



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

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

SEP 06 2012

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dawn M. Hughes
Plant Manager
DuPont Memphis Plant
2571 Fite Road
Memphis, Tennessee 38127

SUBJ: Consent Agreement and Final Order
E.I. du Pont de Nemours and Company
Docket No. CWA-04-2012-5137(b)

Dear Ms. Hughes:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk (RHC) in the above referenced matter. The CA/FO was effective upon filing with the RHC and the payments of the civil penalties are to be paid within thirty (30) calendar days of the effective date of this CA/FO.

Also enclosed is a copy of a document titled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts E.I. du Pont de Nemours and Company on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental actions taken by the EPA.

If you have any questions, please feel free to contact Marirose J. Pratt, Assistant Regional Counsel, at (404) 562-9023.

Sincerely,

A handwritten signature in black ink, appearing to read "César Zapata".

César Zapata, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF)
)
E.I. du Pont de Nemours and Company)
DuPont Memphis Plant)
2571 Fite Road)
Memphis, Tennessee 38127)
)
Respondent)
_____)

CWA SECTION 311 CLASS I
CONSENT AGREEMENT AND
FINAL ORDER
UNDER 40 C.F.R. § 22.13(b)
Docket No. CWA-04-2012-517(b)

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HEARING CLERK

LEGAL AUTHORITY

This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency by Section 311(b)(6)(B)(i) of the Clean Water Act (CWA), 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and under the authority provided by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 4, who has in turn delegated these authorities through the Director, RCRA Division, to the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division (Complainant).

CONSENT AGREEMENT

Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this Consent Agreement and Final Order (CAFO), and Respondent hereby agrees to comply with the terms of this CAFO. For purposes of this CAFO and settlement of this action, Respondent admits to the jurisdictional statements contained herein.

Stipulations

1. Respondent, E.I. du Pont de Nemours and Company, is a corporation organized under the laws of Delaware and registered to do business in the State of Tennessee. Respondent is a person within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7).

2. The Respondent is the “owner and operator” within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), of a chemical manufacturing facility located in Shelby County, Tennessee (the facility).

3. The Loosahatchie River is a navigable water as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1, and is therefore subject to the jurisdiction of Section 311 of the CWA.

4. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), prohibits the discharge of hazardous substances into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States.

5. For purposes of Section 311(b)(3) and (b)(4) of the Act, 33 U.S.C. § 1321(b)(3) and (b)(4), discharges of hazardous substances into or upon the navigable waters of the United States in such quantities that have been determined may be harmful to the public health or welfare or the environment are defined in 40 C.F.R. § 117.1 to include those discharges that exceed reportable quantities as set forth in 40 C.F.R. § 117.3.

Allegations

Complainant alleges, and Respondent neither admits nor denies, that:

6. On or about April 26, 2011, Respondent discharged approximately 118 lbs, or just over one Reportable Quantity (RQ) (100 lbs), of sodium hypochlorite from its facility into or upon the Loosahatchie River and its adjoining shorelines.

7. Sodium hypochlorite is a hazardous substance as defined in Section 311(a)(14) of the CWA, 33 U.S.C. § 1321(a)(1), and 40 C.F.R. § 116.4.

8. Respondent's April 26, 2011, discharge of 118 lbs of sodium hypochlorite from its facility into or upon the Loosahatchie River and its adjoining shorelines exceeded the reportable quantity in 40 C.F.R § 117.3 and, therefore, was in a quantity that has been determined may be harmful to the public health or welfare or the environment as set forth in 40 C.F.R § 117.1. Accordingly, Respondent violated Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

Waiver of Rights

9. Solely for the purpose of this Consent Agreement, Respondent waives the right to contest the allegations contained herein, to a hearing under Section 311(b)(6)(B)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(i), to appeal any Final Order in this matter under Section 311(b)(6)(G)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(G)(i), and consents to the issuance of a Final Order without further adjudication.

Penalty

10. Respondent consents to the payment of a civil penalty of One Thousand Thirty Dollars (\$1,030).

Payment Terms

11. No later than thirty (30) days after the effective date of the Final Order, Respondent shall pay the penalty by means of a corporate cashier's or certified check, by electronic funds transfer (EFT), or on-line. If paying by check, Respondent shall submit a corporate cashier's or certified check, payable to "Environmental Protection Agency." The check shall bear the notation "OSLTF – 311," along with the title and docket number of this case.

If the Respondent sends payment by the U.S. Postal Service, the payment shall be sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
Post Office Box 979077
St. Louis, Missouri 63197-9000

If the Respondent sends payment by an overnight commercial delivery service such as DHL, FedEx or UPS, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
314-418-1028

If the Respondent sends payment by wire transfer, the wire transfer should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency"

Respondent may also elect the On Line Payment Option, available through the Department of Treasury. This payment option can be accessed at www.pay.gov. Enter “sfo 1.1” in the search field and then open the form and complete required fields.

12. Respondent shall submit copies of the check (or, in the case of a wire transfer or on-line payment, a copy of the wire transfer or on-line confirmation) to the following people:

Patricia Bullock
Regional Hearing Clerk
U.S. EPA, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

and to:

Doug McCurry, Chief,
North Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

13. Penalties paid pursuant to this CAFO are not deductible for federal purposes under 26 U.S.C. § 162(f).

14. Respondent’s failure to pay the penalty assessed by the Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to Section 311(b)(6)(H) of the Act, 33 U.S.C. § 1321(b)(6)(H). In any such collection action, the validity, amount and appropriateness of the penalty agreed to herein shall not be subject to review.

General Provisions

15. The Final Order shall be binding upon Respondent and Respondent's officers, directors, agents, and successors or assigns.

16. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the CWA, 33 U.S.C. § 1321, or any regulations promulgated thereunder, and does not affect the right of the Administrator or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law. Payment of the penalty pursuant to this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts stipulated to and alleged herein. Except as otherwise set forth herein, compliance with this CAFO shall resolve the allegations of violations contained herein.

17. The undersigned representative of Respondent hereby certifies that he or she is fully authorized to enter into and execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the attached Final Order.

18. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in the proceeding:

Marirose J. Pratt
Assistant Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
404-562-9023
pratt.marirose@epa.gov

19. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents the Respondent in this matter and who is to receive service for the Respondent in this proceeding:

Dawn M. Hughes
Plant Manager
DuPont Memphis Plant
2571 Fite Road
Memphis, Tennessee 38127
901-353-7201

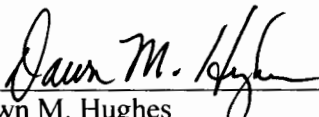
Effective Date

20. This Consent Agreement and Final Order is effective when the Final Order is filed with the Regional Hearing Clerk.

CONSENTED AND AGREED TO:

DUPONT MEMPHIS PLANT

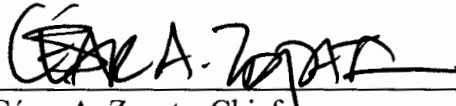
Date: 8/27/12



Dawn M. Hughes
Plant Manger

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 9/15/12



César A. Zapata, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF)	CWA SECTION 311 CLASS I
)	CONSENT AGREEMENT AND
E.I. du Pont de Nemours and Company)	FINAL ORDER
DuPont Memphis Plant)	UNDER 40 C.F.R. § 22.13(b)
2571 Fite Road)	
Memphis, Tennessee 38127)	Docket No. CWA-04-2012-5137(b)
)	
Respondent)	
_____)	

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 6 day of September, 2012.

BY: Susan B. Schub
Susan Schub
Regional Judicial Officer

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the Foregoing Consent Agreement and Final Order, in the matter of E.I. du Pont de Nemours and Company, LLC, Docket No. CWA-04-2012-5137(b), on the parties listed below in the manner indicated:

Marirose J. Pratt
Assistant Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

(Via EPA's internal mail)

Quantindra Smith
RCRA & OPA Enforcement and Compliance Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

(Via EPA's internal mail)

Dawn M. Hughes
Plant Manager
DuPont Memphis Plant
2571 Fite Road
Memphis, Tennessee 38127

(Via Certified Mail)

Dated this 6 day of September, 2012.



Patricia Bullock
Regional Hearing Clerk
U.S. EPA – Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960