

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:

CHEMCENTRAL Corporation
Louisville, KY

Respondent.

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Docket No. CAA-04-2007-1501(b)

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HEARING CLERK

CONSENT AGREEMENT AND FINAL ORDER

1. This is an administrative proceeding to assess a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).
2. The authority to take action under Section 113(d) of CAA, 42 U.S.C. § 7413(d), is vested in the Administrator of Environmental Protection Agency (EPA). The Administrator of EPA has lawfully delegated this authority under the CAA to the Regional Administrators by EPA Delegation 7-6-A, last updated on August 4, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by EPA Region 4 Delegation 7-6-A, dated November 15, 1993. Pursuant to that delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter. The Respondent is CHEMCENTRAL Corporation, a corporation doing business in Louisville, Kentucky.
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

Statutory and Regulatory Background

4. Section 110 of the Clean Air Act (CAA), 42 U.S.C. § 7410, provides that each state must submit a State Implementation Plan (SIP) which provides for implementation, maintenance, and enforcement of the national primary and secondary ambient air quality standards (NAAQS) to the Administrator of EPA within three years of the promulgation or revision of such standards.

5. EPA promulgated final approval of the Kentucky SIP program, which includes Jefferson County's Local Implementation Plan (LIP), on January 25, 1980 (45 Fed. Reg. 6092), and the program became effective on that date.
6. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and 40 C.F.R. Part 19, EPA may assess a penalty of not more than \$25,000 for each violation of Section 183(e) of the CAA, 42 U.S.C. § 7671h(c), that occurred prior to January 31, 1997, not more than \$27,500 for each violation that occurred on or after January 31, 1997, and not more than \$32,500 for each violation that occurred after March 15, 2004.

Allegations

7. The Jefferson County, Kentucky, portion of the Kentucky SIP, 40 CFR 52.920(c)- Table 2, Regulation 2.17, Federally Enforceable District Origin Operating Permits (FEDOOP), Section 3, General Provisions, 3.1 states that the stationary source shall comply with all terms and conditions in a FEDOOP, including subsequent revisions. Regulation 2.17-3.2 states that all terms and conditions in a FEDOOP, including those requirements designed to limit a stationary source's potential to emit, are enforceable by the EPA.
8. CHEMCENTRAL is a chemical distributor located at 1825 Appleton Lane in Louisville, KY, that receives bulk liquid chemical products and redistributes them.
9. On November 5, 2001, the Louisville Air Pollution and Control District (APCD) issued FEDOOP number 189-01-F to Respondent.
10. General Condition 12 of FEDOOP number 189-01-F requires that the Respondent's quarterly reports contain the monthly and consecutive 12 month total emissions for each pollutant that has a federally enforceable limitation on the potential to emit.
11. During a file review conducted by EPA on 10/27/04, it was discovered that the Respondent's quarterly reports from 2001 through 2004, do not contain the monthly totals pollutant emissions, nor the 12 month rolling total emissions for each month.
12. Additional Condition 1.c., of FEDOOP number 189-01-F states that the Respondent shall not allow visible emissions (VE) to equal or exceed 20% opacity for the spray booth. Additional Condition 2.c. states that the Respondent shall conduct a monthly one-minute VE survey during normal operation and daylight hours. Additional Condition 3.b.c. states that the Respondent shall keep records of all VE surveys and corrective actions taken.
13. The Respondent has not been keeping records of the VE surveys for the spray booth. This finding was documented during an inspection conducted by APCD on 4/13/04.
14. Additional Condition 2.d., of FEDOOP number 189-01-F states that the Respondent shall inspect the filters of the spray booth at least monthly and correct as needed. Additional

Condition 3.d. states that the Respondent shall keep records of the filter inspections and any corrective action taken.

15. The Respondent has incomplete records of filter inspections for the spray booth. This finding was documented during an inspection conducted by APCD on 4/13/04.
16. General Condition 4 of FEDOOP number 189-01-F requires that the Respondent submit an annual compliance certification by April 15th of each year.
17. The facility's Annual Compliance Certifications for 2002 and 2003, contain inadequate responses to questions 8b, which was left blank, and 8c, which should include spray booth requirements.
18. Therefore, EPA has found Respondent's facility to be in violation of 40 C.F.R. Part 52, Section 920(c)- Table 2, Regulation 2.17.

Consent Agreement

19. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.
20. Respondent waives its right to a hearing on the allegations contained herein.
21. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.
22. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with applicable requirements of the CAA.
23. Compliance with this CAFO shall resolve the allegations of violations contained herein and known to the EPA at this time. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement for allegations of violations not contained in this CAFO.
24. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of the CAA.

Final Order

25. Respondent is assessed a civil penalty of **THIRTY-FOUR THOUSAND TWO HUNDRED AND EIGHTY-EIGHT DOLLARS (\$34,288)**.
26. Respondent shall pay the penalty by forwarding a cashier's or certified check in the amount specified in paragraph 25, payable to: "Treasurer, United States of America," to the following address:

U.S. Environmental Protection Agency
Cincinnati Accounting Operations
Mellon Lockbox 371099M
Pittsburgh, PA 15251-7099

The check shall reference on its face the name and the Docket Number of the CAFO (CHEMCENTRAL Corporation, Docket Number CAA-04-2007-1501(b)). Payment shall be made within 15 days of receipt of this filed CAFO.

27. At the time of each payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960

Laurie Savoy (AEEB)
U.S. EPA - Region 4
Air, Pesticides and Toxics Management Division
Air and EPCRA Enforcement Branch
61 Forsyth Street
Atlanta, Georgia 30303

Saundi Wilson (EAD)
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303

28. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.

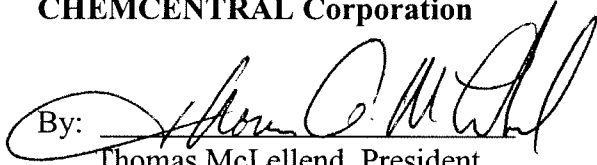
29. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the payment referenced in paragraph 25, from the date of entry of this CAFO, if any such payment is not paid by the date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge of ten percent per year compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.
30. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
31. This CAFO shall be binding upon the Respondent, its successors and assigns.
32. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

Effective Date

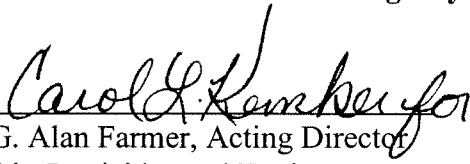
33. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

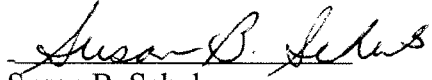
CHEMCENTRAL Corporation

By:  Date: 8/30/06
Thomas McLellend, President
CHEMCENTRAL Corporation

U.S. Environmental Protection Agency

By:  Date: 9/29/06
G. Alan Farmer, Acting Director
Air, Pesticides and Toxics
Management Division
Region 4

APPROVED AND SO ORDERED this 17th day of Oct., 2006.


Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of: CHEMCENTRAL Corporation, Docket No. CAA-04-2007-1501(b), was filed and served on the date shown below, to the parties listed in the manner indicated:

Laurie Savoy
U.S. EPA, Region 4
Air, Pesticides, and Toxics
Management Division
61 Forsyth St., SW
Atlanta, GA 30303

(Via EPA's internal mail)

Alan Dion
U.S. EPA, Region 4
Office of Environmental Accountability
61 Forsyth St., SW
Atlanta, GA 30303

(Via EPA's internal mail)

(Respondent)

(Via Certified Mail, Return Receipt Requested)

Mr. Dan Brennan
Of Counsel
CHEMCENTRAL Corporation
Post Office Box 730
Bedford Park, IL 60499-0730

Date: 10-18-06



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental
Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9511



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

OCT 1 8 2006

Mr. Dan Brennan
CHEMCENTRAL Corporation
P.O. Box 730
Bedford Park, IL 60499-0730

Re: Consent Agreement and Final Order In the Matter of CHEMCENTRAL Corp.
Docket No. CAA-04-2007-1501(b)

Dear Mr. Brennan:

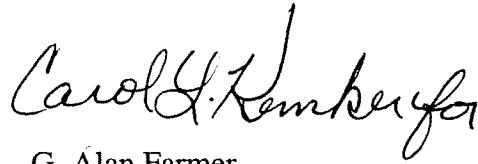
Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in this matter. The original CAFO has been filed with the Regional Hearing Clerk as directed in Section 22.5(a) of the Consolidated Rules of Practice, as amended. Please refer to Section IV, Final Order, for the terms and instructions regarding your final payment on the penalty due.

Due to timing of the agreed settlement and internal Environmental Protection Agency (EPA) administrative processes, EPA was required to update the docket number of the CAFO for the present fiscal year. The docket number has changed from CAA-04-2006-1508(b) to CAA-04-2007-1501(b). In doing so, pages one (1) and four (4) of the CAFO which Mr. McLellend signed have been replaced with new pages reflecting the updated docket number. All other information contained within the CAFO remains unchanged.

Also enclosed is a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by the Environmental Protection Agency. If you have any questions with regard to the SEC's environmental disclosure requirements, you may refer to the contact phone number at the bottom of the Notice.

Should you have any questions, please contact Ms. Laurie Savoy, Environmental Engineer in the South Air Enforcement Section, at (404) 562-9201.

Sincerely,

A handwritten signature in black ink, appearing to read "Carol G. Farmer". The signature is written in a cursive style with a large initial "C".

G. Alan Farmer
Acting Director
Air, Pesticides and Toxics
Management Division

Enclosures

cc: Art Williams, Director, Louisville APCD

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saund. Wilson on 10/13/06
(Name) (Date)

in the OEA, OAT&L at (404) 562-9504
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree
USAO COLLECTS

Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree
DOJ COLLECTS

Oversight Billing - Cost Package required:
Sent with bill

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: Chemcentral Corporation
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 34,288 -
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CAA -04 2007 1501(b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: Peggy Whitney of the Financial Management Section at: (404) 562-8238.

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- | | |
|--|------------------------------|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD) |
| | 3. Designated Program Office |

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |