

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

IN THE MATTER OF:

Detroit Plastic Molding Company

Respondent

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) Docket No. TSCA-V-C-41-87
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DEFAULT ORDER

Preliminary Statement

This is a proceeding under Section 16(a) of the Toxic Substance Control Act (TSCA), 15 U.S.C. § 2615(a), instituted by a complaint filed by the Director of the Environmental Services Division Region V, United States Environmental Protection Agency, which was filed on December 22, 1986. The Complaint was personally served on Respondent. Respondent filed an Answer to the Complaint and Request for Hearing on January 20, 1987. The matter was referred to the undersigned by Order of Designation on February 3, 1987. By letter dated February 6, 1987, the undersigned issued a pre-hearing letter directing Counsel for Complainant to file a statement regarding settlement by February 27, 1987 and requiring a prehearing exchange between the parties by March 13, 1987, if the case was not settled. On February 27, 1987, Counsel for Complainant filed Complainant's Status Report reflecting that the parties had not reached agreement on the substantive issues.

As part of the prehearing exchange, the parties were required to submit a list of witnesses intended to be called at the hearing with a brief narrative summary of their expected testimony and copies of all documents and exhibits intended to be introduced into evidence, as well as views as to the place of the hearing with the basis for such views. Additionally, the Complainant was required to submit summary evidence supporting its allegations and the Respondent was required to explain its denial of Complainant's allegations. The Complainant fully responded to the requirements of this prehearing exchange on March 13, 1987, but the Respondent made no response.

On April 1, 1987, the Complainant filed a Motion for Default Judgment, which was served upon the Respondent on by Certified Mail. Through the documents and exhibits submitted for the prehearing exchange on March 13, 1987, the Complainant has established a prima facie case against the Respondent, that is, that the Respondent has violated Federal regulations regarding recordkeeping and storage required for polychlorenated biphenyls (PCBs) set forth in 40 C.F.R. Part 761, promulgated under Section 6 of TSCA, thereby violating Section 15 of TSCA, 15 U.S.C. Section 2614. Said documents and exhibits are hereby incorporated into and made a part of the record of this proceeding.

By reason of the foregoing, Respondent is hereby found to be in default pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and Revocation or Suspension of Permits, 40 C.F.R. Part 22.17. Such default constitutes an admission of all facts alleged in

the complaint and waiver of hearing by Respondent.

Findings of Fact

1. The Respondent, Detroit Plastic Molding Company Inc., is a Michigan Corporation, which has a place of business in Sterling Heights, Michigan.

2. On February 13, 1986, a representative of U.S. EPA conducted an inspection of Repondent's Louisville, Ohio facility.

3. At the time of inspection, Respondent maintained three PCB transformers and 34 PCB largae capacitors ("PCB items").

4. 40 C.F.R. § 761.180(a) requires that Respondent comply with the recordkeeping parts of the PCB Rule beginning July 2, 1978.

5. Respondent failed to develop and maintain annual records on the disposition of its PCB items for calendar years 1978 through 1983.

6. 40 C.F.R. § 761.30(a)(1)(ix) requires that Respondent keep inspection and maintenance history records for the three PCB transformers in use, or stored for reuse, on or before May 11, 1981 through February 13, 1986.

7. The Respondent failed to perform quarterly inspections and maintain quarterly records of inspection on its PCB transformers for 13 quarters over the period of 1981 through 1985.

8. 40 C.F.R. § 761.40(j) requires that Respondent comply with the marking parts of the PCB Rule beginning December 1, 1985.

9. The Respondent failed to mark the fenced substation access way to the three PCB transformers with the PCB lable on the date of inspection, February 13, 1986.

Conclusions

By reason of the facts set forth in the Findings above, the Respondent failed to comply with Federal regulations governing PCBs as follows: Respondent failed to properly keep records, to properly use PCB items, and to properly mark PCB items in violation of Section 15 TSCA, 15 U.S.C. § 2614, and 40 C.F.R. §§ 761.180(a), 761.30(a)(1)(ix), and 761.40(j).

Pursuant to 40 C.F.R. § 22.17, the penalty proposed to be assessed in the Complaint, \$22,000, shall become due and payable by Respondent, Detroit Plastic Molding Company, without further proceedings upon the issuance of this Order by default.

ORDER

Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), a civil penalty of \$22,000 is hereby assessed against Respondent, Detroit Plastic Molding Company, for violations of the Act found herein.

Payment of the full amount of the civil penalty assessed shall be made within sixty (60) days of the service of the final Order upon Respondent, Detroit Plastic Molding Company, by forwarding to the Regional Hearing Clerk a cashier's check or certified check payable to the United States of American in such amount. 1/


Thomas B. Yost
Administrative Law Judge

Dated: April 14, 1987

1/ See 40 C.F.R. § 22.30 with respect to the effect and consequences of this Default Order.