



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

MAR 13 2014

REPLY TO THE ATTENTION OF:

SC-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Thomas W. Dimond
Ice Miller LLP
200 W. Madison Street, Ste. 3500
Chicago, Illinois 60606-3417

Re: Stepan Company, Millsdale Plant, Elwood, Illinois, Consent Agreement
and Final Order
Docket No. CAA-05-2014-0014

Dear Mr. Dimond:

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U. S. Environmental Protection Agency has filed the other original CAFO with the Regional Hearing Clerk on March 13, 2014. Please pay the civil penalty in the amount of \$21,788 in the manner prescribed in paragraph(s) 46 thru 48 and reference your check with the number CAA-05-2014-0014 and the docket number. In addition, your client must complete a Supplemental Environmental Project worth at least \$200,000 as prescribed in paragraphs 52 thru 54.

Please feel free to contact Silvia Palomo at 312-353-2172 if you have any questions regarding the enclosed documents. Please direct any legal questions to Robert M. Peachey, Associate Regional Counsel at 312-353-4510. Thank you for your assistance in resolving this matter.

Sincerely,

Michael E. Hans, Chief
Chemical Emergency
Preparedness and Prevention Section

Enclosures Consent Agreement and Final Order

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:) Docket No. CAA-05-2014-0014
)
Stepan Company)
Millsdale Plant) Proceeding to Assess a Civil Penalty under
22500 Stepan Drive) Section 113(d) of the Clean Air Act,
Elwood, Illinois 60421) 42 U.S.C. § 7413(d)
)
Respondent.)



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 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, for alleged violations of Section 112(r) of the Act, 42 U.S.C. § 7412(r), and the implementing regulations.
2. Complainant is the Director of the Superfund Division, United States Environmental Protection Agency (EPA), Region 5, Chicago, Illinois.
3. The Respondent is Stepan Company, a Delaware 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 simultaneously commenced and concluded 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 entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the 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 the 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. In accordance with Section 112(r) of the Act, on June 20, 1996, EPA promulgated regulations to prevent accidental releases of regulated substances and minimize the consequences of those releases that do occur. These regulations, known as the Risk Management Program regulations, are codified at 40 C.F.R. Part 68.

10. The Risk Management Program regulations apply to all stationary sources with processes that contain more than a threshold quantity of a regulated substance. The List of Regulated Toxic Substances and Threshold Quantities for Accidental Release Prevention is codified at 40 C.F.R. § 68.130.

11. Sulfur trioxide is a “regulated substance,” as that term is defined in Section 112(r)(3) of the Act and 40 C.F.R. § 68.3. *See* 40 C.F.R. § 68.130, Table 1.

12. The “threshold quantity” (as that term is defined in 40 C.F.R. § 68.3) for sulfur trioxide is 10,000 pounds in a process. *See* 40 C.F.R. § 68.130, Table 1.

13. Ethylene oxide is a “regulated substance,” as that term is defined in Section 112(r)(3) of the Act and 40 C.F.R. § 68.3. *See* 40 C.F.R. § 68.130, Table 1.

14. The “threshold quantity” (as that term is defined in 40 C.F.R. § 68.3) for ethylene oxide is 10,000 pounds in a process. *See* 40 C.F.R. § 68.130, Table 1.

15. Propylene oxide is a “regulated substance,” as that term is defined in Section 112(r)(3) of the Act and 40 C.F.R. § 68.3. *See* 40 C.F.R. § 68.130, Table 1.

16. The “threshold quantity” (as that term is defined in 40 C.F.R. § 68.3) for propylene oxide is 10,000 pounds in a process. *See* 40 C.F.R. § 68.130, Table 1.

17. The Risk Management Program regulations require that the owner or operator of a facility subject to the regulations develop and implement a Risk Management Plan (RMP) for preventing accidental releases to the air and minimizing the consequences of releases that do occur. *See* 40 C.F.R. § 68.12.

18. A facility’s RMP must, among other things, describe the stationary source and regulated substances handled at the facility. *See* 40 C.F.R. § 68.155(b).

19. A facility’s RMP must be submitted no later than: June 21, 1999; three years after the date on which the regulated substance is first listed under 40 C.F.R. § 68.130; or the date on which a regulated substance is first present in more than a threshold quantity in a process, whichever is later. *See* 40 C.F.R. §§ 68.10(a) and 68.150.

20. The processes subject to these requirements are divided into three tiers of eligibility: Programs 1, 2, and 3. *See* 40 C.F.R. § 68.10.

21. Program 3 applies to all processes which do not meet the requirements of 40 C.F.R. § 68.10(b) and are subject to the OSHA Process Safety Management (PSM) standard set forth at 29 C.F.R. § 1910.119. *See* 40 C.F.R. § 68.10(d).

22. The owner or operator of a stationary source with a process subject to Program 3 requirements shall implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87.

23. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$32,500 per day of violation, up to a total of \$270,000 for violations that occurred from March 15, 2004 through January 12, 2009; and may assess a civil penalty of up to \$37,500 per day of violation up to \$295,000 for violations that occurred after January 12, 2009, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

24. 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 Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

25. 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 complaint.

Factual Allegations and Alleged Violations

26. The Respondent owns and operates a plant located at 22500 Stepan Drive, Elwood, Illinois 60421 (the Facility).

27. At the Facility, the Respondent is engaged in the business of producing surfactants for commercial use.

28. The Respondent is a "person," as that term is defined at Section 302(e) of the Act, 42 U.S.C. § 7602(e).

29. The Facility is a "stationary source" as that term is defined at 40 C.F.R. § 68.3.

30. For purposes of the requirements at 40 C.F.R. Part 68, the Respondent is the "owner or operator" of the Facility as that term is defined at Section 112(a)(9) of the Act.

31. The Respondent can store up to 2,800,000 lbs. of sulfur trioxide on site. The sulfur trioxide is stored and utilized in the sulfonation processes and in railcars on the southwest corner of the Facility.

32. The Respondent can store up to 1,100,000 lbs. of ethylene oxide on site and utilizes it in the alkoxylation process. A portion of the ethylene oxide is stored in railcars on the southwest corner of the Facility.

33. The Respondent can store up to 1,100,000 lbs. of propylene oxide on site and utilizes it in the alkoxylation process. A portion of the propylene oxide is stored in railcars within the Facility.

34. In its RMPs submitted in June 2009 and December 2011, the Respondent reported in its RMP the storage of sulfur trioxide, ethylene oxide, and propylene oxide in the railcars as part of other covered processes but not as a separate process.

35. The sulfur trioxide in the railcars is above the threshold quantity of 10,000 pounds.

36. The ethylene oxide in the railcars is above the threshold quantity of 10,000 pounds.

37. The propylene oxide in the railcars is above the threshold quantity of 10,000 pounds.

38. The railcars are a "process," as that term is defined at 40 C.F.R. § 68.3.

39. The railcar storage process is subject to the "Program 3" eligibility requirements because the process: (a) does not meet the requirements of 40 C.F.R. § 68.10(b), because the distance to a toxic or flammable endpoint for a worst-case release assessment conducted under Subpart B and 40 C.F.R. § 68.25 is greater than the distance to any public receptor; and (b) is subject to the OSHA process safety management standard set forth at 29 C.F.R. § 1910.119 and 40 C.F.R. § 68.10(d) because the process involves sulfur trioxide, ethylene oxide, and

propylene oxide above their respective threshold quantities.

40. On September 24, 2009, a representative from EPA conducted an inspection at the Facility under the authority of Section 114(a) of the Act, 42 U.S.C. § 7414(a). The purpose of the inspection was to determine whether the Respondent was complying at the Facility with Section 112(r) of the Act and the regulations at 40 C.F.R. Part 68.

41. Based on the inspection conducted by EPA, the Facility failed to comply with the Risk Management Program regulations at 40 C.F.R. Part 68 for Program 3 requirements as set forth below in Paragraphs 42 through 44.

42. Respondent failed to submit a Risk Management Plan, as provided in 40 C.F.R. §§ 68.150 to 68.185, that reflects all covered processes at the Facility, as required by 40 C.F.R. § 68.12.

43. Respondent had not conducted a process hazard analysis on the process described in paragraph 34 as required by 40 C.F.R. § 68.67 on the date of EPA's inspection. In October 2009, Respondent performed a process hazard analysis on the process described in Paragraph 34 and submitted a copy to EPA.

44. Respondent failed to conduct a compliance audit on the process described in paragraph 34 as required under 40 C.F.R. § 68.79.

Civil Penalty

45. Complainant has determined that an appropriate civil penalty to settle this action is \$21,788. In determining the penalty amount, Complainant has considered the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts and circumstances of this case, and other factors such as cooperation, prompt return to compliance, and Respondent's agreement to perform a supplemental environmental project as described below. Complainant has also

considered U.S. EPA's Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68 (June 2012).

46. Within 30 days after the effective date of this CAFO, Respondent must pay a \$21,788 civil penalty by ACH electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

US Treasury REX Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking

47. In the comment area of the electronic funds transfer, state Respondent's name, the docket number of this CAFO and the billing document number.

48. A transmittal letter stating Respondent's name, 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:

Attn: Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Silvia Palomo (SC-5J)
Chemical Emergency Preparedness and Prevention Section
Superfund Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Robert Peachey (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

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

50. If Respondent does not pay timely the civil penalty, 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 under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

51. Pursuant to 31 C.F.R. § 901.9, 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. 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 quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). 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.

Supplemental Environmental Project

52. Respondent must complete a supplemental environmental project (SEP) designed to protect the environment and public health by preventing, and reducing the risk of, a release of ethylene oxide and propylene oxide. Under the SEP, Respondent must install remotely operated isolation valves (ROIVs) on both the ethylene oxide and propylene oxide liquid and vapor return lines at the railcar station, arranged to isolate the hose in the event of a hose rupture. The ROIVs will be designed to close by ethylene oxide/propylene oxide gas monitoring and deluge system activation, and also to close manually. Respondent must also install a railcar motion detecting system that will activate the closure of the ROIVs.

53. Respondent must spend at least \$200,000 for the engineering design, project

management, purchase and installation of the SEP.

54. Respondent will complete the SEP as follows:

- a. By February 28, 2015, Respondent must complete the bid process and select a contractor to complete the installation work for the SEP.
- b. By November 30, 2015, Respondent must (1) complete the installation for the SEP and (2) begin operating the equipment purchased for the SEP.

55. Respondent certifies as follows:

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

I certify that Stepan Company 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.

56. Respondent must submit status reports providing information as to the progress it has made in completing the SEP as follows:

- a. By March 15, 2015, Respondent must submit a written report listing the name of the contractor that was awarded the contract for the installation work required for the SEP;
- b. By August 15, 2015, Respondent must submit a written report that includes a detailed description of the status of the installation for the SEP, including

supporting documentation such as: work orders; purchase orders and/or invoices for the equipment; or any similar documentation relating to the contractor's performance of the work for the SEP.

57. Respondent must submit a SEP completion report to EPA within 30 days after completion of the SEP. This report shall 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 prevention, if feasible).

58. Respondent must submit all notices and reports required by this CAFO by first class mail to:

Silvia Palomo (SC-5J)
Chemical Emergency Preparedness and Prevention Section
Superfund Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

59. In each report that Respondent submits under paragraphs 56 and 57 above, 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.

60. Following receipt of the SEP completion report described in paragraph 57 above, EPA must notify Respondent in writing that:

- a. It has satisfactorily completed the SEP and the SEP completion report;
- b. There are deficiencies in the SEP as completed or in the SEP completion report and EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP completion report and EPA will seek stipulated penalties under paragraph 62 below.

61. If EPA exercises option b. under Paragraph 60 above, Respondent may object in writing to the deficiency notice within 30 days of receiving the notice. The parties will have 60 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 62 below.

62. 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 complete the SEP satisfactorily according to the requirements of this CAFO, including the schedule in paragraph 54 above, as it may be extended under paragraph 66, Respondent must pay an additional civil penalty of \$68,133.
- b. If Respondent does not complete the SEP satisfactorily according to the requirements of this CAFO, but EPA determines that Respondent made good faith and timely efforts to complete the SEP and certifies, with supporting documents, that it has spent at least 90 percent of the amount set forth in paragraph 53 above, Respondent will not be liable for any stipulated penalty under subparagraph a. above.

- c. If Respondent completes the SEP satisfactorily according to the requirements of this CAFO, but spends less than 90 percent of the amount set forth in paragraph 53 above, Respondent must pay an additional civil penalty of \$13,072.
- d. If Respondent fails to comply with the schedule in paragraph 54 above for implementing the SEP, fails to submit timely each of the status updates required under paragraph 56 above, or fails to submit timely the SEP completion report required by paragraph 57 above, as each may be extended under paragraph 66, Respondent must pay stipulated penalties for each failure to meet an applicable milestone, as follows:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$100	1 st through 14 th day
\$250	15 th through 30 th day
\$500	31 st day and beyond

These penalties will accrue from the date Respondent was required to meet each milestone until Respondent achieves compliance with the milestone.

63. EPA’s determination of whether Respondent satisfactorily completed the SEP and whether Respondent made good faith and timely efforts to complete SEP will bind Respondent.

64. 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 46 above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts as provided in paragraph 51 above.

65. Any public statement that Respondent makes referring to the SEP must include the following language, “Stepan Company undertook this project under the settlement of the United States Environmental Protection Agency’s enforcement action against Stepan Company for violations of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r).”

66. 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 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. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.

67. 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

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

69. The CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

70. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws and regulations. Except as provided in Paragraph 68, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by Complainant.

71. Respondent certifies that it is complying fully with Section 112(r) of the Act and 40 C.F.R. Part 68.

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

73. 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.

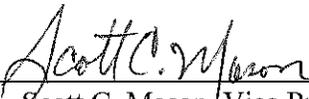
74. Each party agrees to bear its own costs and attorneys' fees in this action.

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

76. The effective date of this CAFO is the date when this CAFO is filed with the Regional Hearing Clerk's office.

**In the Matter of Stepan Company
Docket No.**

Stepan Company, Respondent

Date: 2-6-2014 By: 
Scott C. Mason, Vice President
Global Supply Chain
Stepan Company

United States Environmental Protection Agency, Complainant

Date: 3/11/2014 By: 
Richard Karl, Director
for Superfund Division

In the Matter of Stepan Company
Docket No. CAA-05-2014-0014

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.

3/11/2014
Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency



In the Matter of: Stepan Company, Millsdale Plant, Elwood, Illinois
Docket No. CAA-05-2014-0014

Certificate of Service

I, Silvia Palomo, certify that I filed the original and a copy of the Consent Agreement and Final Order (CAFO) with the Regional Hearing Clerk, U. S. Environmental Protection Agency, Region 5, delivered a copy of the CAFO by intra-office mail to the Regional Judicial Officer, U.S. Environmental Protection Agency, Region 5, and mailed the second original CAFO by first-class, postage prepaid, certified mail, return receipt requested, to Respondent's attorney by placing it in the custody of the United States Postal Service addressed as follows:

Thomas W. Dimond, Attorney
Ice Miller LLP
200 W. Madison Street, Ste. 3500
Chicago, Illinois 60606-3417

Robert M. Peachey, Attorney
U.S. EPA, Region 5

Silvia Palomo
U.S. EPA, Region 5

on the 13 day of March, 2014

Silvia Palomo
Silvia Palomo
U.S. Environmental Protection Agency
Region 5

