



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 30 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Omar Bourassa
Technical Manager
Trademark Nitrogen Corp
1216 Old Hopewell Road
Tampa, Florida 33619

Re: Trademark Nitrogen Corp
Consent Agreement and Final Order
Docket No. TSCA-04-2015-2502(b)

Dear Mr. Bourassa:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the Respondent's name and Docket Number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U. S. Environmental Protection Agency. Where used in the document "SEC" refers to the Securities and Exchange Commission.

Should you have any questions concerning this matter or your compliance status in the future, please contact Mr. Verne George of the EPA Region 4 staff at (404) 562-8988.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony G. Toney".

Anthony G. Toney
Chief
Chemical Safety and Enforcement Branch

Enclosures

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA

In the Matter of:)
)
Trademark Nitrogen Corp.)
)
Respondent)
_____)

Docket No. TSCA-04-2015-2502(b)

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CLERK

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 Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4. Respondent is Trademark Nitrogen Corp.
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 redelegated this authority to the Director of the Air, Pesticides and Toxics Management Division by EPA Region 4 Delegation 12-2-A, dated January 14, 2009. Pursuant to that Delegation, the Director of the Air, Pesticides and Toxics Management Division 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 Respondents.

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 (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

4. Pursuant to Section 15 of TSCA, 15 U.S.C. § 2614, it is unlawful for any person to: (1) fail or refuse to comply with any rule promulgated or order issued under Sections 4, 5, or 6 of TSCA, 15 U.S.C. § 2603, § 2604, or § 2605, and any requirement prescribed by Section 5 or 6 of TSCA, 15 U.S.C. § 2604 or § 2605; (2) use for commercial purposes a chemical substance or mixture that the person knew or had reason to know was manufactured, imported, processed, or distributed in commerce in violation of Section 5 or 6 of TSCA, 15 U.S.C. § 2604 or § 2605; (3) fail to maintain records, submit reports or information, or permit access to or allow copying of records including but not limited to records and reports required by Section 8 of TSCA, 15 U.S.C. § 2607, and export notices required by Section 12(b) of TSCA, 15 U.S.C. § 2611(b); and (4) refuse to permit entry or inspection as authorized by Section 11 of TSCA, 15 U.S.C. § 2610.

5. Any person who violates a provision of Section 15 of TSCA shall be liable for a civil penalty in an amount not to exceed \$25,000 for each such violation, in accordance with Section 16(a) of TSCA. The Debt Collection Improvement Act of 1996 requires the EPA to review and adjust penalties, as necessary, for inflation at least once every four years. As such, pursuant to the Adjustment of Civil Monetary Penalties for Inflation Rule, 40 C.F.R. Part 19, the revised maximum penalty for each violation occurring after January 30, 1997, through March 15, 2004, is \$27,500; for each violation occurring after March 15, 2004, through January 12, 2009, the maximum penalty for each violation is \$32,500; and for each violation occurring after January 12, 2009, the maximum penalty for each violation is \$37,500. Each day a violation continues may constitute a separate violation.

III. Specific Allegations

6. Respondent operates a chemical manufacturing facility located at 1216 Old Hopewell Road, Tampa, Florida.
7. Respondent is a manufacturer as the term is defined in 40 C.F.R. § 711.3.
8. On April 10, 2014, an authorized agent of the EPA conducted an inspection at Respondent's place of business pursuant to Section 11(a) of TSCA, 15 U.S.C. § 2610(a).
9. Records provided to the EPA during the inspection included Respondent's 2011 chemical production records. These records indicated that in 2011, Respondent manufactured for commercial purpose the following chemical substances in quantities greater than 100,000 pounds: (1) Nitric acid (chemical abstract service (CAS) number 7697-37-2); (2) Nitric acid ammonium salt (1:1) (CAS # 6484-52-2); and (3) Nitric acid magnesium salt (2:1) (CAS # 10377-60-3).

10. The three chemical substances referenced in paragraph 9 were listed on the TSCA Master Inventory at the beginning of the Chemical Data Reporting (CDR) period (February 1, 2012, through August 13, 2012) referenced at 40 C.F.R. § 711.20.
11. Based on the chemical production records provided to the EPA, the three chemical substances referenced in paragraph 9 above were subject to the 2012 CDR.
12. At the time of the inspection, Respondent was unable to provide the EPA inspectors any records showing that Respondent submitted a 2012 CDR Report to the EPA for all three chemical substances.
13. Pursuant to 40 C.F.R. § 711.15, Respondent was required to submit a 2012 CDR Report for each reportable chemical substance that was manufactured for commercial purpose in quantities greater than 100,000 pounds in 2011.
14. By not submitting a 2012 CDR Report to the EPA during the submission period for each reportable chemical substance, Respondent failed to comply with 40 C.F.R. § 711.15.
15. Pursuant to 40 C.F.R. § 711.1(c), Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to submit information required under 40 C.F.R. § 711.
16. Section 16 of TSCA provides that any person who violates a provision of TSCA Section 15 is liable to the United States for a civil penalty and may be criminally prosecuted.

IV. Consent Agreement

17. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.

18. 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.
19. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.
20. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with the TSCA regulations referenced in this CAFO.
21. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither the EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.
22. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of TSCA.
23. Pursuant to 40 C.F.R. § 22.5(c)(4), the following individual is authorized to receive service for the EPA in this proceeding:

Verne George
Chemical Management and Emergency Planning Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562- 8988.

V. Final Order

24. Respondent is assessed a civil penalty of SIXTY ONE THOUSAND, FOUR HUNDRED FIFTY-FIVE DOLLARS (\$61,455) which shall be paid within thirty (30) days of the effective date.
25. Respondent shall remit the penalty payment by either a cashier's or certified check made payable to the "Treasurer, United States of America." **The Respondent shall note on the face of the check the Respondent's name and the Docket Number associated with this CAFO.** The penalty payment shall be sent by one of the methods below.

Address for payment submittal using the United States Postal Service (USPS) (excluding USPS overnight mail):

U.S. Environmental Protection Agency
P.O. Box 979077
St. Louis, Missouri 63197-9000.

Address for payment submittal using USPS overnight mail or other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.):

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101

Contact Phone Number: (513) 487-2091

26. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

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

Verne George
Chemical Management and Emergency Planning Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960; and

Saundi Wilson
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960.

27. 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 CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
28. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, the 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. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, the EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. 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). 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.

29. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
30. This CAFO shall be binding upon the Respondent and its successors and assigns.
31. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and hereby legally binds that party to this CAFO.

THIS SECTION INTENTIONALLY LEFT BLANK

VI. Effective Date

32. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

**Respondent: Trademark Nitrogen Corp.
Docket No.: TSCA-04-2015-2502(b)**

By: O.A. Bourassa Date: 5/4/2015
Name: O.A. BOURASSA
Title: TECHNICAL MANAGER

Complainant: U.S. Environmental Protection Agency

By: Carol G. Kembergor Date: 10/23/15
Beverly H. Banister, Director
Air, Pesticides and Toxics Management Division

APPROVED AND SO ORDERED this 26 day of June.

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




CERTIFICATE OF SERVICE

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of Trademark Nitrogen Corp. Docket Number: TSCA-04-2015-2502(b), to the addressees listed below.

Mr. Omar Bourassa (via Certified Mail, Return Receipt Requested)
Technical Manager
Trademark Nitrogen Corp.
1216 Old Hopewell Road
Tampa, Florida 33619

Verne George (via EPA's internal mail)
Chemical Management and Emergency
Planning Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Robert Caplan (via EPA's internal mail)
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

By: 
Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth St., S.W.
Atlanta, GA 30303

Date: 6-30-15

(404) 562-9511