



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

November 13, 2020

VIA E-MAIL
DELIVERY RECEIPT REQUESTED

Kindra Kirkeby, Assistant Counsel
Afton Chemical Corporation
Email: Kindra.Kirkeby@newmarket.com

Dear Ms. Kirkeby:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Afton Chemical Corporation (Afton), docket no. CAA-05-2021-0001. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on November 13, 2020.

Pursuant to paragraph 49 of the CAFO, Afton must pay the civil penalty within 30 days of the filing date. Your electronic funds transfer must display the case name and case docket number.

Please direct any questions regarding this case to Matthew Dawson, Associate Regional Counsel, (312) 886-4360.

Sincerely,

SARAH
MARSHALL

Digitally signed by
SARAH MARSHALL
Date: 2020.09.08
10:04:22 -05'00'

Sarah G. Marshall, Chief
Air Enforcement and Compliance Assurance Section (MI/WI)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/via electronic mail
Regional Hearing Clerk/via electronic mail
Matthew Dawson, EPA Associate Regional Counsel/via electronic mail
Julie Armitage, Illinois EPA, via electronic mail

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. CAA-05-2021-0001
)	
Afton Chemical Corporation)	Proceeding to Assess a Civil Penalty
Sauget, Illinois,)	Under Section 113(d) of the Clean Air Act,
)	42 U.S.C. § 7413(d)
Respondent.)	
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Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Afton Chemical Corporation (Afton), a corporation doing business in 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.

Statutory and Regulatory Background

National Emission Standards for Hazardous Air Pollutants

9. Sections 112(c) and 112(d) of the CAA, 42 U.S.C. §§ 7412(c) and (d), require EPA to publish a list of categories of major sources and area sources which EPA finds present a threat of adverse effects to human health or the environment due to emissions of hazardous air pollutants (HAPs) and to promulgate emission standards for each source category. These emission standards are known as National Emission Standards for Hazardous Air Pollutants (NESHAPs).

10. Section 112(a) of the CAA, 42 U.S.C. § 7412(a), and 40 C.F.R. § 63.2 define “major source” as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, ten (10) tons per year (TPY) or more of any HAP or twenty-five (25) TPY or more of any combination of HAPs.

11. Section 112(i)(3) of the CAA, 42 U.S.C. § 7412(i)(3), and 40 C.F.R. § 63.4, prohibit the owner or operator of any source from operating such source in violation of any NESHAP applicable to such source.

12. On April 22, 1994, EPA promulgated the Hazardous Organic NESHAP (HON). 59 *Fed. Reg.* 19402. The HON includes, among others, the NESHAP for the Synthetic Organic

Chemical Manufacturing Industry (SOCMI), codified at 40 C.F.R. Part 63, Subpart F (HON Subpart F), and the NESHAP for SOCMI Equipment Leaks, codified at 40 C.F.R. Part 63, Subpart H (HON Subpart H).

13. The provisions of HON Subpart F apply to chemical manufacturing process units that manufacture, as a primary product, one or more chemicals listed in Table 1 of Subpart F, use as a reactant or manufacture as a product or co-product one or more of the organic HAPs listed in Table 2 of Subpart F, and are located at a plant site that is a major source of HAP. 40 C.F.R. § 63.100(b).

14. The provisions of HON Subpart H apply to pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, surge control vessels, bottoms receivers, instrumentation systems, and control devices or closed vent systems required by this subpart that are intended to operate in organic hazardous air pollutant service three-hundred (300) hours or more during the calendar year within a source subject to HON Subpart F. 40 C.F.R. § 63.160(a).

15. On November 10, 2003, EPA promulgated the NESHAP for Miscellaneous Organic Chemical Manufacturing or MON, codified at 40 C.F.R. Part 63, Subpart FFFF. 68 *Fed. Reg.* 63888. The MON applies to owners or operators of miscellaneous organic chemical manufacturing process units (MCPUs) that are located at, or are a part of, a major source of HAP that produces a product(s) under 40 C.F.R. § 63.2435(b). 40 C.F.R. § 63.2435(a).

16. 40 C.F.R. § 63.2435(b) provides that a MCU includes equipment necessary to operate a miscellaneous organic chemical operating process that, among other things, processes, uses, or generates any of the organic HAPs listed in Section 112(b) of the CAA, 42 U.S.C. § 7412(b).

17. 40 C.F.R. § 63.2480(a) provides that the owner or operator of an MCPU must meet each requirement in Table 6 to 40 C.F.R. Part 63, Subpart FFFF, with certain exceptions not relevant here.

18. Table 6 to 40 C.F.R. Part 63, Subpart FFFF provides that equipment that is in organic HAP service and that is part of any MCPU must comply with the requirements of 40 C.F.R. Part 63, Subpart UU, Subpart H, or Subpart F, and the requirements referenced therein, with certain exceptions not relevant here.

Illinois State Implementation Plan (IL SIP) Requirements

19. Under Section 110 of the CAA, 42 U.S.C. § 7410, each state must submit to the Administrator of EPA a plan for attaining and maintaining the National Ambient Air Quality Standards. This plan is known as a state implementation plan or SIP.

20. 40 C.F.R. § 52.23 provides that any permit limitation or condition contained within a permit issued under an EPA-approved program that is incorporated in a SIP is a requirement of the SIP and is federally enforceable under Section 113 of the CAA, 42 U.S.C. § 7413.

21. On May 31, 1972, EPA approved Title 35, Part 201 “Permits and General Conditions” of the Illinois Administrative Code (IAC) as part of the federally enforceable SIP for the State of Illinois. 37 *Fed. Reg.* 10862. Since then, EPA has approved several revisions of 35 IAC Part 201 into the Illinois SIP.

22. 35 IAC § 201.142 provides that no person shall cause or allow the construction of any new emission source or any new air pollution control pollution equipment, or cause or allow the modification of any existing emission source or air pollution control equipment, without first obtaining a construction permit.

23. The Illinois Environmental Protection Agency (IEPA) issued Construction Permit No. 06020100 to Afton for the facility at 501 Monsanto Avenue, Sauget, Illinois (Facility) on February 29, 2008 (2008 Construction Permit).

24. Section 2.1.b. of the 2008 Construction Permit states the emissions of HAP from the source “shall not exceed 0.75 tons/month and 7.5 tons per year of any individual HAP or 2.5 tons/month [and] 24.5 tons per year of any combination of such HAPs.”

25. Pursuant to Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), it is unlawful for any person to, among other things, operate a major source subject to Title V except in compliance with a Title V permit after the effective date of a permit program approved or promulgated under Title V of the CAA. *See* 40 C.F.R. § 70.7(b).

26. On March 7, 1995, EPA approved the Illinois Title V Permit program, effective March 7, 1995. 60 *Fed. Reg.* 12478. Illinois’ Title V Permit program requirements are codified at 35 IAC Part 270.

27. IEPA issued Title V Permit No. 95120012 to Afton for the Facility on December 17, 2009 (2009 Title V Permit).

28. The 2009 Title V Permit was subsequently renewed, revised, and reissued to Afton for the Facility on November 16, 2012 (2012 Title V Permit).

29. The 2012 Title V Permit’s Section 5 “Overall Source Conditions” specifies as follows:

- a. Condition 5.1.2 states that the 2012 Title V Permit is issued based on the source being a synthetic minor source of HAPs.

b. Condition 5.2.7.b of the 2012 Title V Permit states that this Facility is subject to HON Subpart F because this Facility operates a chemical manufacturing unit which manufactures alkylbenzene as a primary product.

c. Condition 5.2.7.c of the 2012 Title V Permit states that this Facility is subject to HON Subpart H, because this Facility operates a chemical manufacturing unit which manufactures alkylbenzene as a primary product.

30. Condition 5.3.a of the 2012 Title V Permit states that this Facility is not subject to the requirements of the MON rule because the Facility's HAP emissions have been limited to less than 10 TPY of any single HAP and 25 TPY of all HAPs combined, due to the installation of a Flare Control System for Unit 270.

31. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$48,192 per day of violation up to a total of \$385,535 for violations that occurred after November 2, 2015 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

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

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

Factual Allegations and Alleged Violations

34. Afton owns and operates the Facility located at 501 Monsanto Avenue, Sauget, Illinois.

35. The Facility is a chemical manufacturing plant that produces a range of petroleum additive products for use in gasoline and diesel engine-powered vehicles. The chemicals that Afton processes at the Facility include, but are not limited to, methanol, n-hexane, and benzene. Methanol, n-hexane, and benzene are each listed as HAPs under Section 112(b) of the CAA, 42 U.S.C. § 7412(b).

36. Afton owns or operates an “emission source” within the meaning of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). Therefore, Afton is subject to the requirements of Section 114(a)(1).

37. Afton’s Title V and Construction Permits (Afton Permits) include federally enforceable terms and conditions designed to limit HAP emissions below Title V and major source thresholds. See 35 IAC Parts 270 and 201.

38. From October 23, 2017, through October 26, 2017, EPA conducted a CAA inspection at the Facility (the Inspection).

39. On March 12, 2018, Afton provided EPA with, among other things, facility-wide process-based and fugitive HAP emissions, as well as the type of and number of components that operate in organic HAP service at the Facility, by process unit, including the hours those components are in HAP service and the weight percentage HAP those components process.

40. Using the information provided by Afton (as referenced in Paragraph 39, above), together with EPA’s 1995 Protocol for Equipment Leak Emission Estimates, EPA-453/R-95-

017, and including other facility-wide HAP emissions reported by Afton, EPA estimated the total annual fugitive emissions of HAP at the Facility for calendar years 2013 through 2016.

41. Based on EPA's estimations in Paragraph 40, above, EPA estimated that Afton's total annual emissions of HAPs exceeded 25 TPY for all HAP emissions, and concluded that the Facility is a major source of HAP, as defined in Section 112(a) of the CAA, 42 U.S.C. § 7412(a), and 40 C.F.R. § 63.2.

42. Using EPA's estimations and assumptions established in Paragraphs 40 and 41, Afton is subject to additional requirements, and more specifically, the Facility's Unit 258, is subject to HON Subpart F, because Unit 258 manufactures alkylbenzene as a primary product, uses benzene as a reactant, and EPA concluded the Facility is a major source of HAP.

43. The Facility's Unit 258 includes, but is not limited to, pumps, connectors, valves, and pressure relief devices that operate in HAP service for three-hundred (300) hours or more during the calendar year within a source that is subject to HON Subpart F, and therefore is also subject to HON Subpart H.

44. Afton owns or operates at least one MCPU that is located at, or is a part of, the Facility. Therefore, using EPA's estimations and assumptions from Paragraphs 40 and 41, the Facility is subject to the MON.

45. On April 20, 2018, EPA issued to Afton a notice and finding of violation (NOV/FOV) giving Afton notice of the violations alleged below at the Facility and offering Afton an opportunity to confer with EPA.

46. In its April 20, 2018 NOV/FOV, EPA gave notice of the following alleged violations:

- a. Afton failed to comply with the monitoring requirements for pumps, valves, agitators, and connectors, found in HON Subpart H at 40 C.F.R. §§ 63.163(a), 63.168(a), 63.173(a), and 63.174(a), by not ensuring that components subject to the HON were not in vacuum service and were operating in gas/vapor or light liquid service when monitoring was performed.
- b. Afton failed to perform proper monitoring in accordance with EPA Reference Method 21, 40 C.F.R. Part 60, Appendix A-7, as required by HON Subpart H at 40 C.F.R. § 63.180(b). Specifically, Afton failed to sample the connector interface where the leakage is indicated until the maximum meter reading is obtained, as required by 40 C.F.R. Part 60, Appendix A-7 § 8.3.1.
- c. EPA performed a leak detection and repair comparative monitoring during the Inspection and found a leak rate of 1.16 percent for connectors. Prior to the Inspection, Afton's reported leak rate was less than 0.05 percent.
- d. Afton underreported annual HAP emissions from the Facility for years 2013 through 2016 by underreporting fugitive emissions of HAP from process equipment at the Facility and by not accounting for fugitive emissions of HAP from process wastewater at the Facility.
- e. Starting from May 10, 2008, Afton failed to comply with the requirements of the MON at 40 C.F.R. Part 63, Subpart FFFF, as follows:
 - i. Afton failed to comply with the emission limits, work practice standards, and compliance requirements for equipment leaks established at 40 C.F.R. § 63.2480(a) and Table 6 to Subpart FFFF as a result of its failure to

comply with the requirements of HON Subpart H, which is more fully described in Paragraphs 46.a and 46.b, above;

ii. Afton failed to submit notifications and reports to demonstrate initial and continuous compliance with emission limits, operating limits, and work practice standards, as required by 40 C.F.R. §§ 63.2515(a)-(b), 63.2520(d), and Table 11 to Subpart FFFF; and

iii. Afton failed to maintain records as required by 40 C.F.R. § 63.2525(a)-(k).

f. Afton exceeded its limit for total HAP emissions for the years 2013 through 2016, in violation of its 2012 Title V Permit at Condition 5.5.2.a.ii. and its 2008 Construction Permit at Section 2.1.b.

47. On June 7, 2018, representatives of Afton and EPA met to discuss the April 20, 2018 NOV/FOV and agreed that Afton would produce additional information related to the April 20, 2018 NOV/FOV.

Civil Penalty

48. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and cooperation, Complainant has determined that an appropriate civil penalty to settle this action is three-hundred twenty-seven thousand five-hundred dollars (\$327,500).

49. Within thirty (30) days after the effective date of this CAFO, Respondent must pay a three-hundred twenty-seven thousand five-hundred dollar (\$327,500) civil penalty by *Automated Clearinghouse (ACH), also known as remittance express (REX)*. The ACH electronic funds transfer, payable to “Treasurer, United States of America,” shall be sent to:

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

Respondent shall include, in the comment area of the electronic funds transfer: Respondent, Afton Chemical Corporation, and the docket number of this CAFO.

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

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
r5airenforcement@epa.gov

Matthew Dawson
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
Dawson.Matthew@epa.gov

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

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

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

53. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorney's fees and costs

incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

General Provisions

54. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: Dawson.Matthew@epa.gov (for Complainant), and Kindra.Kirkeby@newmarket.com (for Respondent).

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

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

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

58. Respondent certifies it is complying fully with the terms of the Compliance Program established under Administrative Consent Order, Docket Number EPA-5-20-113(a)-IL-02, (contained in paragraphs 39 through 47, therein).

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

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

61. 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.
62. Each party agrees to bear its own costs and attorney's fees in this action.
63. This CAFO constitutes the entire agreement between the parties.

Afton Chemical Corporation, Respondent

Oct. 29, 2020
Date

Kevin Keller
Kevin Keller, VP Manufacturing
Afton Chemical Corporation

United States Environmental Protection Agency, Complainant

**MICHAEL
HARRIS**

Digitally signed by
MICHAEL HARRIS
Date: 2020.11.05
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Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order
In the Matter of: Afton Chemical Corporation**

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.

Date

ANN COYLE Digitally signed by ANN
COYLE
Date: 2020.11.10
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Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Afton Chemical Corporation
Docket Number: **CAA-05-2021-0001**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number CAA-05-2021-0001, which was filed on November 13, 2020, in the following manner to the following addressees:

Copy by E-mail to Respondent: Kindra Kirkeby
Kindra.Kirkeby@newmarket.com

Copy by E-mail to Attorney for Complainant: Matthew Dawson
Dawson.Matthew@epa.gov

Copy by E-mail to Attorney for Respondent: Paula Daniel
Paula.Daniel@newmarket.com

Copy by E-mail to Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: _____

LADAWN WHITEHEAD Digitally signed by LADAWN WHITEHEAD
Date: 2020.11.13 15:52:04 -06'00'

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5