

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Koppers Inc.
3900 S. Laramie Avenue
Cicero, Illinois,

Respondent.

CWA SECTION 311 CLASS II
CONSENT AGREEMENT
AND FINAL ORDER

Docket No. CWA-05-2016-0003



CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 311(b)(6)(B)(ii) of the Clean Water Act (Act), 33 U.S.C. § 1321(b)(6)(B)(ii), as amended by the Oil Pollution Act of 1990, and Sections 22.13(b) and 22.18(b)(2) and (3) of 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 Superfund Division, United States Environmental Protection Agency, Region 5.
3. Respondent is Koppers Inc., ("Respondent"), a corporation doing business in Stickney, Illinois.
4. 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).

5. 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.

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

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations and legal conclusions in this CAFO.

8. Respondent waives its right to request a hearing under Section 311(b)(6)(B)(ii) of the Act, 33 U.S.C. § 1321(b)(6)(B)(ii), and 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, its right to appeal this CAFO, and consents to the issuance of this CAFO without further adjudication.

Statutory and Regulatory Background

9. Section 311(j)(1)(C) of the Act, 33 U.S.C. § 1321(j)(1)(C), provides that the President shall issue regulations “establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil...from onshore...facilities, and to contain such discharges”

10. Initially by Executive Order 11548 (July 20, 1970), 35 Fed. Reg. 11677 (July 22, 1970), and most recently by Section 2(b)(1) of Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to the EPA his authority under Section 311(j)(1)(C) of the Act, 33 U.S.C. § 1321(j)(1)(C), to issue the regulations referenced in the preceding paragraph for non-transportation-related onshore facilities.

11. EPA subsequently promulgated the Spill Prevention, Control, and

Countermeasure (SPCC) regulations pursuant to these delegated statutory authorities, and pursuant to its authorities under the Act, 33 U.S.C. § 1251 *et seq.* The SPCC regulations established certain procedures, methods and requirements for each owner or operator of a non-transportation-related onshore facility, if such facility, due to its location, could reasonably be expected to discharge oil into or upon the navigable waters of the United States and their adjoining shorelines in such quantity as the EPA has determined in 40 C.F.R. § 110.3 may be harmful to the public health or welfare or the environment of the United States.

12. The regulation at 40 C.F.R. § 112.3 requires that the owner or operator of an SPCC-regulated facility prepare and implement a written SPCC plan in accordance with 40 C.F.R. § 112.7 and any other applicable sections of 40 C.F.R. Part 112.

13. The regulation at 40 C.F.R. § 112.8 requires that the owner or operator of an SPCC-regulated facility meet the specific discharge prevention and containment procedures listed in that section.

14. Specific regulatory requirements applicable to the Facility are set forth in more detail below.

15. Section 311(b)(6)(B)(ii) of the Act, 33 U.S.C. § 1321(b)(6)(B)(ii), and the regulation at 40 C.F.R. § 19.4, authorize EPA to assess a civil penalty for violations of the SPCC regulations promulgated pursuant to Section 311(j)(1)(C) of the Act, 33 U.S.C. § 1321(j)(1)(C), of up to \$16,000 per day for violations that occurred through December 6, 2013, up to a maximum of \$177,500. For violations occurring after December 6, 2013, civil penalties up to \$16,000 per day, up to a maximum of \$187,500, may be assessed.

Factual Allegations and Alleged Violation

16. Respondent is a corporation with a place of business located at 3900 S. Laramie Avenue, in Cicero, Illinois. Respondent is a person within the meaning of Sections 311(a)(7) and 502(5) of the Act, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 C.F.R. § 112.2.

17. Respondent is the owner and operator, within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2, of an onshore bulk oil storage facility located on the Respondent's place of business ("the Facility").

18. Oil from the Facility, in the event of a discharge, could reasonably be expected to flow to the Chicago Sanitary and Ship Canal, located adjacent to the Facility.

19. The Facility has above-ground storage capacity greater than 1,320 gallons of oil in containers each with a shell capacity of at least 55 gallons.

20. The Facility has above-ground storage capacity greater than or equal to 42,000 gallons, and transfers oil over water to or from vessels.

21. The Facility has above-ground storage capacity greater than one million gallons and is located at a distance such that a discharge from the Facility could cause injury to fish, wildlife and sensitive environments, as defined in 40 C.F.R. § 112.2.

22. The Chicago Ship and Sanitary Canal is a navigable water of the United States within the meaning of 40 C.F.R. § 112.2 and Section 502(7) of the Act, 33 U.S.C. § 1362(7).

23. Respondent is engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products located at the Facility.

24. The Facility is a non-transportation-related facility within the meaning of 40 C.F.R. § 112.2 Appendix A, as incorporated by reference within 40 C.F.R. § 112.2.

25. The Facility is an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.

26. The Facility is a non-transportation-related onshore facility which, due to its location, could reasonably be expected to discharge oil to a navigable water of the United States or its adjoining shorelines in a harmful quantity, and is therefore subject to the SPCC regulations at 40 C.F.R. Part 112, Subparts A and B.

27. The Facility is a non-transportation-related onshore facility which, has above-ground storage capacity greater than or equal to 42,000 gallons, and transfers oil over water to or from vessels. The Facility also has above-ground storage capacity greater than one million gallons and is located at a distance such that a discharge from the Facility could cause injury to fish, wildlife and sensitive environments, as defined in 40 C.F.R. § 112.2. The Facility is therefore subject to the facility response plan (FRP) regulations at 40 C.F.R. Part 112, Subpart D.

28. Operations commenced at the Facility sometime during the 1920's.

29. The regulation at 40 C.F.R. § 112.3 requires that the owner or operator of an SPCC-regulated facility prepare and implement a written SPCC plan in accordance with 40 C.F.R. § 112.7 and any other applicable section of 40 C.F.R. Part 112.

30. The regulation at C.F.R. § 112.20 requires facilities subject to 40 C.F.R. Part 112, Subpart D, to prepare and submit a FRP.

31. On September 11, 2013, EPA inspected the Facility, and conducted an evaluation of the Facility's SPCC plan, last revised on September 10, 2010, and the Facility's FRP, last revised on February 13, 2001. On January 16, 2014, EPA issued a Notice of Violation to Respondent alleging violations of certain SPCC and FRP regulations (the NOV).

32. The regulation at 40 C.F.R. § 112.5 requires an owner or operator of a facility subject to 40 C.F.R. Part 112 to amend the facility's SPCC Plan when there is a change in the facility design, construction, operation, or maintenance that materially affects its potential for a discharge. Respondent did not amend the Facility's SPCC Plan within six months of re-routing a sewer with access to the Metropolitan Water Reclamation District to the Facility's waste water treatment plant within the vicinity of Tanks 305 and 306 in 2012, nor when Tank 22 was demolished and removed from the site in October 2012, in violation of 40 C.F.R. § 112.5.

33. The regulation at 40 C.F.R. § 112.7(a)(1) requires an owner or operator of a facility subject to 40 C.F.R. Part 112 to prepare a SPCC Plan that includes a discussion of the facility's conformance with each of the requirements listed in Part 112. Respondent did not include all applicable rule requirements in the Facility's SPCC Plan, such as those pertaining to mobile or portable containers, discharge prevention measures, discharge or drainage controls, countermeasures for discharge discovery, oil-filled operational equipment, among other requirements, in violation of 40 C.F.R. § 112.7(a)(1).

34. The regulation at 40 C.F.R. § 112.7(a)(3) requires an owner or operator of a facility subject to 40 C.F.R. Part 112 to prepare a SPCC Plan that describes the physical layout of the facility and includes a diagram that identifies the location and contents of all regulated fixed oil storage containers, storage areas where mobile or portable containers are located, transfer stations, and connecting pipes. The Facility's SPCC Plan does not describe the physical layout of the Facility or include a diagram that identifies the location and contents of all regulated fixed oil storage containers, storage areas for mobile or portable containers, transfer stations, and connecting pipes, in violation of 40 C.F.R. § 112.7(a)(3) and 40 C.F.R. § 112.7(a)(1).

35. The regulation at 40 C.F.R. § 112.7(a)(3)(i) requires an owner or operator of a facility subject to 40 C.F.R. Part 112 to prepare a SPCC Plan that addresses the type of oil and storage capacity of each fixed container; the type of oil and storage capacity for each mobile or portable container or an estimate of their potential number, the types of oil, and anticipated storage capacities. The Facility's SPCC Plan did not address the type of oil and storage capacity of each fixed container at the Facility; the type of oil and storage capacity for each mobile or portable container or an estimate of their potential number, the types of oil, and anticipated storage capacities at the Facility, in violation of 40 C.F.R § 112.7(a)(3)(i) and 40 C.F.R. § 112.7(a)(1).

36. The regulation at 40 C.F.R. § 112.7(a)(3)(ii) requires that the SPCC Plan addresses discharge prevention measures, including procedures for routine handling of products. The Facility's SPCC Plan did not address discharge prevention measures, in violation of 40 C.F.R. § 112.7(a)(3)(ii) and 40 C.F.R. § 112.7(a)(1).

37. The regulation at 40 C.F.R. § 112.7(a)(3)(iii) requires the SPCC Plan to address discharge or drainage controls such as secondary containment around containers and other structures, equipment, and procedures for the control of a discharge. The Facility's SPCC Plan did not address the discharge or drainage controls, equipment, and procedures for the control of a discharge, in violation of 40 C.F.R § 112.7(a)(3)(iii) and 40 C.F.R. § 112.7(a)(1).

38. The regulation at 40 C.F.R § 112.7(a)(3)(iv) requires that the SPCC Plan address countermeasures for discharge discovery, response and cleanup available from both the facility and its contractors. The Facility's SPCC Plan did not address countermeasures for discharge discovery, response, and cleanup, in violation of 40 C.F.R. § 112.7(a)(3)(iv) and

40 C.F.R. § 112.7(a)(1).

39. The regulation at 40 C.F.R. § 112.7(a)(3)(v) requires the SPCC Plan to address methods of disposal of recovered materials in accordance with applicable legal requirements. The Facility's SPCC Plan did not address methods of disposal of recovered materials in accordance with applicable legal requirements, in violation of 40 C.F.R. § 112.7(a)(3)(v) and 40 C.F.R. § 112.7(a)(1).

40. The regulation at 40 C.F.R. § 112.7(a)(3)(vi) requires the SPCC Plan to include a list of contacts and phone numbers for the facility response coordinator, National Response Center, cleanup contractors, with whom you have an agreement for response, and all appropriate federal, state, and local agencies who must be contacted in case of a discharge as described in 40 C.F.R. § 112.1(b). The Facility's SPCC Plan did not include this information, in violation of 40 C.F.R. § 112.7(a)(3)(vi) and 40 C.F.R. § 112.7(a)(1).

41. The regulation at 40 C.F.R. § 112.7(b) provides that where experience indicates a reasonable potential for equipment failure, the SPCC Plan must include a prediction of the direction, rate of flow, and total quantity of oil which could be discharged from the facility as a result of each type of major equipment failure. The Facility's SPCC Plan did not include an adequate prediction of the direction, rate of flow, and total quantity of oil which could be discharged from the Facility as a result of each type of major equipment failure, in violation of 40 C.F.R. § 112.7(b).

42. The regulation at 40 C.F.R. § 112.7(c)(1) requires that appropriate containment, diversionary structures, or equipment be provided to prevent a discharge as described in § 112.1(b). The Facility's SPCC Plan did not completely describe the appropriate containment

and/or diversionary structures or equipment in place at the Facility to prevent a discharge, nor were the requisite containment and/or diversionary structures, nor equipment in place at the Facility to prevent a discharge as described in § 112.1(b), in violation of 40 C.F.R. § 112.7(c)(1) and 40 C.F.R. § 112.7(a)(1).

43. The regulation at 40 C.F.R. § 112.7(d) requires that if secondary containment, diversionary structures or equipment to prevent a discharge are determined to be impracticable, that the impracticability of secondary containment is clearly demonstrated and described in a facility's SPCC Plan, and for bulk storage containers, that periodic integrity testing of containers and integrity and leak testing of the associated valves and piping is conducted. The Facility's SPCC Plan did not clearly demonstrate and describe the impracticability of placing containment around Tanks 305 and 306, nor does it establish a periodic integrity testing schedule for these tanks and associated piping, in violation of 40 C.F.R. § 112.7(d) and 40 C.F.R. § 112.7(a)(1).

44. The regulation at 40 C.F.R. § 112.7(h)(1) requires that facility tank car and tank truck loading/unloading racks use a quick drainage system for racks where rack drainage does not flow into a catchment basin or treatment facility designed to handle discharges, and that any containment system be designed to hold at least the maximum capacity of any single compartment of a tank car or tank truck loaded or unloaded at the facility. The Facility's SPCC Plan did not describe the containment available for each of the Facility's tank car and tank truck loading/unloading racks, nor is containment provided for each loading/unloading rack at the Facility, in violation of 40 C.F.R. § 112.7(h)(1) and 40 C.F.R. § 112.7(a)(1).

45. The regulation at 40 C.F.R. § 112.7(h)(2) requires an interlocked warning light or physical barriers, warning signs, wheel chocks, or vehicle brake interlock system in the area

adjacent to the loading or unloading rack to prevent vehicles from departing before complete disconnection of flexible or fixed oil transfer lines. Such warning systems, signs, or wheel chocks were not in place during the inspection of the Facility, in violation of 40 C.F.R. § 112.7(h)(2) and 40 C.F.R. § 112.7(a)(1).

46. The regulation at 40 C.F.R. § 112.7(h)(3) requires that facilities with tank car and tank truck loading/unloading racks closely inspect the lower-most drains and all outlets on tank cars/trucks prior to filling and departure to prevent liquid discharge while in transit. The Facility's SPCC Plan did not describe the facility's process for conducting these inspections, nor were records of these inspections available during the inspection of the Facility, in violation of 40 C.F.R. § 112.7(h)(3) and 40 C.F.R. § 112.7(a)(1).

47. The regulation at 40 C.F.R. § 112.7(k) requires that the owner or operators of facilities with oil-filled operational equipment provide secondary containment for this equipment pursuant to § 112.7(c), or undertake the alternate requirements of paragraph § 112.7(k)(2), if qualified. The Facility's SPCC Plan did not address the Facility's conformance with either method of compliance for its oil-filled operational equipment, in violation of 40 C.F.R. § 112.7(k) and 40 C.F.R. § 112.7(a)(1).

48. The regulation at 40 C.F.R. § 112.8(a) requires owners or operators of facilities subject to 40 C.F.R. Part 112 to meet the general requirements for the Plan listed under 40 C.F.R. § 112.7.

49. The regulation at 40 C.F.R. § 112.8(b)(3) requires that facility drainage systems from undiked areas with a potential for a discharge be designed to flow into ponds, lagoons or catchment basins designed to retain oil or return it to the facility. The Facility's SPCC Plan did

not adequately describe each of the undiked areas with a potential for discharge, the Facility's drainage system(s), how each of the undiked areas would drain to the Facility's central sump, nor how the Facility's waste treatment system would retain oil, in violation of 40 C.F.R. § 112.8(b)(3) and 40 C.F.R. § 112.8(a).

50. The regulation at 40 C.F.R. § 112.8(b)(4) requires that facility drainage systems not engineered as in 40 C.F.R. § 112.8(b)(3) have the final discharge of all ditches inside the facility be equipped with a diversion system that would retain oil in the facility in the event of an uncontrolled discharge. The Facility's SPCC Plan did not adequately describe each of the undiked areas with a potential for discharge, the Facility's drainage system(s), how each of the undiked areas would drain to the Facility's central sump, nor how the Facility's waste treatment system would retain oil, in violation of 40 C.F.R. § 112.8(b)(4) and 40 C.F.R. § 112.8(a).

51. The regulation at 40 C.F.R. § 112.8(b)(5) requires that facility drainage systems be engineered to prevent a discharge in case there is an equipment failure or human error at the facility. The Facility's SPCC Plan did not adequately describe the Facility's drainage systems, nor how the system was engineered to prevent a discharge in case there is an equipment failure or human error at the Facility, in violation of 40 C.F.R. § 112.8(b)(5) and 40 C.F.R. § 112.8(a).

52. The regulation at 40 C.F.R. § 112.8(c)(2) requires that the owner or operator of an onshore facility to construct all bulk storage tank installations so that you provide a secondary means of containment for the entire capacity of the largest single container and sufficient freeboard for precipitation, or an alternative system consisting of a drainage trench enclosure that must be arranged so that any discharge will terminate and be safely confined in a facility catchment basin or holding pond. The Facility's SPCC Plan did not identify all oil containing

bulk storage tanks in use at the Facility, nor the secondary means of containment for each tank, nor was such equipment in place at the Facility for each tank at the time of inspection of the Facility, in violation of 40 C.F.R. § 112.8(c)(2) and 40 C.F.R. § 112.8(a).

53. The regulation at 40 C.F.R. § 112.8(c)(6) requires, among other things, that the owner or operator of an onshore facility test each aboveground container for integrity on a regular schedule, and whenever material repairs are made. The SPCC Plan must include: the appropriate qualifications for personnel performing tests and inspections; the frequency and type of testing and inspections, which take into account container size, configuration, and design; as well as the outside of the container for signs of deterioration, discharges, or accumulation of oil inside diked areas. Respondent did not test each aboveground container at the Facility for integrity on a regular schedule. The Facility's SPCC Plan did not address all of the required information related to integrity testing. Further, during the inspection, large and persistent accumulations and discharges of oil or tar material were observed within tank containment areas. These are violations of 40 C.F.R. § 112.8(c)(6) and 40 C.F.R. § 112.8(a).

54. The regulation at 40 C.F.R. § 112.8(c)(8) requires that the owner or operator of an onshore facility provide each container with one of several options for monitoring liquid levels. The Facility's SPCC Plan did not provide information on how this liquid level sensing requirement is met for each of its containers, in violation of 40 C.F.R. § 112.8(c)(8) and 40 C.F.R. § 112.8(a).

55. The regulation at 40 C.F.R. § 112.8(c)(10) requires the owner or operator of an onshore facility to promptly correct visible discharges which result in a loss of oil from the container, and to promptly remove any accumulations of oil in diked areas. During the inspection

of the Facility, large and persistent accumulations and discharges of oil or tar material were observed within tank containment areas, in violation of 40 C.F.R. § 112.8(c)(10) and 40 C.F.R. § 112.8(a).

56. The regulation at 40 C.F.R. § 112.20(d)(1) requires the owner or operator of a facility for which a response plan is required to revise and resubmit revised portions of the response plan within 60 days of each facility change that materially may affect the response to a worst case discharge. At the time of the inspection of the Facility, Respondent's last FRP revision submittal was on February 13, 2001. Respondent did not revise and resubmit the Facility's FRP within 60 days of re-routing a sewer with access to the Metropolitan Water Reclamation District to the facility's waste water treatment plant within the vicinity of Tanks 305 and 306 in 2012, nor when Tank 22 was demolished and removed from the site in October 2012, in violation of 40 C.F.R. § 112.20(d)(1).

57. The regulation at 40 C.F.R. § 112.20(d)(2) requires the owner or operator of a facility for which a response plan is required to provide a copy of amendments to personnel and telephone number lists included in the response plan. At the time of the inspection of the Facility, Respondent's last FRP revision submittal for the Facility was on February 13, 2001. The staff at the Facility have changed since the 2001 submittal, and Respondent did not provide a copy of such changes as the revisions have occurred, in violation of 40 C.F.R. § 112.20(d)(2).

58. As alleged in the preceding paragraphs, and pursuant to Section 311(b)(6)(B)(ii) of the Act, 33 U.S.C. § 1321(b)(6)(B)(ii), and 40 C.F.R. § 19.4, Respondent is liable for civil penalties of up to \$16,000 per day for violations that occurred through December 6, 2013, up to a maximum of \$177,500; and civil penalties up to \$16,000 per day, up to a maximum of \$187,500,

for violations occurring after December 6, 2013.

Civil Penalty

59. Based on an analysis of the factors set forth in Section 311(b)(8) of the Act, 33 U.S.C. § 1321(b)(8), and in the Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act, taking into account the facts of this case and information submitted by Respondent, including steps that Respondent has agreed to undertake in a corresponding Administrative Order on Consent to resolve the alleged violations. Complainant has determined that an appropriate civil penalty to settle this action is \$160,000. Respondent agrees to pay this amount as a civil penalty.

60. Within 30 days after the effective date of this CAFO, Respondent shall pay the \$160,000 by cashier's or certified check, or by electronic funds transfer (EFT). If paying by check, Respondent shall submit a cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notation "OSLTF – 311" and the docket number of this case. If the Respondent sends payment by check, the payment shall be addressed to:

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

If paying by EFT Respondent shall transfer \$160,000 to:

Federal Reserve Bank of NY
ABA 021030004
Account 68010727
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the EFT message shall read "D 68010727 Environmental Protection Agency."

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

62. The Respondent shall submit copies of the check (or, in the case of an EFT transfer, copies of the EFT confirmation) to the following persons:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Joseph Ulfig, P.E. (SC-5J)
Chemical Emergency Preparedness
and Prevention Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Andre Daugavietis
Associate Regional Counsel (C-14J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

63. Failure by Respondent to timely pay this civil penalty may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to Section 311(b)(6)(H) of the Act, 33 U.S.C. §1321(b)(6)(H). In any such collection action, the validity, amount and appropriateness of the penalty agreed to herein shall not be subject to review.

General Provisions

64. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO and the NOV.

65. This 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 violations of law not alleged in this CAFO or in the NOV.

66. This CAFO does not affect Respondent's responsibility to comply with the SPCC and FRP Rules of 40 C.F.R. Part 112, and other applicable federal, state and local laws.

67. Respondent has agreed in a corresponding Administrative Order on Consent to take steps to resolve the alleged violations of the regulations cited above.

68. The CAFO shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, and successors or assigns.

69. The CAFO does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 33 U.S.C. § 1321, or any regulations promulgated thereunder, and does not affect the right of the Administrator or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law.

70. If Respondent fails to comply with this CAFO, Respondent waives any rights it may possess in law or equity to challenge the authority of the EPA to bring a civil action in the appropriate United States District Court to compel compliance with this CAFO and/or seek an additional penalty for non-compliance with the CAFO.

71. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this CAFO.

72. The undersigned representative of each Party to this CAFO certifies that he or she is duly authorized by the Party he or she represents to enter into the terms and bind that Party to them.

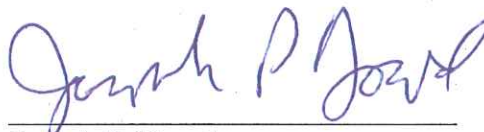
73. This CAFO shall become effective on the date it is filed with the Regional Hearing Clerk, Region 5.

In the Matter of: Koppers Inc.

CWA-05-2016-0003

Koppers Inc., Respondent

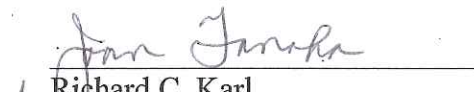
Date: 10/12/2015



Joseph P. Dowd
Vice President
Koppers Inc.

U.S. Environmental Protection Agency, Complainant

Date: 11/4/15



Richard C. Karl
Director
Superfund Division
U.S. Environmental Protection Agency
Region 5

In the Matter of: Koppers Inc.

Docket No. CWA-05-2016-0003

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.

Date: _____

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