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ENVIRONMENTAL PROTECTION AGENCY

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FORMOSA PLASTICS CORPORATION SETTLES FEDERAL–STATE LAWSUIT OVER ENVIRONMENTAL VIOLATIONS AT DELAWARE CITY PLANT

Delaware Company to Pay \$450,000 Penalty and Reduce Vinyl Chloride Emissions

WASHINGTON, D.C.—The Department of Justice, the U.S. Attorney’s Office for the District of Delaware, U.S. Environmental Protection Agency (EPA), and the Delaware Department of Natural Resources and Environmental Control (DNREC) today announced that Formosa Plastics Corporation (Formosa) has settled a joint federal–state lawsuit over excess vinyl chloride emissions and other violations of federal and state environmental laws at Formosa’s facility in Delaware City, Delaware.

In settlement papers filed today in federal court in Wilmington, Delaware, Formosa has agreed to take several steps to comply with environmental regulations, pay a \$450,000 penalty, and take additional measures to reduce vinyl chloride emissions, including an \$840,000 project that exceeds federal and state legal requirements.

“This settlement provides another strong example of our efforts to enforce environmental laws, and it clearly benefits the people of Delaware who live near this facility,” said Kelly A. Johnson, Acting Assistant Attorney General for the Justice Department.

“All evidence indicates that vinyl chloride is a substance meriting significant concern and, through this agreement, the citizens of Delaware will be exposed to less of it,” said Colm F. Connolly, U.S. Attorney for the District of Delaware. “Of particular importance is the manner in which the state and federal agencies worked together to achieve the common goal—the improvement of the environment in Delaware. The superb cooperation experienced in this case will be the standard in the future and I fully commit the resources of my office to assist both state and federal agencies in improving the environment in Delaware.”

“We are pleased that this settlement requires Formosa to go beyond compliance and take immediate steps to reduce vinyl chloride emissions. The reductions will

produce real health benefits for the people of Delaware,” said Donald S. Welsh, EPA regional administrator for the mid-Atlantic region.

“We appreciate the cooperation that Formosa has demonstrated in reaching this innovative agreement,” said Delaware Department of Natural Resources and Environmental Control Secretary John A. Hughes. “The commitments made by Formosa will further reduce emissions of vinyl chloride below regulatory standards—actions that will benefit the citizens of Delaware and our environment.”

This settlement is a win-win situation for Delaware," said Delaware Attorney General M. Jane Brady. "Vinyl chloride emissions are being reduced, which improves the environment for Delaware citizens, and state and federal agencies have once again forged an alliance to jointly ensure compliance with federal and state environmental laws."

Formosa’s Delaware City plant emits vinyl chloride, a toxic chemical regulated under the Clean Air Act which is widely used in the manufacturing of polyvinyl chloride (PVC). Exposure to vinyl chloride emissions has been linked to adverse human health effects including liver cancer, other liver diseases, and neurological disorder. Vinyl chloride is also considered highly likely to be carcinogenic in both humans and animals. For more information on the health and environmental hazards of vinyl chloride, see <http://www.epa.gov/ttn/atw/hlthef/vinylchl.html>.

In June 2003, EPA and DNREC inspectors documented violations of vinyl chloride emission standards and other environmental regulations. The federal and state complaints, filed today along with a proposed consent decree, allege several violations, including the following:

- Excess emissions of vinyl chloride, and other violations of the Clean Air Act’s vinyl chloride monitoring, reporting, and leak detection requirements;
- Violations of federal and state hazardous waste storage regulations;
- Clean Water Act violations, including inadequate water pollution monitoring and failure to prepare and implement an oil spill prevention and control plan;
- Failure to timely notify federal, state and local emergency response officials of significant vinyl chloride emissions;

The settlement also includes an innovative incentive program that requires the company to meet stringent future goals for reductions of vinyl chloride emissions or, alternatively, pay significant stipulated penalties. Given the concerns with the health effects of vinyl chloride, Formosa’s binding agreement to immediately reduce its current vinyl chloride permit limit from 1,000 parts per million (ppm) on an annual plant specific basis to a rolling 12-month weighted average of 750 ppm is very significant, according to the EPA.

Moreover, the agreement requires that Formosa use its reasonable best efforts over a period of three years to further reduce the vinyl chloride emissions to a goal of 550

ppm on a 12-month weighted average and incorporate that new level into its permit limit. A failure to reach this goal of 550 ppm for its permit limit will result in additional penalties under the agreement.

Additionally, as part of the settlement, Formosa has agreed to implement a supplemental environmental project (SEP) involving automation of certain manufacturing process equipment within the facility that will further reduce vinyl chloride emissions, including the risk of accidental discharges of vinyl chloride. The SEP, estimated to cost \$840,000, which includes new control equipment and techniques for the PVC manufacturing process, exceeds federal and state legal requirements.

Also, the consent decree includes injunctive relief designed to ensure continuing compliance with federal and state environmental laws. Formosa has agreed to implement enhanced procedures and employee training to reduce emissions of vinyl chloride and other pollutants, improve leak detection at the facility, and improve its solid and hazardous waste program. Additionally, Formosa has agreed to reduce the level of vinyl chloride contained in wastewater entering certain aeration basins in the facility. This operational change in addition to other injunctive relief is expected to eliminate the possibility of hazardous waste entering the aeration basins.

The proposed consent decree is subject to a 30-day public comment period and final court approval. As part of the settlement, the company has neither admitted nor denied liability for the alleged violations.

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