



**Parties**

2. The Complainant, by delegation from the Administrator of the EPA, the Regional Administrator, EPA, Region VII, and the Director of the Air and Toxics Division, EPA, Region VII is the Branch Chief of the Chemical Risk Information Branch, EPA, Region VII.

3. The Respondent, A-Tec Recycling, Inc., a general recycling facility, is a person, as defined at 40 C.F.R. § 761.3. Respondent is incorporated in the State of Iowa and registered to do business in the State of Iowa.

**Violations**

4. The Complainant hereby states and alleges that Respondent has violated federal regulations, promulgated pursuant to TSCA, as follows:

**Count I**

**Operating as a Commercial Storer without EPA approval**

5. Complainant hereby incorporates the allegations contained in paragraphs 1 through 4 above, as if fully set forth herein.

6. On or about June 29, 2005, an authorized EPA representative conducted an inspection pursuant to Section 11 of TSCA, 15 U.S.C. § 2610, of Respondent's facility located at 5745 N.E. 17<sup>th</sup> Street, Des Moines, Iowa.

7. During the June 29, 2005, inspection, the EPA representative observed, photographed, and collected documentary evidence regarding PCBs and PCB Items stored and transported by Respondent.

8. The evidence collected during the June 2005 inspection indicates that Respondent is a "Commercial storer of PCB waste," as that term is defined in 40 C.F.R. § 761.3.

9. Respondent's records indicate that Respondent stored more than 500 gallons of PCB capacitors and fluorescent light ballasts at its facility at one time, and subsequently transported the PCB capacitors and fluorescent light ballasts for disposal.

10. Pursuant to 40 C.F.R. § 761.65(d), a commercial storer of PCB waste must submit an application and receive approval from the EPA to operate the commercial storage facility.

11. At the time of the June 2005, inspection, Respondent had not submitted an application for approval from the EPA to operate as a commercial storer of PCB waste.

12. Respondent failed to comply with the requirements of 40 C.F.R. § 761.65(d), promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e), and therefore violated Section 15 of TSCA, 15 U.S.C. § 2614.

**Count II**  
**Failure to Maintain and Submit Annual Documentation**

13. Complainant hereby incorporates the allegations contained in paragraphs 1 through 12 above, as if fully set forth herein.

14. Pursuant to 40 C.F.R. § 761.180(b), the owner or operator of a facility used for commercial storage or disposal of PCBs and PCB Items shall maintain at the facility annual records on the disposition of PCBs and PCB items at the facility and prepare and maintain a written annual document log.

15. During the June 29, 2005, inspection, the annual records and written annual document log were not available.

16. Pursuant to 40 C.F.R. § 761.180(b), the owner or operator of a facility used for commercial storage or disposal of PCBs and PCB Items shall prepare an annual report of PCBs and PCB Items handled as PCB waste at the facility during the previous calendar year and submit the annual report to the EPA.

17. At the time of the June 2005 inspection, Respondent had not submitted annual documentation to EPA for any of the past three years, as required by 40 C.F.R. § 761.180(b).

18. Respondent failed to comply with the requirements of 40 C.F.R. § 761.180(b), promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e), and therefore violated Section 15 of TSCA, 15 U.S.C. § 2614.

**Count III**  
**Improper Manifesting**

19. Complainant hereby incorporates the allegations contained in paragraphs 1 through 18 above, as if fully set forth herein.

20. Pursuant to 40 C.F.R. § 761.208(c)(3), whenever an off-site shipment of PCB waste is initiated from a commercial storage facility, the owner or operator of the facility shall comply with the manifest requirements that apply to generators of PCB waste.

21. Pursuant to 40 C.F.R. § 761.207(a), a generator shall prepare a manifest on EPA Form 8700-22 when relinquishing control over PCB wastes. In addition, 40 C.F.R. § 761.208(a) provides how the manifest shall be used by the generator of PCB waste.

22. Records collected from Respondent's facility during the June 29, 2005, inspection indicate that Respondent failed to comply with the manifest usage requirements of 40 C.F.R. § 761.208(a).

23. Respondent failed to comply with the requirements of 40 C.F.R. § 761.208(a), promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e), and therefore violated Section 15 of TSCA, 15 U.S.C. § 2614 (1).

#### **CONSENT AGREEMENT**

1. Respondent and EPA agree to the terms of this Consent Agreement and Final Order and Respondent agrees to comply with the terms of the Final Order portion of this Consent Agreement and Final Order. The terms of the Consent Agreement and Final Order shall not be modified except by a subsequent written agreement between the parties.

2. Respondent admits the jurisdictional allegations of this Consent Agreement and Final Order and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order portion of this Consent Agreement and Final Order set forth below.

3. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this Consent Agreement and Final Order.

4. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above, and waives its right to appeal the Final Order set forth below.

5. Respondent and Complainant agree to conciliate the matters set forth in this Consent Agreement and Final Order without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

6. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of Respondent's knowledge, Respondent's Des Moines, Iowa, facility is presently in

compliance with all requirements of TSCA, and the implementing regulations, 40 C.F.R. Part 761.

7. The effect of settlement described below in paragraph 10 of this Consent Agreement is conditional upon the accuracy of the Respondent's representations to EPA, as memorialized in paragraph 6 of this Consent Agreement.

8. Nothing contained in the Final Order portion of this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state and local environmental statutes and regulations and applicable permits.

9. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

10. Respondent agrees that, in settlement of the claims alleged in this Consent Agreement and Final Order, Respondent shall pay a civil penalty of \$27,592.50, as set forth in paragraph 1 of the Final Order.

11. Respondent understands that failure to pay any portion of the civil penalty on the date the same is due may result in the commencement of a civil action in Federal District Court to collect said penalty, along with interest thereon at the applicable statutory rate.

12. This Consent Agreement and Final Order shall be effective upon entry of the Final Order by the Regional Judicial Officer for EPA, Region VII. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

### **FINAL ORDER**

Pursuant to the provisions of TSCA, 15 U.S.C. § 2601 *et seq.*, and based upon the information set forth in this Consent Agreement, IT IS HEREBY ORDERED THAT:

#### **A. Payment of Civil Penalty**

1. Respondent shall pay a civil penalty of twenty-seven thousand five hundred ninety-two dollars and fifty cents (\$27,592.50) plus interest of six hundred twenty-four dollars and forty-six cents (\$624.46) in quarterly installments over a period of two (2) years for a total payment of twenty-eight thousand two hundred sixteen dollars and ninety-six cents (\$28,216.96) to be paid in full no later than July 31, 2008.

- a. The first payment of \$3,527.12 is due within thirty (30) days of the effective date of this Consent Agreement and Final Order.
- b. Subsequent installments of \$3,527.12 are due on the following dates:
  - i. January 15, 2007
  - ii. April 15, 2007
  - iii. July 15, 2007
  - iv. October 15, 2007
  - v. January 15, 2008
  - vi. April 15, 2008
  - vii. July 15, 2008.

Pursuant to 40 C.F.R. § 13.18, failure to make any payment according to the above schedule will automatically accelerate the debt which will become due and owing in full, immediately.

2. Payments of the penalty shall be by cashier or certified check made payable to "Treasurer of the United States" and remitted to:

U.S. Environmental Protection Agency, Region VII  
P.O. Box 371099M  
Pittsburgh, Pennsylvania 15251.

The payments shall identify the Respondent by name and reference the Docket Number (TSCA-07-2006-0236) on the check. Copies of the check shall also be mailed to:

Regional Hearing Clerk  
U.S. EPA Region VII  
901 North 5th Street  
Kansas City, Kansas 66101

and

Kristi Denney  
Assistant Regional Counsel  
U.S. EPA Region VII  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

3. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Consent Agreement and Final Order shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

4. Respondent and Complainant shall bear their own costs and attorneys' fees incurred as a result of this matter.

COMPLAINANT:  
U.S. ENVIRONMENTAL PROTECTION AGENCY

11/13/2006  
Date

  
\_\_\_\_\_  
Mark Smith  
Branch Chief  
Chemical Risk Information Branch

11/13/06  
Date

  
\_\_\_\_\_  
Kristi J. Denney  
Assistant Regional Counsel

RESPONDENT:  
A-TEC RECYCLING, INC.

11/10/2006  
Date

Larry K Young Jr  
Signature

Larry K Young Jr  
Printed Name

President  
Title

IT IS SO ORDERED.



\_\_\_\_\_  
Robert Patrick  
Regional Judicial Officer

Date November 15, 2006

IN THE MATTER OF A-Tec Recycling, Inc., Respondent  
Docket No. TSCA-07-2006-0236

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to:

Kristi J. Denney  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region 7  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Mark Landa  
Sullivan & Ward, P.C.  
6601 Westown Parkway, Suite 200  
West Des Moines, IA 50266-7733

11/15/06  
Dated

  
Kathy Robinson  
Hearing Clerk, Region 7