



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

MAY 06 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Michael J. Davis
Senior District Manager
Waste Management
36964 Alabama Highway 17 North
P.O. Box 55
Emelle, Alabama 35459

Re: Consent Agreement and Final Order - Docket No. TSCA-04-2015-2903(b)
Chemical Waste Management, Inc.

Dear Mr. Davis:

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 payment of the civil penalty is to be paid within thirty (30) calendar days of the effective date of the CA/FO.

Enclosed is a copy of a document entitled 'Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings.' This document puts Chemical Waste Management on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U.S. Environmental Protection Agency, Region 4. Where used in the document, 'SEC' refers to the Securities and Exchange Commission.

If you have any questions, please feel free to contact Paula A. Whiting, of my staff, at (404) 562-9277.

Sincerely,

A handwritten signature in blue ink that reads "CÉSAR A. ZAPATA".

César A. Zapata
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

RECEIVED
EPA REGION IV

2015 MAY -6 AM 7:03

HEARING CLERK

In the Matter of:)

Chemical Waste Management, Inc.)
36964 Alabama Highway 17 North)
Post Office Box 55)
Emelle, Alabama 35459)

Docket No. TSCA-04-2015-2903(b)

Respondent)
_____)

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Resource Conservation and Restoration Division (RCRD), United States Environmental Protection Agency, Region 4 (EPA). Respondent is Chemical Waste Management, Inc.
2. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under TSCA to the EPA Region 4 Regional Administrator by EPA Delegation 12-2-A, dated May 11, 1994. The Region 4 Regional Administrator has delegated this authority to the Director of the RCRD by EPA Region 4 Delegation 12-2-A, dated January 14, 2009. Pursuant to that Delegation, the Director of the RCRD has the authority to commence an enforcement action as the Complainant in this matter and has the authority to sign Consent

Agreements memorializing settlements between the EPA and Respondent.

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 (CA/FO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

4. Pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605, the Administrator of EPA promulgated regulations in 40 C.F.R. Part 761, pertaining to Polychlorinated Biphenyls (PCBs). Failure to comply with any such rule constitutes a violation of Section 15 of TSCA, 15 U.S.C. § 2614. Any person who violates a provision of Section 15 of TSCA may be assessed a penalty of up to \$32,500 for each such violation occurring between March 15, 2004, and January 12, 2009, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. For each such violation occurring after January 12, 2009, a penalty of up to \$37,500 may be assessed. Each day a violation continues constitutes a separate violation.
5. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for EPA in this proceeding:

Paula A. Whiting
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960
(404) 562-9277

III. Specific Allegations

6. Respondent is a corporation doing business in the State of Alabama and is a "person" as defined in 40 C.F.R. § 761.3.
7. On or about April 15, 2014, the EPA conducted a financial records review at Respondent's facility located at 36964 Alabama Highway 17 North, Emelle, Alabama, to determine compliance with the PCB regulations.
8. On March 27, 2001, the EPA, Region 4, issued an Approval for the commercial storage of PCBs to the Respondent pursuant to 40 C.F.R. § 761.65(d). On April 16, 2007, the EPA renewed the Approval.
9. 40 C.F.R. § 761.65(f)(1) requires a commercial storer of PCB wastes to have a detailed estimate, in current dollars, of the cost of closing the facility in accordance with its approved closure plan. Additionally, 40 C.F.R. § 761.65(f)(2) requires that during the active life of the PCB storage facility, the commercial storer of PCB waste shall adjust annually for inflation the closure cost estimate prior to the anniversary date of the establishment of the financial instruments used to demonstrate financial responsibility for closure.
10. Condition II.J.1.a. of the Approval issued to the Respondent requires the Respondent to annually adjust the closure cost estimate and to submit a copy of the adjusted closure cost estimate to the EPA Region 4 by no later than the anniversary date of the establishment of the financial assurance instrument(s) used to demonstrate financial assurance for closure.
11. During the EPA's review of Respondent's financial records, the EPA observed that the Respondent had not submitted to the EPA an annual adjustment of Respondent's closure cost estimate for calendar years 2012 and 2013, as required under Condition II.J.1.a. of the Approval.

12. Pursuant to 40 C.F.R. § 761.65(d)(4)(iv), written approvals issued by the EPA to commercial storers of PCBs shall include conditions deemed necessary to ensure that the operations of the PCB storage facility will not pose an unreasonable risk of injury to health or the environment. Respondent failed to comply with Condition II.J.1.a. of the Approval. Failure to annually adjust and/or to submit the adjusted estimate to the EPA could result in an unreasonable risk of injury to health or the environment if Respondent's closure cost estimate was inaccurate and insufficient to properly close the facility. Therefore, by failing to comply with this Condition under the Approval, Respondent violated the Approval and is subject to a civil penalty.

IV. Consent Agreement

13. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations.
14. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.
15. For the purposes of achieving a resolution by settlement, Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CA/FO.
16. Respondent certifies that as of the date of its execution of this CA/FO, it is in compliance with all relevant requirements of TSCA.
17. This CA/FO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA, for the specific violations alleged herein. Except as specifically provided in this CA/FO, EPA reserves all other civil and criminal enforcement authorities, including the authority to address imminent hazards. Compliance with this CA/FO shall not

be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is Respondent's responsibility to comply with said laws and regulations.

18. Complainant and Respondent agree to settle this matter by their execution of this CA/FO.

The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of TSCA.

V. Final Order

19. Respondent is assessed a civil penalty of TWELVE THOUSAND AND FORTY-FIVE DOLLARS (\$12,045.00), which shall be paid within 30 days from the effective date of this CA/FO.

20. Respondent shall remit the civil penalty by either (1) wire transfer, in accordance with instructions provided below, or (2) by a cashier's or certified check made payable to the "Treasurer, United States of America." If payment is made by check through the U.S. Postal Service, Respondent shall send the check to the following address:

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

The check shall reference on its face the name of the Respondent and Docket Number of this CA/FO.

For payment submittal by any overnight delivery service (Fed Ex, UPS, DHL, etc.), please use the following address:

U. S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 425-1818

For payment by wire transfer, in lieu of a cashier's or certified check, if desired, 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."**

21. At the time of payment, Respondent shall send a written statement that the payment has been made in accordance with this CA/FO (along with a copy of the check if payment is made by check, or indicating that payment was by wire transfer) to each of the following persons at the following addresses:

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

Paula A. Whiting
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960

and

Saundi Wilson
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960.

22. 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 CA/FO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CA/FO.
23. 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 civil penalty from the date of entry of this CA/FO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
24. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
25. This CA/FO shall be binding upon the Respondent, its successors and assigns.
26. Each undersigned representative of the parties to this CA/FO certifies that he or she is fully authorized by the party represented to enter into this CA/FO and legally binds that party to this CA/FO.

VI. Effective Date

27. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the
Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Respondent: Chemical Waste Management, Inc.
Docket No.: TSCA-04-2015-2903(b)

By: Michael J. Davis (Signature) Date: 4-13-15

Name: Michael J. Davis (Typed or Printed)

Title: Senior District Manager (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By: G. Alan Farmer (Signature) Date: 4-14-2015

G. Alan Farmer, Director
Resource Conservation and Restoration Division
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 5th day of May, 2015.

By: Carol F. Baschon
Carol F. Baschon
Acting Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), for Chemical Waste Management, Inc., Docket Number: TSCA-04-2015-2903(b), on 5-6-15, and on 5-6-15, served the parties listed below in the manner indicated:

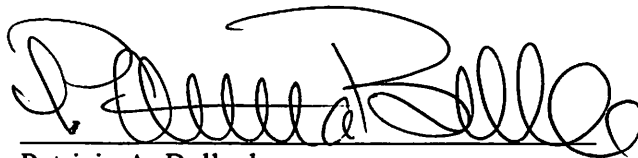
Robert A. Caplan (Via EPA Internal Mail)
Associate Regional Counsel
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

Paula A. Whiting (Via EPA Internal mail)
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Tammye Cross (Via EPA Internal mail)
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Michael J. Davis (Via Certified Mail – Return Receipt Requested)
Senior District Manager
Waste Management
P.O. Box 55
Emelle, Alabama 35459

Date: 5-6-15



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