

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

-----X  
: In the Matter of :  
: :  
: Lockheed Martin Corporation, :  
: :  
: Respondent. :  
: :  
: Proceeding under Section 16(a) of :  
: the Toxic Substances Control Act. :  
-----X

CONSENT AGREEMENT  
AND  
FINAL ORDER

Docket No. TSCA-02-2008-9211

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2008 AUG 27 AM 11:16  
REGIONAL HEARING  
CLERK

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a). The "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits," 40 C.F.R. Part 22 (July 1, 2000) (hereinafter "Consolidated Rules"), provide in 40 C.F.R. § 22.13(b) that when the parties agree to settle one or more causes of action before the filing of an Administrative Complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Order pursuant to 40 C.F.R. § 22.18(b)(2) and (3). The Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency ("EPA" or "Complainant"), alleges that Respondent Lockheed Martin Corporation ("Lockheed Martin") violated Section 6(e) of TSCA, 15 U.S.C. § 2605(e), and the regulations promulgated pursuant to that Section, set forth at 40 C.F.R. Part 761, relating to polychlorinated biphenyls ("PCBs") and Section 15(1) of TSCA, 15 U.S.C. § 2614(1).

EPA and Lockheed Martin agree that settling this matter by entering into this Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. § 22.13(b) and 40 C.F.R. § 22.18(b)(2) and (3), is an appropriate means of resolving this case without further litigation. This CAFO is being issued pursuant to said provisions of 40 C.F.R. Part 22. No formal or

adjudicated findings of fact or conclusions of law have been made. The following constitute Complainant's findings of fact and conclusions of law.

#### FINDINGS OF FACT

1. Respondent is Lockheed Martin Corporation.
2. Respondent owns, operates, and/or controls the facility in and around 1801 State Route 17C, Owego, New York (hereinafter "Respondent's facility").
3. By letter dated January 2, 2008, Clean Harbors Environmental Services, Inc. notified EPA that they had received a shipment of waste from Lockheed Martin which contained PCBs over 50 parts per million but was not identified as PCB waste on EPA Manifest form 8700-22.
4. By letter dated January 30, 2008, Lockheed Martin voluntarily disclosed to EPA that certain violations of the regulations regarding polychlorinated biphenyls (PCBs) may have occurred at Respondent's facility (hereinafter "the disclosure").
5. As a result of Clean Harbors' letter, EPA determined that Respondent failed to identify PCB waste submitted for off-site disposal on EPA Manifest 8700-22 in accordance with the specifications and requirements of 40 C.F.R. § 761.207(a).
6. As a result of the disclosure, EPA determined that Respondent failed to store PCBs awaiting disposal in a proper storage area at Respondent's facility in accordance with the specifications and requirements of 40 C.F.R. § 761.65(b).
7. As a result of the disclosure, EPA determined that Respondent failed to dispose of PCB waste stored at Respondent's facility within one year of the date it was determined to be a waste in accordance with the specifications and requirements of 40 C.F.R. § 761.65(a)(1).
8. Complainant sent to Respondent a "Notice of Opportunity Related to Enforcement Action Under The Toxic Substances Control Act ", which alleged that Respondent committed violations of the PCB regulations at 40 C.F.R. Part 761.

### CONCLUSIONS OF LAW

1. Respondent, as the owner and/or operator of the facility which is the subject of the above referenced Complaint, is subject to the regulations and requirements pertaining to PCBs and PCB Items promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e), and set forth at 40 C.F.R. Part 761.
2. Respondent is a "person" within the meaning of 40 C.F.R. § 761.3.
3. Failure to identify PCB waste submitted for off-site disposal on EPA Manifest form 8700-22 is a violation of 40 C.F.R. § 761.207(a), which is a violation of Section 6(e) and Section 15(1)(C) of TSCA, 15 U.S.C. §§ 2605(e) and 2614(1)(C).
4. Failure to store PCBs awaiting disposal in a proper storage area is a violation of 40 C.F.R. § 761.65(b), which is a violation of Section 6(e) and Section 15(1)(C) of TSCA, 15 U.S.C. §§ 2605(e) and 2614(1)(C).
5. Failure to dispose of PCB waste within one year of the date it was determined to be a waste is a violation of 40 C.F.R. § 761.65(a)(1), which is a violation of Section 6(e) and Section 15(1)(C) of TSCA, 15 U.S.C. §§ 2605(e) and 2614(1)(C).

### TERMS OF CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits", 40 C.F.R. § 22.18 (64 Federal Register 40138, 40182-83 [July 23, 1999]) (hereinafter "Consolidated Rules"), it is hereby agreed by and between the parties hereto, and accepted by Respondent, that Respondent voluntarily and knowingly agrees to, and shall, comply with the following terms:

1. Respondent shall hereinafter comply with all applicable provisions of TSCA and the regulations promulgated pursuant to it.
2. For the purposes of this Consent Agreement, Respondent (a) admits that EPA has jurisdiction pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), to commence a civil administrative proceeding for the violations alleged in the "Conclusions of Law" section above;

(b) neither admits nor denies the specific factual allegations contained in the "Findings of Fact" section, above; and (c) neither admits nor denies the assertions set forth in the "Conclusions of Law" section, above.

3. Respondent shall pay, by cashiers or certified check, a civil penalty in the amount of **EIGHT THOUSAND FOUR HUNDRED SEVENTY FIVE DOLLARS (\$8,475)** to the "Treasurer of the United States of America". The check shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. Such check shall be mailed to:

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

Alternatively, payment may be by Electronic Fund Transfer (EFT) directed to the Federal Reserve Bank of New York. Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- 3) Account: 68010727
- 4) ABA number: 021030004
- 5) Field Tag 4200 of the Fedwire message should read "D 68010727  
Environmental Protection Agency"
- 6) Name of Respondent
- 7) Docket Number

Promptly after payment has been made, Respondent shall send copies of this payment or furnish reasonable proof that such payment has been made to both:

Ann M. Finnegan, Life Scientist  
Pesticides and Toxic Substances Branch  
2890 Woodbridge Avenue, MS-105  
Edison, New Jersey 08837

and

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007

The payment must be received at the above address (or account of EPA) on or before **45 calendar days** after the date of the signature of the Final Order at the end of this document (the date by which payment must be received shall hereinafter be referred to as the "due date").

a. Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for collection.

b. Further, if any payment is not received on or before the due date, interest will be assessed, at the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

4. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full and final settlement of the civil liabilities under the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*, and the regulations promulgated thereunder 40 C.F.R. Part 761, that attach or might have attached as a result of the "Findings of Fact" section, above, and the allegations contained in the "Conclusions of Law" section, above. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable, and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.

5. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement, and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

6. Respondent hereby waives its right to seek or to obtain any hearing (pursuant to Subpart D of 40 C.F.R. Part 22) or other judicial proceeding on the assertions contained in the "Findings of Fact" section, above, and the allegations contained in the "Conclusions of Law" section, above, or on any allegations arising thereunder. Respondent further waives its right otherwise to contest all such assertions and/or allegations.

7. Respondent waives any right it may have pursuant to 40 C.F.R. 22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

8. This Consent Agreement does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable federal, state, or local laws, rules, or regulations.

9. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all terms and conditions set forth in this Consent Agreement.

10. Each party shall bear its own costs and attorneys fees in this matter.

11. Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

RESPONDENT:

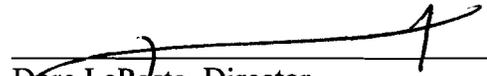
BY:   
Lockheed Martin Corporation

NAME: Keith W. Speidel  
(PLEASE PRINT)

TITLE: VP of Finance and Business Mgmt

DATE: August 11, 2008

COMPLAINANT:

 *PLEASE use original for R*  
Dore LaPosta, Director  
Division of Enforcement and  
Compliance Assistance  
U.S. Environmental Protection  
Agency - Region 2  
290 Broadway  
New York, NY 10007

DATE: AUGUST 15, 2008

In the Matter of Lockheed Martin Corporation  
Docket Number TSCA-02-2008-9211

FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement, entered into by the parties in full settlement of EPA's Complaint bearing Docket No. TSCA-02-2008-9211, issued in the matter of Lockheed Martin Corporation, is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA Region 2, New York, New York.

DATE: 08-19-2008



Alan J. Steinberg  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 2  
290 Broadway  
New York, New York 10007

In the Matter of Lockheed Martin Systems Integration  
Docket Number TSCA-02-2008-9211

CERTIFICATE OF SERVICE

This is to certify that on the 26<sup>th</sup> day of August 2008, I served a true and correct copy of the foregoing fully executed Consent Agreement and Final Order bearing Docket Number TSCA-02-2008-9211, by certified mail, return receipt requested, to:

Keith Speidel, Vice President – Finance and Business Management  
Lockheed Martin Systems Integration  
Mail Drop 0144  
1801 State Route 17C  
Owego, NY 13827

On the same date, I mailed via EPA internal mail to the Region 2 Regional Hearing Clerk at 290 Broadway, New York, New York 10007 the original and one copy of the foregoing Consent Agreement and Final Order.

