



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

JUN 29 2012

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Joe Campbell  
Plant Manager  
Afton Chemical Corporation  
501 Monstanto Avenue  
Sauget, Illinois 62201

Dear Mr. Campbell:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) and an Administrative Consent Order which resolve case docket no. CAA-05-2012-0037. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on JUN 29 2012.

Pursuant to paragraph 37 of the CAFO, Afton Chemical Corporation must pay the civil penalty within 30 days of JUN 29 2012. Your check must have the docket number, CAA-05-2012-0037, and the billing document number, 2751203A039.

Please direct any questions regarding this case to Susan Perdomo, Associate Regional Counsel, 312.886.0557.

Sincerely,

A handwritten signature in black ink that reads "William L. MacDowell".

William MacDowell  
Air Enforcement and Compliance Assurance Section (MN/OH)

Enclosure

cc: John Breslin, Acting Regional Judicial Officer /C-14J  
Regional Hearing Clerk/E-19J  
Susan Perdomo /C-14J  
Ray Pilapil, IEPA

Standard bcc's:

Official File Copy w/Attachment (s)  
Originating Organization Reading File w/Attachment(s)

Other bcc's:

Susan Perdomo  
G:/AECAB/PAS/Docs Routed for Signature/MNOH/Dickens

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of: ) Docket No. CAA-05-2012-0037  
)  
Afton Chemical Corporation ) Proceeding to Assess a Civil Penalty  
Sauget, IL 62206 ) Under Section 113(d) of the Clean Air Act  
) 42 U.S.C. § 7413(d)  
Respondent. )  
\_\_\_\_\_ )

RECEIVED  
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2012 JUN 29 AM 9:42

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.
2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5:
3. Respondent is Afton Chemical Corporation, 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**

9. Section 111(b) of the Act, 42 U.S.C. § 7411(b) requires EPA to publish a list of categories of stationary sources and, within a year after the inclusion of a category of stationary sources in the list, to publish proposed regulations establishing Federal standards of performance for new sources within the source category.

10. On October 15, 1973, EPA promulgated the General Provisions for the Part 60 NSPS standards at 40 C.F.R. Part 60, Subpart A, §§ 60.1 - 60.19. 38 FR 28565; the provisions have been subsequently amended.

11. 40 C.F.R. § 60.11(d) requires that “at all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions.”

12. 40 C.F.R. § 60.18(d) provides that “owners or operators of flares used to comply with the provisions of this subpart shall monitor these control devices to ensure that they are operated and maintained in conformance with their designs...”

13. 40 C.F.R. § 60.18(c)(3)(ii) requires that flare owner/operators only combust gases that meet certain heat content specifications. For steam assisted flares, the minimum heat content for the gases being combusted is 300 BTU/scf.

14. On April 8, 1987, EPA promulgated Standards of Performance for Volatile Organic Liquid Storage Vessels for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984, found at 40 C.F.R. Part 60, Subpart Kb. 52 FR 11429. The affected facility to which this subpart applies is generally each storage vessel larger than 75 cubic meters that is used to store volatile organic liquids. 40 C.F.R. § 60.110(b).

15. Afton's Carbon Disulfide Storage Tank, Tank 125, is an affected facility under Subpart Kb and vents to Flare 266/280.

16. 40 C.F.R. § 60.112b(a)(3)(ii) provides that flares used as a control device pursuant to Subpart Kb must comply with Section 60.18 of Part 60, Subpart A, General Provisions.

#### Illinois SIP

17. On April 2, 1996, EPA approved Illinois rule 35 Illinois Administrative Code (IAC) 219 (61 FR 14484).

18. 35 IAC 219.501 of the Illinois SIP requires that synthetic organic chemical manufacturing industry (SOCMI) batch and air oxidation processes control volatile organic material emissions to the environment. Afton uses Flare 266/280 to meet the 35 IAC 219.501 control requirements at the 267, 280, and 290 process units. 35 IAC 219.501 states that the flare shall comply with 40 C.F.R. § 60.18.

19. 40 C.F.R. § 52.23 states "...failure to comply with...any approved regulatory provision of a State implementation plan, or with any permit condition or permit denial issued

pursuant to approved or promulgated regulations for the review of new or modified stationary or indirect sources, or with any permit limitation or condition contained within an operating permit issued under an EPA-approved program that is incorporated into the State implementation plan, shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act.”

#### Title V Background and Provisions

20. Section 502(a) of the Act states “After the effective date of any permit program approved or promulgated under this subchapter, it shall be unlawful for any person to violate any requirement of a permit issued under this subchapter, or to operate...a major source...except in compliance with a permit issued by a permitting authority under this subchapter.”

21. 40 C.F.R. § 70.7(b) states “...no part 70 source may operate after the time that it is required to submit a timely and complete application under an approved permit program, except in compliance with a permit issued under a part 70 program.”

22. EPA fully approved the Illinois Title V Permit program, effective December 4, 2001. 66 FR 62946. Illinois’ Title V Permit program requirements are codified at IAC Title 35, Part 270.

23. The Illinois Environmental Protection Agency (Illinois EPA) issued a Title V Permit to the facility on December 17, 2009.

24. Paragraph 5.4.4 of Afton’s Title V permit applies to flares that are used as a control device to meet 40 C.F.R. Part 60 and 63, and SIP Section 219 control requirements. Specifically, it requires flares to meet the heat content specifications in 40 C.F.R. § 60.18.

25. Paragraph 7.10.3(c) of Afton's Title V permit applies to process unit 280 and requires compliance with 35 IAC.219.501. Paragraph 7.10.5(b) states the flare shall comply with 40 C.F.R. § 60.18.

26. Paragraph 7.13.3(c) of Afton's Title V permit applies to process unit 290 and requires compliance with 35 IAC 219.501. Paragraph 7.13.5(b) states the flare shall comply with 40 C.F.R. § 60.18.

27. Paragraph 7.16.3(c) of Afton's Title V permit applies to process unit 267 and requires compliance with 35 IAC 219.501. Paragraph 7.16.5(b) states the flare shall comply with 40 C.F.R. § 60.18.

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

#### **Factual Allegations and Alleged Violations**

29. Flare 266/280 is a steam assisted flare. Steam is added to the vent gas exiting the flare during certain operating scenarios. This steam addition can occur automatically through control logic, or manually to levels specified by operations personnel.

30. Afton supplied to EPA flare operating data for a period of ten days. During certain times on four of those days, Afton supplied steam to its flare, rendering the flare "steam-assisted", during periods where the heating value was not consistently maintained to at least 300 BTU/scf. Afton operates its flare as "steam assisted," but during the aforementioned 'certain times,' failed to consistently meet a minimum heating value of 300 BTU/scf.

31. The failure of Afton to consistently maintain 300 BTU/scf in the gases to be combusted at the flare is a violation of 40 C.F.R. § 60.18(c)(3)(ii).

32. Most flare manufacturers provide design documents and some form of operations and maintenance instruction to flare owners, usually around the time the flare is installed.

33. The flare Operation and Maintenance Manual provided by Afton's flare vendor, ("Afton's Flare Documents") stated the minimum steam rates and maximum steam capability. Specifically, Afton's Flare Documents state, "During a flare event, the steam flow to the Upper Steam Ring should be adjusted to the point where smoke is not visible and the flame is a yellow-orange color. Excessive steam injection will cause high noise and can cause a reduction in destruction efficiency. As waste gas flow varies, steam flow should be varied accordingly to avoid over-steaming or smoking."

34. EPA alleges that Afton's failure to operate the flare in accordance with manufacturer's instructions and published guidance documents that prescribe or recommend the amount of steam to add to the flare is a failure to meet the requirement to use good air pollution control practices to minimize emissions required by 40 C.F.R. § 60.11(d).

35. By violating provisions 5.4.4, 7.10.3, 7.13.3, and 7.16.3, Afton violated its Title V Permit.

#### **Civil Penalty**

36. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, Respondent's cooperation and willingness to promptly return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$168,000.

37. Within 30 days after the effective date of this CAFO, Respondent must pay a \$168,000 civil penalty by Automated Clearinghouse (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

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

38. Respondent must send a notice of payment that states Respondent's name, the docket number of this CAFO and the billing document number to the Compliance Tracker, Air Enforcement and Compliance Assurance Branch and to Susan Perdomo at the following addresses when it pays the penalty:

Attn: Compliance Tracker, (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Susan Perdomo (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

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

40. If Respondent does not timely pay 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 Act, 42 U.S.C. § 7413(d)(5).

41. 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 attorneys' 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**

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

43. 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.

44. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state and local laws. Except as provided in paragraph 42, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

45. An Administrative Consent Order requiring Respondent to implement a 12-month compliance plan will be filed simultaneously with this CAFO.

46. 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 Act, 42 U.S.C. § 7413(e).

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

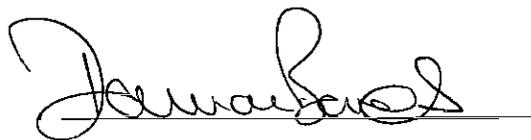
48. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

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

**Afton Chemical Corporation, Respondent**

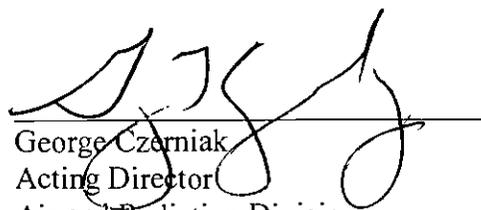
6/20/2012  
Date

  
\_\_\_\_\_

Afton Chemical Corporation

**United States Environmental Protection Agency, Complainant**

6/26/12  
Date

  
\_\_\_\_\_

George Czerniak  
Acting Director  
Air and Radiation Division  
U.S. Environmental Protection Agency  
Region 5

**Consent Agreement and Final Order**  
**In the Matter of: Afton Chemical Corporation**  
**Docket No. CAA-05-2012-0037**

**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.

6-27-12  
Date

  
\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent the Administrative Consent Order, EPA Order No.

EPA-5-12-113(a)-IL-05, by certified mail, return receipt requested, to:

Kindra L. Kirkeby  
Assistant Counsel- Environmental  
NewMarket Services Corporation  
330 S. Fourth Street  
Richmond, VA 23219  
(804)788-5513

I also certify that I sent a copy of the Administrative Consent Order, EPA Order No. EPA-5-12-

113(a)-05, by first-class mail to:

Ray Pilapil, Manager  
Compliance and Systems Management Section  
Illinois Environmental Protection Agency  
1021 North Grand Avenue  
Springfield, Illinois 62702

On the 29 day of June 2012.

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CAA-05-2012-0037

Loretta Shaffer  
Loretta Shaffer  
AECAB, PAS

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