



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

September 30, 2014

REPLY TO THE ATTENTION OF:
LC- 8J

CERTIFIED MAIL No.7009 1680 0000 7674 4065
RETURN RECEIPT REQUESTED

Mr. Michael J. Ganzer
United Milwaukee Scrap, LLC
309 North Water Street, Suite 215
Milwaukee, Wisconsin 53202

Expedited Settlement Agreement and Final Order, In the Matter of
United Milwaukee Scrap, LLC, Docket No. TSCA-05-2014-0023

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SW
HAD

Dear Mr. Ganzer:

Enclosed please find a copy of a fully executed Expedited Settlement Agreement and Final Order, in resolution of the above case. This document was filed on September 30, 2014 with the Regional Hearing Clerk and mailed October 1, 2014.

The civil penalty in the amount of \$22,500.00 is to be paid in the manner described in paragraphs 28 and 29. Please be certain that the docket number is written on both the transmittal letters and on the checks. Payment is due by October 30, 2014, (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

Kenneth Zolnierczyk
Pesticides and Toxics Compliance Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

TSCA-05-2014-0024

In the Matter of:)
)
United Milwaukee Scrap, LLC)
Milwaukee, Wisconsin)
)
Respondent.)
_____)

Docket No.



Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. The Complainant is, by lawful delegation, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region 5.
3. At all times relevant to this Complaint, United Milwaukee Scrap, LLC, ("Respondent") was a corporation operating under the laws of the State of Wisconsin, with a place of business at 3033 West Burleigh, Milwaukee, Wisconsin.
4. Respondent is the owner and operator of the facility at 3033 West Burleigh, Milwaukee, Wisconsin.
5. Respondent is a "person" as defined at 40 C.F.R. § 761.3 and is subject to the prohibitions set forth at 40 C.F.R. Part 761.

6. Complainant has determined that Respondent has violated the federal regulations regarding the disposal of PCBs and manifesting requirements found at 40 C.F.R. Part 761, and thereby violated Section 15 of TSCA, 15 U.S.C. § 2614.

7. Where the parties agree to settle one or more causes of action before the filing of a Complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a Consent Agreement and Final Order (CAFO). 40 C.F.R. § 22.13(b).

8. The Complainant and the Respondent (jointly, the “Parties”) agree that settling this action without the filing of a Complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

9. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

10. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this Consent Agreement.

11. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this Consent Agreement, any right to appeal this CAFO.

Statutory and Regulatory Background

12. The civil penalty proposed in this CAFO has been determined in accordance with the statutory penalty criteria of TSCA, set forth at Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B). Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 40 C.F.R. Part 19, the Administrator of EPA may assess a civil penalty of up to \$37,500 per day for each violation of TSCA that occurred after January 12, 2009.

13. Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C), provides, in part, that it is unlawful for any person to fail or refuse to comply with TSCA regulations.

14. The Polychlorinated Biphenyls (PCB) Disposal and Marking regulations were lawfully promulgated pursuant to Section 6(e)(1) of TSCA, 15 U.S.C. § 2605(e)(1), on February 17, 1978 (43 Fed. Reg. 7150). The PCB Manufacturing, Processing, Distribution in Commerce and Use regulations (PCB rule) were lawfully promulgated on May 31, 1979 (44 Fed. Reg. 31514) and incorporated the disposal and marking regulations. The PCB regulations were subsequently amended and partially codified at 40 C.F.R. Part 761.

15. The PCB regulations at 40 C.F.R. § 761.207(a) require that a generator who relinquishes control of PCB waste by transporting, or offering for transport by his own vehicle or by a vehicle owned by another person, PCB waste for commercial off-site disposal must prepare a manifest that identifies the PCB waste.

16. The PCB regulations at 40 C.F.R. § 761.3 define a generator of PCB waste, in part, to be any person whose act first causes PCBs or PCB Items to become subject to the disposal requirements of this part, or who has physical control over the PCBs when a decision is made that the use of the PCBs has been terminated and therefore is subject to the PCB disposal requirements set forth elsewhere in the regulations.

17. The PCB regulations at 40 C.F.R. § 761.60, in pertinent part, require PCB liquids at concentrations ≥ 50 to be disposed of in an incinerator or a high efficiency boiler.

18. The PCB regulations at 40 C.F.R. § 761.3 define disposal to mean intentionally or accidentally to discard, throw away, or otherwise complete or terminate the useful life of PCBs, including spills, leaks and other uncontrolled discharges of PCBs as well as actions related to

containing, transporting, destroying, degrading, decontaminating, or confining PCBs and PCB Items.

Factual Allegations and Alleged Violations

19. On July 10, 2012, Respondent transferred 4,500 gallons of cutting oil emulsion to a tanker owned by Advanced Waste Services of West Allis, Wisconsin, to process for disposal.

20. The cutting oil emulsion in the tanker shipped on July 10, 2012, was contaminated with PCBs at concentrations up to 9,560 ppm.

21. On July 23, 2012, Respondent transferred 5,200 gallons of cutting oil emulsion to a tanker owned by Advanced Waste Services of West Allis, Wisconsin, for disposal.

22. The cutting oil emulsion in the tanker shipped on July 23, 2012, was contaminated with PCBs at concentrations up to 828 ppm.

23. On, before or between July 10 and July 23, 2012, Respondent spilled PCB-contaminated PCB cutting oil emulsion contaminated with PCBs at levels above 50 ppm and above 500 ppm on the floor of its facility located at 3033 West Burleigh, Milwaukee, Wisconsin.

24. Respondent failed to manifest both the July 10, 2012, and July 23, 2012, shipments of cutting oil emulsion.

25. Respondent's failure to identify on a manifest the presence of PCBs constitutes a violation of 40 C.F.R. § 761.207(a) and Section 15 of TSCA, 15 U.S.C. § 2614.

26. Respondent's failure to dispose of PCBs in accordance with the applicable disposal requirements constitutes a violation of 40 C.F.R. § 761.60 and Section 15 of TSCA, 15 U.S.C. § 2614.

Civil Penalty

27. Based on analysis of the factors specified in Section 16(a)(2)(B) of TSCA, the facts of this case and Respondent's cooperation, Complainant has determined that an appropriate civil penalty to settle this action is \$22,500.00.

28. Within 30 days after the effective date of this CAFO, Respondent must pay a \$22,500.00 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

For checks sent by express mail (non-U.S. Postal Service which won't deliver mail to P.O. Boxes), Respondent must send a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must note Respondent's name, docket number of this CAFO and the billing document number.

29. Respondent must send a notice of payment that states Respondent's name, the docket number of this CAFO and the billing document number to EPA at the following addresses when it pays the penalty:

Kenneth Zolnierczyk
Attn: CAFO Compliance Tracker
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Nicole Wood-Chi (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

30. This civil penalty is not deductible for federal tax purposes.

31. In accordance with 15 U.S.C. § 26.15(a) and 31 C.F.R. § 901.9, if Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, penalties, and administrative costs. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

General Provisions

32. This CAFO resolves Respondent's liability to EPA and the United States with respect to all claims that were raised with respect to the facts set forth and the violations alleged in this CAFO.

33. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any other violation of law.

34. This CAFO does not affect Respondent's responsibility to comply with TSCA and other applicable federal, state and local laws. Except as provided in Paragraph 32, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

35. The terms of this CAFO bind Respondent, its successors, and assigns.

36. Each person signing this consent agreement certifies that he or she has the authority to sign for the Party whom he or she represents and to bind that Party to its terms.

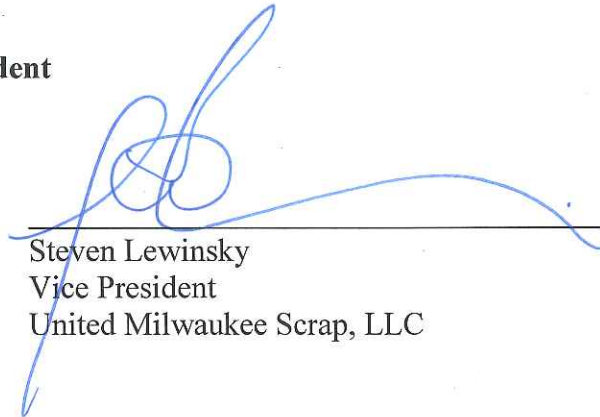
37. Each Party agrees to bear its own costs and attorneys' fees in this action.

38. This CAFO constitutes the entire agreement between the Parties.

United Milwaukee Scrap, LLC, Respondent

9/15/14

Date




Steven Lewinsky
Vice President
United Milwaukee Scrap, LLC

United States Environmental Protection Agency, Complainant

9/25/2014

Date



Margaret M. Guerriero
Director
Land and Chemicals Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: United Milwaukee Scrap, LLC
Docket No. TSCA-05-2014-0024

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9-30-2014
Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency, Region 5

CERTIFICATE OF SERVICE

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving United Milwaukee Scrap, LLC., was filed on September 30, 2014, with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and mailed October 1, 2014, by Certified Mail, Receipt No. 7009 1680 0000 7674 4065 a copy of the original to the Respondent:

Mr. Michael J. Ganzer
United Milwaukee Scrap, LLC
309 North Water Street, Suite 215
Milwaukee, Wisconsin 53202

and forwarded copies (intra-Agency) to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J
Nicole Wood-Chi, Regional Judicial Officer, ORC/C-14J
Eric Volck, Cincinnati Finance/MWD



Frederick Brown
Pesticides and Toxics Compliance Section
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. TSCA-05-2014-0023

