



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

AUG 28 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Mikell Taylor
Vice President
Mobile Rosin Oil Company Inc.
2469 Bragdon Avenue
Mobile, Alabama 36617

Re: Mobile Rosin Oil Company Inc.
Consent Agreement and Final Order
Docket No. TSCA-04-2018-2521(b)

Dear Mr. Taylor:

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.

Should you have any questions concerning the compliance status in the future, please contact Mr. Gopal Timsina of the U.S. Environmental Protection Agency Region 4 staff at (404) 562-9017. Thank you for your cooperation in reaching resolution of this matter.

Sincerely,

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

Anthony G. Toney
Chief

Chemical Safety and Enforcement Branch

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA

RECEIVED
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In the Matter of:)
)
Mobile Rosin Oil Company, Inc.) Docket No. TSCA-04-2018-2521(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 CFR Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, U. S. Environmental Protection Agency Region 4. Respondent is Mobile Rosin Oil Company, Inc.
2. The authority to take action under Section 16(a) of TSCA, 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 the 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 the 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 CFR § 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 CFR § 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 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.
5. Any person who violates a provision of Section 15 of TSCA shall be liable for a civil penalty for each such violation in accordance with Section 16(a) of TSCA and 40 CFR Part 19. Each day a violation continues may constitute a separate violation.
6. All Confidential Business Information (CBI) in this CAFO has been redacted. To determine the identity of the chemical substances referenced in this CAFO or the CBI that was deleted (CBI deleted), Complainant and/or Respondent should refer to the show cause letter dated July 10, 2017, sent to the Respondent identifying the potential violations of TSCA and notifying the Respondent of the opportunity to show cause why the EPA should not proceed with an enforcement action.

III. Specific Allegations

7. Respondent operates a chemical importing and manufacturing business located at 2469 Bragdon Avenue in Mobile, Alabama.
8. Respondent is a manufacturer and an importer as those terms are defined in 40 CFR §§ 710.3 and 711.3.
9. On January 5, 2017, Respondent submitted certain records to the EPA regarding Respondent's compliance with TSCA, including manufacturing, import, and export records.

Failure to Submit Chemical Data Reporting in 2016

10. Pursuant to 40 CFR § 711.8(a)(2), any person who manufactured (including imported) for commercial purposes 25,000 pounds or more of a chemical substance described in 40 CFR § 711.5 at any single site owned or controlled by that person, in any of the calendar years 2012, 2013, 2014 or 2015 are subject to the Chemical Data Reporting (CDR) requirements in 40 CFR Part 711 for the 2016 submission period. Pursuant to 40 CFR § 711.20, the 2016 submission period ran from June 1, 2016, until October 31, 2016, and 2016 CDR reports were required to have been submitted to the EPA during that period of time.
11. Pursuant to 40 CFR § 711.5, any chemical substance that is in the TSCA Master Inventory File at the beginning of a submission period described in 40 CFR § 711.20 must be reported pursuant to the CDR requirements under Section 8(a) of TSCA and 40 CFR Part 711, unless the chemical substance is specifically excluded by 40 CFR § 711.6.

12. A review of Respondent's 2015 production records revealed that Respondent manufactured (including imported) a reportable quantity (> 25,000 pounds) of four (4) chemical substances, Chemicals B, C, D, and E, for commercial purposes at its Mobile site.
13. All four chemical substances referenced in paragraph 12 were listed on the TSCA Master Inventory File at the beginning of the CDR period (June 1, 2016, through October 31, 2016) identified at 40 CFR § 711.20 and are not specifically exempted from some or all of the CDR reporting requirements by 40 CFR § 711.6.
14. Pursuant to 40 CFR § 711.15, Respondent was required to submit to the EPA a 2016 CDR report for the reportable chemical substances that were manufactured (including imported) for commercial purposes in quantities greater than 25,000 pounds in calendar year 2015 by no later than the end of the 2016 CDR submission period, October 31, 2016. The chemical substances referenced in paragraph 12 were subject to the 2016 CDR. Respondent did not submit a 2016 CDR report for these chemical substances within the submission period.
15. By not submitting the 2016 CDR report to the EPA during the submission period for the chemical substances referenced in paragraph 12, Respondent failed to comply with 40 CFR §§ 711.8 and 711.15.
16. As stated in 40 CFR § 711.1(c), Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to submit information required under 40 CFR Part 711.
17. Section 16 of TSCA provides that any person who violates a provision of Section 15 of TSCA shall be liable to the United States for a civil penalty.

IV. Consent Agreement

18. 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.
19. 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.
20. 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.
21. Respondent has agreed to undertake and complete a supplemental environmental project in accordance with Section VI of this CAFO.
22. 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.
23. In accordance with 40 CFR § 22.18(c), compliance with this CAFO only resolves Respondent's liability for federal civil penalties for the allegations in Section III of this CAFO and does not affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. This CAFO does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of TSCA or other applicable laws and regulations.
24. 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.

V. Final Order

25. Respondent is assessed a civil penalty of **Twenty-One Thousand, Six Hundred Seventy-Five Dollars (\$21,675)** which shall be paid within **30 days** of the effective date.

26. Respondent shall remit the penalty payment by either the electronic method below or 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 standard delivery:

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

Address for signed receipt confirmation (FedEx, DHL, UPS, USPS certified, registered, etc.):

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
Delivery Contact Phone Number: (314) 425-1819

Electronic Payment:

Any electronic payment method as indicated in the EPA's electronic payment options web site found at:
<https://www.epa.gov/financial/makepayment#electronic>

27. At the time of payment, Respondent shall send a separate copy of the check or evidence of electronic payment 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; and

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

28. 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.

VI. Supplemental Environmental Project (SEP)

29. Respondent shall satisfactorily complete the pollution reduction SEP (the SEP) that it proposed to the EPA which consists of the design, engineering, purchase and installation of a thermal oxidizer. The purpose of the SEP is to reduce the emission of chemicals, such as sulfur oxides and volatile organic compounds, including hazardous air pollutants, from Respondent's facility located in Mobile, Alabama.
30. The SEP is expected to cost approximately two hundred thirty-five thousand dollars (\$235,000). "Satisfactory completion" of the SEP shall mean:
- a. That the design and engineering of the thermal oxidizer is complete;
 - b. That the purchase of the thermal oxidizer, including associated equipment and materials, as designed and engineered, is complete;
 - c. That the installation of the thermal oxidizer is complete;
 - d. That the thermal oxidizer is operating with a documented operational efficiency of **96 percent**;
 - e. That a minimum of **Ninety-Two Thousand Eight Hundred Ninety-Three Dollars (\$92,893)** in documented, eligible SEP costs (which do not include permit

or operations and maintenance costs) for the purpose of carrying out the SEP was spent;

f. That the SEP was completed within **270 days** of the effective date of this CAFO;
and

g. That the installation and operation of the thermal oxidizer complies with all applicable state and/or local statutes and regulations, including, but not limited to, requirements to acquire any required permits to construct and operate the system, approvals, authorizations, and/or continuing operational requirements.

31. This CAFO shall not be construed to constitute the EPA's endorsement of any product, equipment, technology or service purchased by Respondent in connection with the SEP.

32. With regard to the SEP, Respondent certifies the truth and accuracy of each of the following:

a. That all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate, that Respondent in good faith estimates that the approximate cost to implement the SEP is \$235,000 (eligible costs) and that Respondent understands that the civil penalty of \$21,675 identified in paragraph 25, is based on Respondent spending at least \$92,893 in completing the SEP;

b. That, as of the effective date of this CAFO, Respondent is not required to perform or develop the SEP by any federal, state or local law, regulation, permit, order or agreement and is not required to perform or develop the SEP by agreement, grant or as injunctive relief awarded in any other action in any forum;

- c. That the SEP is not a project the Respondent was planning or intending to construct, perform or implement other than in settlement of the claim resolved in this CAFO;
 - d. That Respondent has not received and will not receive credit for the SEP in any other enforcement action of any kind;
 - e. That Respondent will not receive reimbursement for any portion of the SEP from another person or entity;
 - f. That for federal income tax purposes, Respondent agrees it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP; and
 - g. That Respondent is not a party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP.
33. Respondent agrees that any public statement, oral or written, in print film or other media made by Respondent making any reference to the SEP under this CAFO from the effective date of this CAFO shall include the following language:
- “This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violation of Section 15(3) of the Toxic Substances Control Act (TSCA)”.*
34. Respondent shall complete and submit SEP reports for the SEP under this CAFO as follows:
- a. Interim SEP Status Reports
 - i. Two interim SEP status reports shall be submitted by Respondent, the first between **90 to 104 days** of the effective date of this CAFO and the second within between **180 to 194 days** of the effective date of this CAFO.

- ii. Each interim SEP status report shall include:
 - 1. A detailed description of the status of the SEP;
 - 2. A timeline indicating the completion date or the expected completion date for: completing the design and engineering of the thermal oxidizer; purchasing the thermal oxidizer, including associated equipment and materials, as designed and engineered; completing the installation of the thermal oxidizer; and, operating the thermal oxidizer at a consistent operational efficiency of 96 percent; and
 - 3. Photographs of the installation of the thermal oxidizer completed as of the date of the report.

b. SEP Completion Report:

- i. A SEP completion report shall be submitted by Respondent within 30 days after completing the SEP or within one year of the effective date of this CAFO if the SEP is not completed within 270 days of the effective date of this CAFO, whichever is earlier.
- ii. The SEP completion report shall contain the following information:
 - 1. A detailed description of the SEP, as implemented;
 - 2. A description of any operating or logistical problems encountered and the solution thereto, including documentation of operational efficiency;
 - 3. Itemized final costs with copies of receipts for all expenditures;

4. Photographs of the thermal oxidizer installation process from initiation to completion; and
 5. An affidavit from an authorized company official, certifying that the SEP has been completed, pursuant to paragraph 29-30, or explaining in detail any failure to complete.
- c. The SEP interim reports and the completion report shall be submitted to the following:

Gopal Timsina
U.S.EPA, Region 4
Chemical Management and Emergency Planning Section
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

35. Upon request, Respondent shall send the EPA any additional documentation requested by the EPA.
36. Respondent agrees that in order to receive credit for the SEP, Respondent must fully and timely complete the SEP in accordance with and as indicated in this CAFO. In the event that Respondent fails to comply with any of the terms or provisions of this CAFO relating to the performance of the SEP, Respondent shall be liable for stipulated penalties according to the provisions set forth below.
 - a. Except as provided in subparagraph (b) immediately below, for a SEP which **has not been completed satisfactorily** pursuant to this CAFO, the Respondent shall pay a stipulated penalty to the United States in the amount of **\$65,025** (100 percent of the amount of the penalty was mitigated).
 - b. If the SEP is **not completed** in accordance with paragraphs 29-30, but the EPA determines that the Respondent: 1) made good faith and timely efforts to complete

the SEP; and 2) and that the Respondent has certified, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the SEP (\$92,893), the Respondent **shall not be liable for any stipulated penalty.**

- c. If the SEP is **completed** in accordance with paragraphs 29-30, but the Respondent spent less than 90 percent of the minimum amount required (\$92,893), the Respondent shall pay a stipulated penalty to the United States in the amount of the **difference between the minimum amount required and the actual SEP expenditure.**
- d. If the SEP is **completed** in accordance with paragraphs 29-30, and the Respondent spent at least 90 percent of the amount of money required to be spent for the SEP, the Respondent **shall not be liable for any stipulated penalty.**
- e. If Respondent **fails to timely submit the SEP interim reports or the SEP completion report** as required by this CAFO, Respondent shall pay to the United States a stipulated penalty of **\$100 for each day** that the report is late.
- f. The United States may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this CAFO.

- 37. The determination as to whether Respondent has fully and timely completed the SEP or has made good faith efforts to do so, shall be in the sole discretion of the EPA.
- 38. Respondent shall pay any stipulated penalties that accrue under this CAFO within 15 days of the receipt by Respondent of written demand from the EPA for such penalties. Such penalties shall be paid in accordance with the procedures set forth in the written demand from the EPA.

VII. General Provisions

39. Pursuant to 31 U.S.C. § 3717 and 40 CFR § 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 CFR § 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 CFR § 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.
40. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
41. This CAFO shall be binding upon the Respondent and its successors and assigns.
42. 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.

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VIII. Effective Date

43. 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: Mobile Rosin Oil Company, Inc.

Docket No.: TSCA-04-2018-2521(b)

By: Mikell W Taylor Date: 8/8/2018

Name: Mikell W. Taylor

Title: President + CEO

Complainant: U.S. Environmental Protection Agency

By: Carol G. Kember for Date: 8/17/18
Beverly H. Banister

Director

Air, Pesticides and Toxics Management Division

APPROVED AND SO ORDERED this 27th day of August, 2018

By: Tanya Floyd
Tanya Floyd
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 Mobile Rosin Oil Company Inc. Docket Number: TSCA-04-2018-2521(b), to the addressees listed below.

Mr. Mikell Taylor (via Certified Mail, Return Receipt Requested)
Vice President
Mobile Rosin Oil Company, Inc.
2469 Bragdon Avenue
Mobile, Alabama 36617

Gopal Timsina (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)
Senior Attorney
Office of Regional Counsel
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 Street, S.W.
Atlanta, Georgia 30303
(404) 562-9511

Date: 8-28-18