



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

February 27, 2013

CERTIFIED MAIL – RETURN RECEIPT REQUESTED: 7007 3020 0002 5102 7709

Stephanie S. Couhig
Attorney at Law
Momentive Specialty Chemicals Inc.
180 E. Broad Street
Columbus, OH 43215

RE: In the Matter of Momentive Specialty Chemicals Inc.
Docket No. CAA-06-2013-3306

Dear Ms. Couhig,

Please find enclosed the fully executed Complaint and Consent Agreement and Final Order ("combo") in regard to the above-entitled case. The fully executed CAFO was filed with the Regional Hearing Clerk on February 27, 2013 (effective date).

Momentive Specialty Chemicals Inc. will have thirty (30) days from the effective date to pay the agreed upon civil penalty of forty six thousand dollars (\$46,000). If you have any questions regarding this matter, please feel free to contact me at 214-665-8328. Thank you for your assistance in bringing this matter to a successful conclusion.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl M. Barnett".

Cheryl M. Barnett
Assistant Regional Counsel
EPA, Region 6

Enclosure

2. The Complaint alleges that Momentive violated regulations promulgated under the CAA at its chemical manufacturing facility, located at 16122 River Road in Norco, St. Charles Parish, Louisiana (“Facility”).

3. For purposes of this proceeding, Respondent admits the jurisdictional allegations of this Complaint; however, Respondent neither admits nor denies the specific factual allegations contained in this Complaint.

4. Respondent hereby certifies that as of the date of its execution of this CAFO, the Facility has corrected the violations alleged in the Complaint, and is now, to the best of its knowledge, in compliance with all the requirements of the Act.

5. Respondent waives any right to contest the allegations in the CAFO and its right to appeal the Final Order set forth herein, and Respondent waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.

6. Compliance with all the terms and conditions of this CAFO shall resolve Respondent’s liability for federal civil penalties for the violations alleged in this CAFO.

7. Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, or claim-splitting for violations not alleged in this Complaint.

8. Nothing in this CAFO shall be construed to prevent or limit the civil and criminal authorities of the United States Environmental Protection Agency, or that of other federal, state, or local agencies or departments to obtain penalties or injunctive relief under other federal, state, or local laws or regulations.

9. Respondent represents that it is duly authorized to execute this CAFO and that the party signing this CAFO on behalf of the Respondent is duly authorized to bind the Respondent to the terms and conditions of this CAFO.

10. Respondent agrees that the provisions of this CAFO shall be binding on its officers, directors, employees, agents, servants, authorized representatives, successors, and assigns.

II. STATUTORY AND REGULATORY BACKGROUND

11. Section 112(b)(2) of the CAA, 42 U.S.C. § 7412(b)(2), requires the Administrator of the United States Environmental Protection Agency to publish a list of pollutants which present, or may present, through inhalation or other routes of exposure, a threat of adverse human health effects or adverse environmental effects through ambient concentrations, bioaccumulation, deposition, or otherwise.

12. Pursuant to its authority under Section 112 of the CAA, EPA promulgated 40 C.F.R. Part 63, Subpart H (National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks).

13. According to 40 C.F.R. § 63.1(b), the provisions of Part 63 apply to the owner or operator of any stationary source that:

- (i) Emits or has the potential to emit any hazardous air pollutant listed in or pursuant to section 112(b) of the Act; and
- (ii) Is subject to any standard, limitation, prohibition, or other federally enforceable requirement established pursuant to Part 63.

14. According to 40 C.F.R. § 63.160(a), Subpart H applies to all equipment, including valves, that are intended to operate in organic hazardous air pollutant service 300 hours or more during the calendar year within a source subject to the provisions of a specific subpart in 40 C.F.R. Part 63.

15. According to 40 C.F.R. § 63.161, “in organic hazardous air pollutant (HAP) service” means that a piece of equipment either contains or contacts a fluid (liquid or gas) that is at least 5 percent by weight of total organic HAP’s as determined according to the provisions of § 63.180(d) of subpart H.

16. According to 40 C.F.R. § 63.168(a), Subpart H applies to valves that are either in gas service or in light liquid service.

17. Section 63.161 states “*In gas/vapor service* means that a piece of equipment in organic hazardous air pollutant service contains a gas or vapor at operating conditions.” 40 C.F.R. § 63.161.

18. Section 63.161 states “*In light liquid service* means that a piece of equipment in organic hazardous air pollutant service contains a liquid that meets the following conditions: (1) The vapor pressure of one or more of the organic compounds is greater than 0.3 kilopascals at 20°C, (2) The total concentration of the pure organic compounds constituents having a vapor pressure greater than 0.3 kilopascals at 20 °C is equal to or greater than 20 percent by weight of the total process stream, and (3) The fluid is a liquid at operating conditions.” 40 C.F.R. § 63.161.

19. Section 63.168(f) of Subpart H sets forth leak detection and repair requirements for valves in gas/vapor service and light liquid service.

20. According to 40 C.F.R. § 63.168(f)(3), when a leak has been repaired, the valve shall be monitored at least once within the first 3 months after its repair.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

21. Respondent is a corporation doing business in the State of Louisiana and is a “person” as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

22. At all relevant times, Respondent owned and operated the Facility, which produces allyl chloride, crude and finished epichlorohydrin, hydrochloric acid, calcium chloride solutions, epoxy resins, and related products.

23. The Facility includes one or more valves located in the Crude Epichlorohydrin Unit (CUNIT), associated with the production of allyl chloride, crude epichlorohydrin, and 36.5% hydrochloric acid solution, which are Hazardous Air Pollutants subject to the requirements of 40 C.F.R. Part 63, Subpart H. *See* CAA § 112(b)(1), 42 U.S.C. § 7612(b)(1).

IV. VIOLATION

24. In January of 2012, Respondent discovered and repaired leaks from 27 different valves located in the Crude Epichlorohydrin Unit but did not monitor the valves at least once within the first 3 months after the repair.

25. By failing to monitor each of the 27 valves during the month of April 2012, Respondent violated 40 C.F.R. § 63.168(f)(3) for each valve that was not monitored.

V. CIVIL PENALTY AND TERMS OF SETTLEMENT

26. For the reasons set forth above, Respondent has agreed to pay a civil penalty which has been determined in accordance with Section 113(d) of the CAA, 42 U.S.C. § 7413(d), which authorizes EPA to assess a civil penalty of up to twenty-five thousand dollars (\$25,000)¹ per day for each violation of the CAA. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, specific facts and equities, litigation risks, and other factors as justice may require, it is ORDERED that Respondent be assessed a civil penalty in the amount of forty six thousand dollars (\$46,000).

27. Within thirty (30) days of Respondent's receipt of this fully executed CAFO, Respondent shall pay forty six thousand dollars (\$46,000) by cashier's or certified check made payable to "Treasurer, United States of America, EPA - Region 6." Payment shall be remitted in one of five (5) ways: regular U.S. Postal Service mail, to include certified mail; overnight mail; wire transfer; Automated Clearinghouse; or On Line Payment. For regular U.S. Postal Service mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, the check(s) should be remitted to:

¹ The Civil Penalty Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701 provides for increases in the statutory penalty provisions (\$25,000) cited in the Clean Air Act Stationary Source Civil Penalty Policy dated October 25, 1991 (CAA Penalty Policy). It provides for up to \$25,000 per day of violation for violations occurring on or before January 30, 1997; up to \$27,500 per day for each such violation occurring after January 30, 1997 through March 15, 2004; up to \$32,500 per day for each such violation occurring after March 15, 2004 through January 12, 2009; and up to \$37,500 per day for each such violation occurring after January 12, 2009.

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

For overnight mail (non-U.S. Postal Service, e.g. Fed Ex), the check(s) should be remitted to:

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

Contact: Natalie Pearson
(314) 418-4087

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency"

For Automated Clearinghouse (also known as REX or remittance express):

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact -- Jesse White (301) 887-6548

For On-line Payment:

WWW.PAY.GOV
Enter sfo 1.1 in search field
Open form and complete required fields.

PLEASE
NOTE:

Docket Number CAA-06-2013-3306 shall be clearly typed on the check to ensure proper credit. The check shall also be accompanied by a transmittal letter and shall reference Respondent's name and address, the case name, and docket number of the administrative complaint and CAFO. Respondent's adherence to this request will ensure proper credit is given when penalties are received for the Region. Respondent shall also send a simultaneous notice of such payment, including a copy of the money order, or check, and transmittal letter to the following:

Carlos Flores (6EN-AA)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Region 6 Hearing Clerk
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

28. Respondent agrees not to claim, or attempt to claim, a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

29. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. *See* 40 C.F.R. § 13.11(b).

30. EPA will also assess a fifteen dollar (\$15.00) administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional fifteen dollars (\$15.00) for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. *See* 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. *See* 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

31. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including, but not limited to, attorneys fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

32. Nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of the Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for the Respondent's violation of any applicable provision of law.

33. This CAFO shall not relieve the Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor shall it be construed

to constitute EPA approval of any equipment or technology installed by the Respondent in connection with any additional settlement terms undertaken pursuant to this CAFO. Nothing in this CAFO shall be construed to prohibit or prevent the federal, state, or local government from developing, implementing, and enforcing more stringent standards through rulemaking, the permit process, or as otherwise authorized or required.

34. This document is a “Final Order” as that term is defined in the CAA Penalty Policy for the purpose of demonstrating a history of “prior such violations.”

VI. RETENTION OF ENFORCEMENT RIGHTS

35. EPA does not waive any rights or remedies available to EPA for any violations by the Respondent of any other Federal laws, regulations, statutes, or permitting programs not the subject of this action.

36. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the CAA.

VII. COSTS

37. Each party shall bear its own costs and attorneys fees.

IT IS SO AGREED:

FOR THE RESPONDENT:

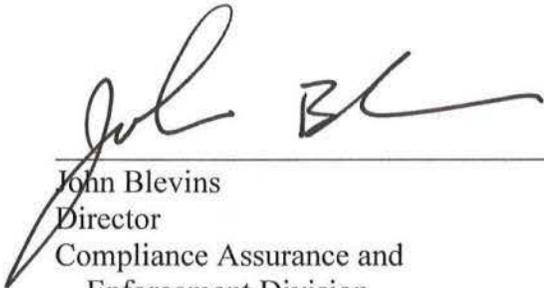
Date: 15 February 2013



Joseph P. Bevilaqua
President, Epoxy Phenolic and Coating Resin
Momentive Specialty Chemicals Inc.

FOR THE COMPLAINANT:

Date: 2-25-13



John Blevins
Director
Compliance Assurance and
Enforcement Division
U.S. EPA, Region 6

FINAL ORDER

Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in this CAFO. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement as they relate to the assessment of civil penalties. In accordance with 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated 2-26-13



Patrick Rankin
Regional Judicial Officer
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of February, 2013, the original and one copy of the foregoing Complaint and Consent Agreement and Final Order ("Complaint and CAFO") was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and a true and correct copy was delivered to the following individual(s) by the method indicated below:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED # 7007 3020 0002 5102 7709

Stephanie S. Couhig
Momentive Specialty Chemicals Inc.
180 E. Broad Street
Columbus, OH 43215

CERTIFIED MAIL - RETURN RECEIPT REQUESTED # 7007 3020 0002 5102 7716

National Registered Agents, Inc.
1011 N. Causeway Blvd, Suite 3
Mandeville, LA 70471

Sandra Hardy
Sandra Hardy
U.S. EPA, Region 6
Dallas, Texas