

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 ARCH STREET
PHILADELPHIA, PA 19103-2029

EXPEDITED PENALTY
ACTION AND
CONSENT AGREEMENT
DOCKET NO. CAA-03-2017-0099⁷

RESPONDENT

DanChem Technologies, Inc.
1975 Old Richmond Road
Danville, VA 24540

FACILITY

DanChem Technologies, Inc.
1975 Old Richmond Road
Danville, VA 24540

0097

On November 8, 2016 an authorized representative of the EPA conducted an inspection of the subject facility to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Clean Air Act (the Act or CAA). EPA found that the Respondent had violated regulations implementing Section 112(r) of the Act by failing to comply with the regulations, as more fully alleged in the attached RISK MANAGEMENT PROGRAM, INSPECTION FINDINGS, ALLEGED VIOLATIONS AND PROPOSED PENALTY SHEET (FORM), which is hereby incorporated by reference.

The parties enter into this Expedited Penalty Action and Consent Agreement ("Consent Agreement") to settle the civil violations set forth above for a penalty of **\$6,600**. This Consent Agreement commences and concludes this action pursuant to Sections 22.13(b), and 22.18(b)(2), and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules of Practice), 40 C.F.R. §22.13(b), and 22.18(b)(2), and (3). This Consent Agreement is being entered into by the United States Environmental Protection Agency, Region 3 (EPA), by its duly delegated official, the Director, Hazardous Site Cleanup Division, and by Respondent pursuant to Section 113(a)(3) and (d) of the Act, 42 U.S.C. §7413(a)(3) and (d).

The settlement is subject to the following terms and conditions.

The Respondent consents to the assessment of the penalty stated above. The settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the seriousness of the violations and the other factors provided in CAA Section 113(e)(1) and EPA's Combined Enforcement Policy for CAA Section 112(r) Risk Management Program dated June 20, 2012. The Respondent certifies that it has corrected the violations set forth in the Risk Management Program Inspection Findings, Alleged Violations and Proposed Penalty Sheet. The Respondent also certifies that, since its last Risk Management Plan update required pursuant to 40 C.F.R. §68.190, it has not done either of the following: (a) introduced a new regulated substance at the facility in an amount greater than its threshold quantity; or (b) introduced a new process which uses a regulated substance in an amount greater than its threshold quantity. Further, the Respondent agrees that it shall, within 15 calendar days of receipt of an executed copy of this Consent Agreement, make payment of **\$6,600** in one of the following forms: 1) Electronic Funds Transfer (EFT), 2) Automated Clearinghouse, 3) Pay.Gov, or 4) a cashier's check or certified check payable to the "US Environmental Protection Agency", with the Docket Number, located at the top right-hand corner of the Consent Agreement, and "Chemical Accident Prevention Provisions - 112(r)" referenced on the check.

1) Payment of the penalty amount by EFT to:

Federal Reserve Bank of New York
ABA 021030004
Account 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Beneficiary: Environmental Protection Agency

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2) Payment of the penalty amount by Automated Clearinghouse (ACH) to EPA can be made through the US Treasury using the following information:

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

Physical location of US Treasury Facility:

5700 Rivertech Court
Riverdale, MD 20737

3) Payments made through Pay.gov:

Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments. Follow these steps to make a payment:

- a) You **DO NOT** need a user name and password account.
- b) Enter **SFO 1.1** in the form search box on the top left side of the screen.
- c) Open the form and follow the on-screen instructions.
- d) Select your type of payment from the "Type of Payment" drop down menu.
- e) Based on your selection, the corresponding line will open and no longer be shaded gray.
- f) Enter the docket number, invoice number or other corresponding information into the field.

4) Payment of the penalty amount by regular US Postal Service shall be sent via certified mail to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

4) Payment of the penalty amount by overnight mail (FedEx or other non-US Postal Service express mail) shall be sent to:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Within 24 hours of payment of the EPA Penalty, Respondent shall also send proof of payment to:

Kevin Daniel
RMP Coordinator
U.S. EPA, Region III (3HS61)
1650 Arch Street
Philadelphia, PA 19103-2029
daniel.kevin@epa.gov

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

The term "proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with "EPA Docket No. CAA-03-2017-0099."

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 ARCH STREET
PHILADELPHIA, PA 19103-2029**

**EXPEDITED PENALTY
ACTION AND
CONSENT AGREEMENT
DOCKET NO. CAA-03-2017-0096**

2017

The payment made pursuant to this Consent Agreement is a penalty within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. §162(f), and, therefore, Respondent shall not claim it as a tax deductible expenditure for purposes of federal, state or local law. This Consent Agreement resolves only the civil claims for the specific violations alleged in the attached Risk Management Program, Inspection Findings, Alleged Violations and Proposed Penalty Sheet. Furthermore, EPA reserves the right to commence an action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules. Further, EPA reserves any rights and remedies available to it under the Act, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Consent Agreement, following its filing with the Regional Hearing Clerk.

Respondent neither admits nor denies the allegations set forth in the attached Risk Management Program, Inspection Findings, Alleged Violations and Proposed Penalty Sheet, but admits that jurisdiction has been established for this Penalty Action. Also, upon EPA final approval of the Consent Agreement, Respondent expressly waives its right to contest the allegations, to a hearing under Section 113(d)(2)(A) of the Act, 42 U.S.C. §7413(d)(2)(A), and to appeal this Order under Section 113 (d)(4) of the Act, 42 U.S.C. §7413(d)(4). Moreover, in entering into this Consent Agreement, the Respondent agrees to bear its own costs and attorney's fees related to this Consent Agreement.

ACCEPT THE PROPOSED PENALTY

I/we consent to the proposed penalty.

DECLINE THE PROPOSED PENALTY

I/we decline the proposed penalty. If you choose to decline this proposed penalty, check the box. You may be subject to formal enforcement action and, in that event, will have an opportunity to a hearing related to any subsequent penalty assessment.

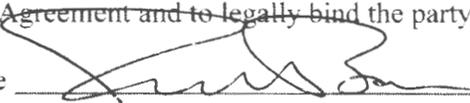
COST OF COMPLIANCE

Respondent certifies that it has expended \$ 66,151 to correct the alleged violations and to come into compliance.

EFFECTIVE DATE

This Consent Agreement will be effective upon filing.

The undersigned representative of Respondent certifies that he or she is fully authorized by Respondent to execute this Consent Agreement and to legally bind the party whom he or she represents to this Consent Agreement.

Signature  Date: 5/4/17

Name and Title (print) Paul Bacon, President and CEO

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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0097

SIGNATURE BY COMPLAINANT:

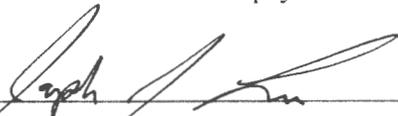


Date: MAY 25 2017
Karen Melvin, Director
Hazardous Site Cleanup Division

FINAL ORDER

Pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. §7413(d)(1), and in accordance with the Consolidated Rules of Practice, 40 C.F.R. Part 22, and having relied upon the representations of the parties set forth in the Consent Agreement, I have determined that the penalty assessed herein is based on a consideration of the factors set forth in CAA Section §7413(e)(1) and EPA's Combined Enforcement Policy for CAA Section 112(r) Risk Management Program dated June 20, 2012.

THEREFORE, the foregoing Consent Agreement is hereby approved and incorporated by reference into the Final Order. The Respondent is ORDERED to pay the civil penalty as set forth in the Consent Agreement.



Date: June 8, 2017
Joseph J. Lisa
Regional Judicial Officer

RUB

RISK MANAGEMENT PROGRAM PENALTY WORKSHEET
(ENCLOSURE #2 CONTINUED)

Facility Name: **DanChem Technologies, Inc.**

EXPEDITED SETTLEMENT PENALTY MATRIX

MULTIPLIER FACTORS FOR CALCULATING PROPOSED PENALTIES
FOR VIOLATIONS FOUND DURING RMP INSPECTIONS

<u>Private Industries</u>			
<u># of Employees</u>	<u>1-5*</u>	<u>>5-10*</u>	<u>>10*</u>
<u>0-9</u>	<u>0.4</u>	<u>0.6</u>	<u>0.8</u>
<u>10-100</u>	<u>0.6</u>	<u>0.8</u>	<u>1.0</u>
<u>>100</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>

***Largest Multiple of Threshold Quantity of any Regulated Chemical(s) on Site.**

The Proposed Penalty is the amount of the non-negotiable penalty that is calculated by multiplying the total penalty with the multiplier using the number of employees as a guide.

PENALTY CALCULATION:

Calculation of Unadjusted Penalty

Violations	Penalty Value
Failure of the owner or operator to document other persons responsible for implementing individual requirements of the risk management program and defined the lines of authority through an organization chart or similar document in accordance with [68.15(c)]	\$600
Failure of the owner or operator to identify environmental receptors that would be included in the distance to the endpoint based on a circle with the point of release at the center in accordance with [68.33(a)].	\$600
Failure of the owner or operator to have documented information pertaining to the technology of the process for the maximum intended inventory of their hydrochloric acid tank in accordance with [68.65(c)(1)(iii)].	\$600
Failure of the owner or operator to provide refresher training at least every three years, or more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the hydrochloric acid process in accordance with [68.71(b)].	\$1,500
Failure of the owner or operator to establish and implement written procedures to maintain the on-going integrity of the hydrochloric acid tank process equipment listed in accordance with [68.73(b)]	\$1,500
Failure of the owner or operator to perform inspections and tests on the hydrochloric acid process equipment in accordance with [68.73(d)(1)].	\$1,500

RISK MANAGEMENT PROGRAM, INSPECTION FINDINGS, ALLEGED VIOLATIONS AND PROPOSED PENALTY SHEET (ENCLOSURE #2) Program Level 3 Process Checklist	
Facility Name: DanChem Technologies, Inc.	
Section A: Management [68.15]	
Failure of the owner or operator to document other persons responsible for implementing individual requirements of the risk management program and defined the lines of authority through an organization chart or similar document in accordance with [68.15(c)]	No
Section B: Hazard Assessment [68.20-68.42]	
Failure of the owner or operator to identify environmental receptors that would be included in the distance to the endpoint based on a circle with the point of release at the center in accordance with [68.33(a)].	No
Section C: Prevention Program- [68.65 -68.87]	
Failure of the owner or operator to have documented information pertaining to the technology of the process for the maximum intended inventory of their hydrochloric acid tank in accordance with [68.65(c)(1)(iii)].	No
Failure of the owner or operator to provide refresher training at least every three years, or more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the hydrochloric acid process in accordance with [68.71(b)].	No
Failure of the owner or operator to establish and implement written procedures to maintain the on-going integrity of the hydrochloric acid tank process equipment listed in accordance with [68.73(b)].	No
Failure of the owner or operator to perform inspections and tests on the hydrochloric acid process equipment in accordance with [68.73(d)(1)].	No
Failure of the owner/operator to have promptly determined and documented an appropriate response to each of the findings of their compliance audit and documented that deficiencies had been corrected in accordance with [68.79(d)].	No
Description: On November 8, 2016, an authorized representative of the EPA conducted an inspection of the DanChem Technologies, Inc. facility located at 1975 Old Richmond Road in Danville, VA, to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Clean Air Act (the Act or CAA). EPA found that the Respondent had violated regulations implementing Section 112(r) of the Act, specifically the items mentioned above under Section A: Management [68.15 (c)], Section B: Hazard Assessment [68.33 (a) and Section C: Prevention Program [68.65(c)(1)(iii)], [68.71(b)], [68.73(b)], [68.73(d)(1)] and [68.79(d)].	

Adjusted Penalty = Unadjusted Penalty X Multiplier

The Unadjusted Penalty is calculated by adding up all the penalties listed on the Risk Management Program, Alleged Violations and Proposed Penalty Sheet.

The Size-Threshold Quantity multiplier is a factor that considers the number of employees and how many times above the threshold quantity for private industry.

Failure of the owner/operator to have promptly determined and documented an appropriate response to each of the findings of their compliance audit and documented that deficiencies had been corrected in accordance with [68.79(d)].	\$300
Total	\$6,600

After totaling the penalty numbers from the Program 3 Penalty Schedule for the specified violations, an unadjusted penalty of \$ \$6,600 is derived.

Calculation of Adjusted Penalty

1. Reference the multiplying factor table for a private industry (shown above) to calculate the adjusted penalty. According to the facility's latest RMP submittal of December 7, 2012, listed are 108 employees with approximately 85,521 pounds of vinyl acetate monomer in a process. This is 5.7 times above the threshold quantity of 15,000 pounds of this chemical. Using the appropriate row and column a multiplier of is determined 1.

2. Use the Adjusted Penalty formula

Adjusted Penalty Calculation		
Unadjusted Penalty	X Multiplier	= Adjusted Penalty
\$6,600	1	\$6,600



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

In the Matter of:)	EPA Docket No.: CAA-03-2017-009 9 ⁷
DanChem Technologies, Inc.)	6047
1975 Old Richmond Road)	
Danville, VA 24540)	
)	
Respondent,)	
)	Proceedings under Section
DanChem Technologies, Inc.)	113(d)(1) of the Clean Air Act, 42
1975 Old Richmond Road)	U.S.C. § 7413(d)(1).
Danville, VA 24540)	
)	
Facility.)	
)	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of Complainant's, the United States Environmental Protection Agency's, Expedited Penalty Action and Consent Agreement ("Consent Agreement") with the Regional Hearing Clerk, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that true and correct copies of the Consent Agreement, were sent to:

Via certified mail, return receipt requested

Mr. Paul Bacon, President
DanChem Technologies, Inc.
1975 Old Richmond Road
Danville, VA 24540

6/13/17
Date

Kevin Daniel
Kevin Daniel (3HS61)

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