statutory and Regulatory Background**

10. The EPA promulgated the Toxic Chemical Release Reporting Community Right-to-Know Rule at 40 C.F.R. Part 372 pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048.

11. Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.22 provide that the requirements of Section 313 and Part 372 apply to any facility that has 10 or more full-time employees, a Standard Industrial Classification (SIC) 2891 and that manufactures, imports, processes, or otherwise uses a toxic chemical identified at Section 313(c) and listed at 40 C.F.R. § 372.65 in an amount that exceeds the threshold for reporting, as set forth in Section 313(f) and in 40 C.F.R. §§ 372.25 and 372.27.

12. Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 require the owner or operator of a facility subject to the requirements of Section 313 and Part 372 to complete and submit to the Administrator of U.S. EPA and to the state in which the facility is located, no later than July 1, 1988 and each July 1 thereafter, a chemical release form published pursuant to Section 313(g) for each toxic chemical listed under Section 313(c) that was

manufactured, processed, or otherwise used at the facility during the preceding calendar year in a quantity exceeding the threshold established by Section 313(f).

13. The EPA published the Toxic Chemical Release Inventory Reporting Form, U.S. EPA Form 9350-1 (1-88) (Form R) at 40 C.F.R. § 372.85 pursuant to Section 313(g) of EPCRA, 42 U.S.C. § 11023(g).

14. All persons required to report pursuant to Section 313(b) must use Form R according to Section 313(a) of EPCRA, 42 U.S.C. § 11023(a).

15. The EPA Administrator may prescribe regulations as may be necessary to carry out EPCRA. 42 U.S.C. § 11048.

16. The reporting threshold for a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65, that is processed during calendar years 2005 through 2007 is 25,000 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. § 372.25(a).

17. Butyl acrylate was a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 during calendar year 2005.

18. Styrene was a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 during calendar year 2005.

19. Ethylene glycol was a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 during calendar year 2005.

20. Acrylic acid was a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 during calendar year 2005.

21. Ethyl acrylate was a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 during calendar year 2005.

22. Methanol was a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 during calendar years 2005 and 2007.

23. Vinyl acetate was a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 during calendar year 2005.

24. Acrylamide was a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 during calendar year 2005.

25. 1-(3-Chloroallyl)-3,5,7-triaza-1-azoniaadantane chloride was a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 during calendar years 2005 through 2007.

26. 1,2,4-trimethylbenzene was a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 during calendar years 2006 and 2007.

27. The term “processed” is defined at 40 C.F.R. § 372.55.

28. Section 325(c)(1) and (3) of EPCRA, 42 U.S.C. § 11045(c)(1) and (3), authorizes the EPA Administrator to assess a civil penalty of up to \$25,000 per day for each violation of Section 313 of EPCRA, 42 U.S.C. § 11023. The Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note (1990), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note (1996), required federal agencies to issue regulations adjusting for inflation the maximum civil penalties that can be imposed pursuant to each agency’s statutes. The EPA may assess a civil penalty of up to \$27,500 per day for each violation of Section 313 that occurred from January 31, 1997 through March 15, 2004, and may assess a civil penalty of up to \$32,500 per day for each violation of Section 313 that occurred after March 15, 2004, pursuant to Section 325(c)(1) and (3) of EPCRA, 42 U.S.C. § 11045(c)(1) and (3), and 40 C.F.R. Part 19.

### **Factual Allegations and Alleged Violations**

29. Respondent is a “person” as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
30. Respondent is a corporation “incorporated” in the State of Illinois.
31. Respondent owned or operated a facility located at 530 Industrial Drive, West Chicago, Illinois 60185 (facility), during the calendar years 2005 through 2007.
32. Respondent’s facility consists of buildings, equipment and structures and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned by the same person, entity, or corporation.
33. During calendar years 2005 through 2007, Respondent employed at its facility the equivalent of at least 10 employees with total paid hours equal to or more than 20,000 hours per calendar year.
34. Respondent’s facility is covered by SIC Code 2891.
35. During the calendar years 2005 through 2007, Respondent “processed,” as defined by 40 C.F.R. § 372.3, toxic chemicals identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65, in quantities exceeding the thresholds for reporting set forth at Section 313(f) and at 40 C.F.R. § 372.25.
36. On September 10, 2008, an EPA representative inspected Respondent’s facility.
37. On October 24, 2008, Respondent self disclosed its failure to submit Form Rs to the EPA Administrator and to Illinois for (1) 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadantane chloride, CAS No. 4080-31-3, and (2) 1,2,4-trimethylbenzene, CAS No. 95-63-6 for calendar year 2006 and for (1) 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadantane chloride, CAS No. 4080-31-3, and (2)

1,2,4-trimethylbenzene, CAS No. 95-63-6, and (3) methanol, CAS No. 67-56-1 2007 for calendar year 2007.

**Calendar Year 2005**

38. During calendar year 2005, Respondent's facility processed 4,522,359 pounds of butyl acrylate, CAS No. 141-32-2.

39. Respondent failed to submit to the EPA Administrator and to Illinois a Form R for butyl acrylate for calendar year 2005 on or before July 1, 2006.

40. During calendar year 2005, Respondent's facility processed 3,434,835 pounds of styrene, CAS No. 100-42-5.

41. Respondent failed to submit to the EPA Administrator and to Illinois a Form R for styrene for calendar year 2005 on or before July 1, 2006.

42. During calendar year 2005, Respondent's facility processed 645,272 pounds of ethylene glycol, CAS No. 107-21-1.

43. Respondent failed to submit to the EPA Administrator and to Illinois a Form R for ethylene glycol for calendar year 2005 on or before July 1, 2006.

44. During calendar year 2005, Respondent's facility processed 246,109 pounds of acrylic acid, CAS No. 79-10-7.

45. Respondent failed to submit to the EPA Administrator and to Illinois a Form R for acrylic acid for calendar year 2005 on or before July 1, 2006.

46. During calendar year 2005, Respondent's facility processed 296,083 pounds of ethyl acrylate, CAS No. 140-88-5.

47. Respondent failed to submit to the EPA Administrator and to Illinois a Form R for ethyl acrylate for calendar year 2005 on or before July 1, 2006.

48. During calendar year 2005, Respondent's facility processed 229,252 pounds of methanol, CAS No. 67-56-1.

49. Respondent failed to submit to the EPA Administrator and to Illinois a Form R for methanol for calendar year 2005 on or before July 1, 2006.

50. During calendar year 2005, Respondent's facility processed 187,135 pounds of vinyl acetate, CAS No. 108-05-4.

51. Respondent failed to submit to the EPA Administrator and to Illinois a Form R for vinyl acetate for calendar year 2005 on or before July 1, 2006.

52. During calendar year 2005, Respondent's facility processed 94,869 pounds of acrylamide, CAS No. 79-06-1.

53. Respondent failed to submit to the EPA Administrator and to Illinois a Form R for acrylamide for calendar year 2005 on or before July 1, 2006.

54. During calendar year 2005, Respondent's facility processed 89,805 pounds of 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadantane chloride, CAS No. 4080-31-3.

55. Respondent failed to submit to the EPA Administrator and to Illinois a Form R for 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadantane chloride for calendar year 2005 on or before July 1, 2006.

#### **Calendar Year 2006**

56. During calendar year 2006, Respondent's facility processed 101,078 pounds of 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadantane chloride, CAS No. 4080-31-3.

57. Respondent failed to submit to the EPA Administrator and to Illinois a Form R for 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadantane chloride for calendar year 2006 on or before July 1, 2007.



58. During calendar year 2006, Respondent's facility processed 108,982 pounds of 1,2,4-trimethylbenzene, CAS No. 95-63-6.

59. Respondent failed to submit to the EPA Administrator and to Illinois a Form R for 1,2,4-trimethylbenzene for calendar year 2006 on or before July 1, 2007.

#### **Calendar Year 2007**

60. During calendar year 2007, Respondent's facility processed 90,465 pounds of 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadantane chloride, CAS No. 4080-31-3.

61. Respondent failed to submit to the EPA Administrator and to Illinois a Form R for 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadantane chloride for calendar year 2007 on or before July 1, 2008.

62. During calendar year 2007, Respondent's facility processed 86,040 pounds of 1,2,4-trimethylbenzene, CAS No. 95-63-6.

63. Respondent failed to submit to the EPA Administrator and to Illinois a Form R for 1,2,4-trimethylbenzene for calendar year 2007 on or before July 1, 2008.

64. During calendar year 2007, Respondent's facility processed 26,703 pounds of methanol, CAS No. 67-56-1.

65. Respondent failed to submit to the EPA Administrator and to Illinois a Form R for methanol for calendar year 2007 on or before July 1, 2008.

#### **Form R Submissions**

66. On November 11, 2008, Respondent submitted Form Rs to the EPA Administrator and to Illinois for (1) butyl acrylate, (2) styrene, (3) ethylene glycol, (4) acrylic acid, (5) ethyl acrylate, (6) methanol, (7) vinyl acetate, (8) acrylamide, and (9) 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadantane chloride for calendar year 2005.

67. On October 24, 2008, Respondent submitted Form Rs to the EPA Administrator and to Illinois for (1) 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadantane chloride, CAS No. 4080-31-3, and (2) 1,2,4-trimethylbenzene, CAS No. 95-63-6 for calendar year 2006 and for (1) 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadantane chloride, CAS No. 4080-31-3, and (2) 1,2,4-trimethylbenzene, CAS No. 95-63-6, (3) methanol, CAS No. 67-56-1 2007 for calendar year 2007.

### **Count 1**

68. Complainant incorporates paragraphs 1 through 67 of this Complaint as if set forth in this paragraph.

69. Respondent's failure to timely submit to the EPA Administrator and to Illinois a Form R for butyl acrylate for the 2005 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

70. Respondent's violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30 makes Respondent liable to the United States for a civil penalty under Section 325 of EPCRA, 42 U.S.C. § 11045(c).

### **Count 2**

71. Complainant incorporates paragraphs 1 through 67 of this Complaint as if set forth in this paragraph.

72. Respondent's failure to timely submit to the EPA Administrator and to Illinois a Form R for styrene for the 2005 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

73. Respondent's violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30 makes Respondent liable to the United States for a civil penalty under Section 325 of EPCRA, 42 U.S.C. § 11045(c).

**Count 3**

74. Complainant incorporates paragraphs 1 through 67 of this Complaint as if set forth in this paragraph.

75. Respondent's failure to timely submit to the EPA Administrator and to Illinois a Form R for ethylene glycol for the 2005 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

76. Respondent's violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30 makes Respondent liable to the United States for a civil penalty under Section 325 of EPCRA, 42 U.S.C. § 11045(c).

**Count 4**

77. Complainant incorporates paragraphs 1 through 67 of this Complaint as if set forth in this paragraph.

78. Respondent's failure to timely submit to the EPA Administrator and to Illinois a Form R for acrylic acid for the 2005 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

79. Respondent's violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30 makes Respondent liable to the United States for a civil penalty under Section 325 of EPCRA, 42 U.S.C. § 11045(c).

### **Count 5**

80. Complainant incorporates paragraphs 1 through 67 of this Complaint as if set forth in this paragraph.

81. Respondent's failure to timely submit to the EPA Administrator and to Illinois a Form R for ethyl acrylate for the 2005 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

82. Respondent's violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30 makes Respondent liable to the United States for a civil penalty under Section 325 of EPCRA, 42 U.S.C. § 11045(c).

### **Count 6**

83. Complainant incorporates paragraphs 1 through 67 of this Complaint as if set forth in this paragraph.

84. Respondent's failure to timely submit to the EPA Administrator and to Illinois a Form R for methanol for the 2005 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

85. Respondent's violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30 makes Respondent liable to the United States for a civil penalty under Section 325 of EPCRA, 42 U.S.C. § 11045(c).

### **Count 7**

86. Complainant incorporates paragraphs 1 through 67 of this Complaint as if set forth in this paragraph.

87. Respondent's failure to timely submit to the EPA Administrator and to Illinois a Form R for vinyl acetate for the 2005 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

88. Respondent's violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30 makes Respondent liable to the United States for a civil penalty under Section 325 of EPCRA, 42 U.S.C. § 11045(c).

**Count 8**

89. Complainant incorporates paragraphs 1 through 67 of this Complaint as if set forth in this paragraph.

90. Respondent's failure to timely submit to the EPA Administrator and to Illinois a Form R for acrylamide for the 2005 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

91. Respondent's violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30 makes Respondent liable to the United States for a civil penalty under Section 325 of EPCRA, 42 U.S.C. § 11045(c).

**Count 9**

92. Complainant incorporates paragraphs 1 through 67 of this Complaint as if set forth in this paragraph.

93. Respondent's failure to timely submit to the EPA Administrator and to Illinois a Form R for 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadantane chloride for the 2005 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

94. Respondent's violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30 makes Respondent liable to the United States for a civil penalty under Section 325 of EPCRA, 42 U.S.C. § 11045(c).

**Count 10**

95. Complainant incorporates paragraphs 1 through 67 of this Complaint as if set forth in this paragraph.

96. Respondent's failure to timely submit to the EPA Administrator and to Illinois a Form R for 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadantane chloride for the 2006 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

97. Respondent's violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30 makes Respondent liable to the United States for a civil penalty under Section 325 of EPCRA, 42 U.S.C. § 11045(c).

**Count 11**

98. Complainant incorporates paragraphs 1 through 67 of this Complaint as if set forth in this paragraph.

99. Respondent's failure to timely submit to the EPA Administrator and to Illinois a Form R for 1,2,4-trimethylenebenzene for the 2006 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

100. Respondent's violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30 makes Respondent liable to the United States for a civil penalty under Section 325 of EPCRA, 42 U.S.C. § 11045(c).

### **Count 12**

101. Complainant incorporates paragraphs 1 through 67 of this Complaint as if set forth in this paragraph.

102. Respondent's failure to timely submit to the EPA Administrator and to Illinois a Form R for 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadantane chloride for the 2007 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

103. Respondent's violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30 makes Respondent liable to the United States for a civil penalty under Section 325 of EPCRA, 42 U.S.C. § 11045(c).

### **Count 13**

104. Complainant incorporates paragraphs 1 through 67 of this Complaint as if set forth in this paragraph.

105. Respondent's failure to timely submit to the EPA Administrator and to Illinois a Form R for 1,2,4-trimethylenebenzene for the 2007 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

106. Respondent's violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30 makes Respondent liable to the United States for a civil penalty under Section 325 of EPCRA, 42 U.S.C. § 11045(c).

### **Count 14**

107. Complainant incorporates paragraphs 1 through 67 of this Complaint as if set forth in this paragraph.

108. Respondent's failure to timely submit to the EPA Administrator and to Illinois a Form R for methanol for the 2007 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

109. Respondent's violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30 makes Respondent liable to the United States for a civil penalty under Section 325 of EPCRA, 42 U.S.C. § 11045(c).

### **Civil Penalty**

110. Pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, and in consideration of Respondent's agreement to perform a Supplemental Environmental Project (SEP), Complainant has determined that an appropriate civil penalty to settle this action is \$49,500. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violations, its agreement to perform a SEP, and any other matters as justice may require. Complainant also considered EPA's Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990) (amended) (April 12, 2001).

111. Within 30 days after the effective date of this CAFO, Respondent must pay a \$49,500 civil penalty for the EPCRA violations by:

[for checks sent by regular U.S. Postal Service mail] sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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



[for checks sent by express mail] sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines and Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, Missouri 63101

The check must indicate that it is from Mapei Corporation, and include the docket number of this CAFO, and the billing document number provided in the cover letter to this CAFO.

112. A transmittal letter, stating Respondent's name, the case title, Respondent's complete address, the case docket number and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Terence Bonace (LC-8J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Nidhi O'Meara (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

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

114. If Respondent does not pay the civil penalty or any stipulated penalties due under paragraph 124, below in a timely manner, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States

enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

115. Pursuant to 31 C.F.R. § 901.9, Respondent must pay interest on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

### **Supplemental Environmental Project**

116. Respondent shall complete a SEP designed to protect public health by reducing emissions of vinyl acetate through the recapture and reuse of vinyl acetate (vacuum stripper/condenser system SEP or SEP) at it West Chicago, Illinois facility as follows:

A. Respondent must complete the purchase and installation of a vacuum stripper/condenser system in its MC-54 polymer manufacture area that will reduce stack emissions of vinyl acetate by approximately an additional 2 tons per year<sup>1</sup> by March 5, 2012. See Attachments A and B of this CAFO for details of SEP.

B. The vacuum stripper/condenser system must be fully operational so that it is reducing stack emissions of vinyl acetate by approximately an additional 2 tons per year by March 21, 2012.

C. Respondent must spend at least \$280,000 to purchase and install the vacuum stripper/condenser system by March 5, 2012.

D. Respondent must continuously operate its new vacuum stripper/condenser

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<sup>1</sup> In preparing for the installation of the vacuum stripper/condenser system, Respondent made certain internal process control improvements which reduced emissions of vinyl acetate by 2 tons per year. Therefore, once the installation of the vacuum stripper/condenser system is fully operational, the facility will have reduced its vinyl acetate emissions by a total of 4 tons per year.

system or an equivalent or better system for 5 years following its installation (March 5, 2012) so that it is reducing the stack emissions of vinyl acetate by approximately an additional 2 tons per year until at least March 21, 2017.

117. Respondent certifies that it is not required to perform or develop the vacuum stripper/condenser system SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Respondent further certifies that it has not received, and is not negotiating to receive, credit for this vacuum stripper/condenser system SEP in any other enforcement action.

118. EPA reserves the right to inspect the West Chicago, Illinois facility at any time to monitor Respondent's compliance with the vacuum stripper/condenser system SEP requirements set forth in this CAFO.

119. Respondent must submit all interim reports and the final SEP completion report in accordance with the schedule set forth in Attachment C of this CAFO.

120. Respondent must submit all notices and reports required by this CAFO by first class mail to Terence Bonace of the Pesticides and Toxics Compliance Section at the address provided in paragraph 112, above.

121. 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.

122. Following receipt of the SEP completion report described in Attachment C of this

CAFO, EPA must notify Respondent in writing if:

- A. There are deficiencies in the SEP as completed or in a SEP report. EPA will give Respondent 30 days to correct the deficiencies; or
- B. Respondent has not satisfactorily completed the SEP or a SEP report. EPA will seek stipulated penalties under paragraph 124, below.

123. If EPA exercises paragraph 122. B., 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 requirements 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 124, below.

124. 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 does not install the vacuum stripper/condenser system by March 5, 2012 or have it fully operational by March 21, 2012 according to the requirements in paragraph 116 of this CAFO, Respondent must pay an additional civil penalty of \$148,500.
- B. If Respondent does not complete the SEP satisfactorily, but EPA determines that Respondent made good faith and timely efforts to complete the SEP and Respondent certifies, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 116 of this CAFO, Respondent will not be liable for any stipulated penalty under subparagraph A, above.
- C. If Respondent installs and operates the vacuum stripper/condensate system, but spends less than 90 percent of the amount set forth in paragraph 116 of this CAFO, Respondent must pay an additional civil penalty of \$19,800.
- D. If Respondent does not timely install or operate the vacuum stripper/condensate stripper as required by paragraph 116 of the CAFO or timely submit any required SEP report in accordance with the schedule set forth in Attachment C of this CAFO, Respondent must pay penalties in the

following amounts for each day after the SEP is to be installed or operational and for each day after the report is due until the SEP is installed or operational and until the report is submitted:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$500	1 <sup>st</sup> through 14 <sup>th</sup> day
\$1000	15 <sup>th</sup> through 30 <sup>th</sup> day
\$2,500	31 <sup>st</sup> day and beyond

125. 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.

126. Respondent must pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraph 111, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

127. Any public statement that Respondent makes referring to the SEP must include the following language, "Mapei Corporation. undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Mapei Corporation for violations of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30."

128. If an event occurs which causes or may cause a delay in completing the SEP as required by this CAFO:

- A. Respondent must notify EPA in writing within 10 days after learning of an event which caused or may cause a delay in completing the SEP. The notice must describe the anticipated length of the delay, its cause(s), Respondent's past and proposed actions to prevent or minimize the delay, and a schedule to carry out those actions. Respondent must take all reasonable actions to avoid or minimize any delay. If Respondent fails to notify EPA according to this paragraph, Respondent will not receive an extension of time to complete the SEP.
- B. If the parties agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, the parties will stipulate

to an extension of time no longer than the period of delay.

- C. If EPA does not agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, EPA will notify Respondent in writing of its decision and any delays in completing the SEP will not be excused.
- D. Respondent has the burden of proving that circumstances beyond its control caused or may cause a delay in completing the SEP. Increased costs for completing the SEP will not be a basis for an extension of time under subparagraph B, above.

129. Nothing in this CAFO is intended to, nor will be construed to, constitute EPA approval of the equipment or technology installed by Respondent in connection with the SEP under the terms of this CAFO.

130. 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**

131. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

132. This 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 violations of law.

133. This CAFO does not affect Respondent's responsibility to comply with EPCRA and other applicable federal, state, and local laws.

134. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for Section 313 of EPCRA.

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

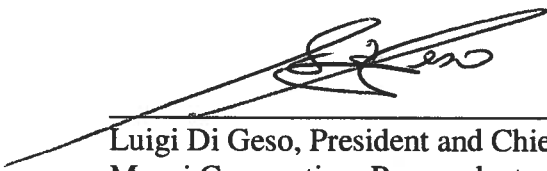
136. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

137. Each party agrees to bear its own costs and attorney's fees in this action.

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

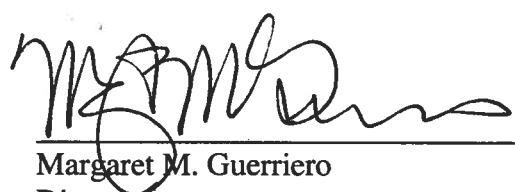
**Mapei Corporation, Respondent**

June 15, 2011  
Date

  
\_\_\_\_\_  
Luigi Di Geso, President and Chief Executive Officer  
Mapei Corporation, Respondent  
EDD MRF

**United States Environmental Protection Agency, Complainant**

6/28/11  
Date

  
\_\_\_\_\_  
Margaret M. Guerriero  
Director  
Land and Chemicals Division

## **ATTACHMENT A**

### **Vacuum stripper/condenser system SEP**

Pursuant to this CAFO, the Respondent shall purchase and install the following at its West Chicago, Illinois Facility located at 530 Industrial Drive, in accordance with paragraph 116 of this CAFO:

- 1 Vacuum Pump Skid
- 1 Heat Exchanger
- 1 Vacuum rated storage tank
- 1 Glycol pump for the Heat Exchanger
- 1 Water recirculation pump for Vacuum Skid
- 1 Process pump to recycle condensate
- 2 Butterfly valves – Automatic glycol to Heat Exchanger
- 6 Automatic ball valves for process 4”
- 2 Automatic ball valves for process 2”
- Manual valves as needed
- 2 Temperature Transmitters
- 2 Pressure Transmitters
- 1 Level Transmitter
- Necessary Piping, Electrical, Insulation and Control Work for proper Equipment Installation and Start-up

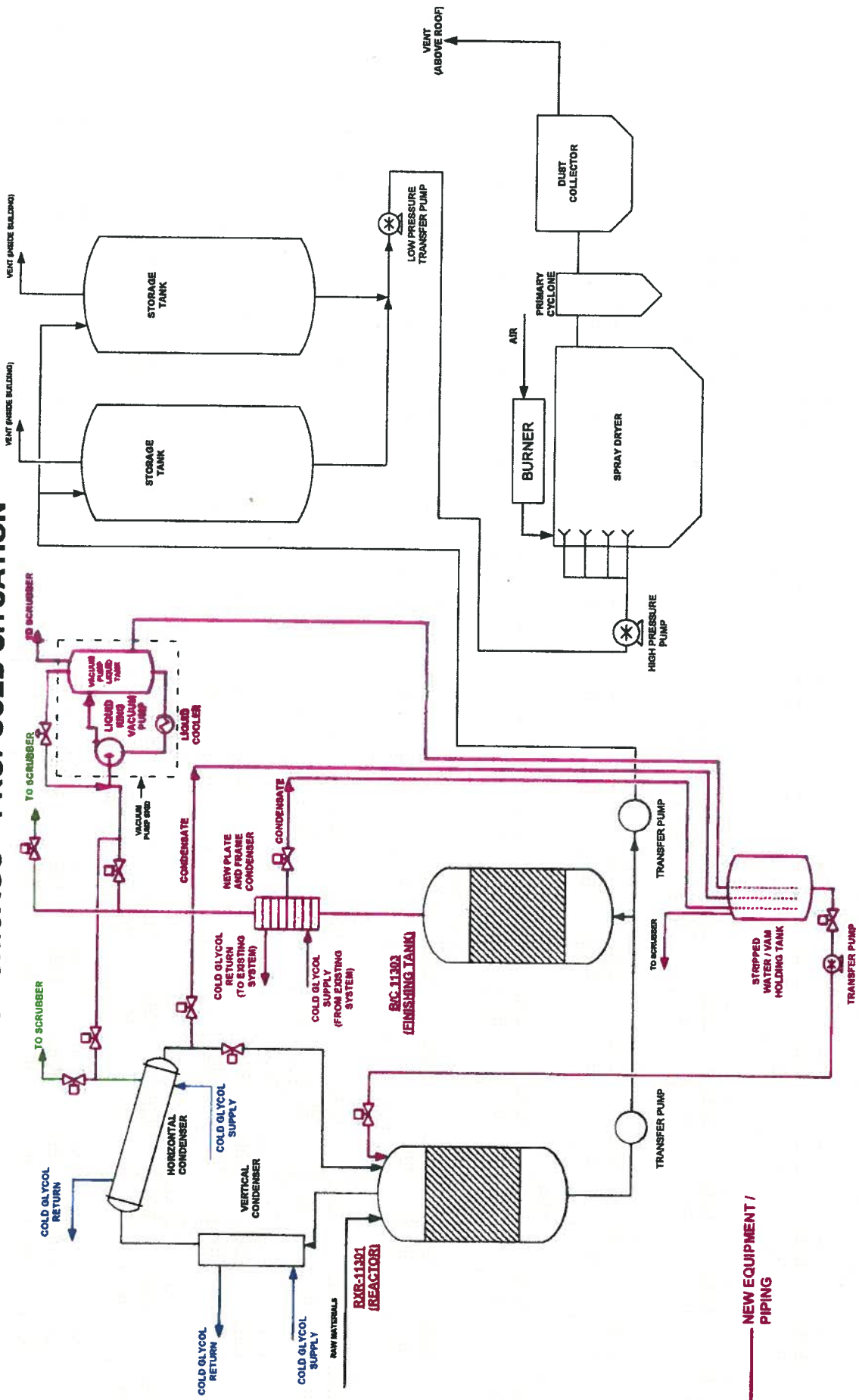


## **ATTACHMENT B**

### **Facility Flow Chart with SEP Installation**

The flow chart below depicts the West Chicago facility once the vacuum stripper/condenser system SEP has been installed as required by this CAFO:

# WEST CHICAGO -- PROPOSED SITUATION



NEW EQUIPMENT / PIPING

## ATTACHMENT C

### Interim SEP Reports and Final SEP Completion Report

Respondent shall submit the following reports as required by paragraph 119 of the CAFO:

- Upon the execution of this CAFO, Respondent shall begin submitting quarterly reports (due the 30<sup>th</sup> of March, June, September and January) to the EPA. The reports must include a detailed description of the status of the SEP including what equipment has been purchased, what labor has been retained and when the equipment is projected to be installed.
- The March 30, 2012, report must include the following information:
  - A detailed description of when the vacuum stripper/condenser system was installed.
  - Confirmation that the vacuum stripper/condenser system will be or is fully operational so that it reduces stack emissions of vinyl acetate by approximately an additional 2 tons per year.
  - A description of any installation problems and the actions taken to correct the problems.
  - Itemized costs of goods and services used to purchase and install the SEP and make it fully operational documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services.
- From June 2012 through January 2017, Respondent's quarterly reports must include the following information:
  - A confirmation that the vacuum stripper/condenser system is fully operational.
  - A description of any operation problems and the actions taken to correct the problems.
  - A description of the environmental and public health benefits resulting from the SEP and the quantity of vinyl acetate that is being captured for reuse by the new system.
- On or before March 30, 2017, Respondent shall submit the final SEP Completion report which must include:
  - A detailed description of the SEP as completed.
  - A certification that Respondent has completed the SEP in compliance with this CAFO.
  - A description of the total environmental and public health benefits resulting from the SEP and the quantity of vinyl acetate that is being captured for reuse by the new system.

**In the Matter of:**  
**Mapei Corporation**  
**Docket No. EPCRA-05-2011-0024**

**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.

6-30-11

Date



Susan Hedman  
Regional Administrator  
United States Environmental Protection Agency  
Region 5

RECEIVED  
JUL 05 2011

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

U.S. ENVIRONMENTAL  
PROTECTION AGENCY  
JUN 15 2011  
OFFICE OF REGIONAL  
COUNSEL


**CERTIFICATE OF SERVICE**

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving Mapei Corporation, was filed on July 5, 2011, with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that I mailed, by Certified Mail, Receipt No. 7009 1680 0000 7665 8980 a copy of the original to the Respondents:

Mr. Charles F. Helsten  
Hinshaw & Culbertson LLP  
100 Park Avenue  
Rockford, Illinois 61105-1389

and forwarded intra-Agency copies to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J  
Nidhi O'Meara, Counsel for Complainant ORC/C-14J  
Eric Volck, Cincinnati Finance/MWD

  
\_\_\_\_\_  
Frederick Brown, PTCS (LC-8J)  
U.S. EPA - Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Docket No. EPCRA-05-2011-0024

**RECEIVED**  
JUL 05 2011

**REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY.**