



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 12 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. William K. Hanlon
Chief Operating Officer
Total Distribution, Inc.
900 North Hoskins Road
Charlotte, North Carolina 28216

Re: Total Distribution, Inc.
Consent Agreement and Final Order
Docket No. CERCLA-04-2018-2020(b)

Dear Mr. Hanlon:

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.

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 this matter or Total Distribution, Inc.'s compliance status in the future, please contact Mr. Brandon Cobb, Associate Regional Counsel, U.S. Environmental Protection Agency at (404) 562-9550

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**

IN THE MATTER OF:)
)
Total Distribution, Inc.)
)
Respondent.)
)
)
)
_____)

Docket Number: CERCLA-04-2018-2020

2018 JUN 12 PM 2:25
HEARINGS CLEAN
OFFICE OF REGIONAL COUNSEL

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609 and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency ("EPA"). Respondent is Total Distribution, Inc.

2. The authority to take action under Section 109 of CERCLA, 42 U.S.C. § 9609 is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under CERCLA to the Regional Administrators by EPA Delegation 14-31 dated May 11, 1994. The Regional Administrator, Region 4, has re-delegated to the Director, Air, Pesticides and Toxics Management Division, the authority under CERCLA by EPA Region 4 Delegation 14-31 dated March 8, 1999, and updated August 6, 2004. Pursuant to these delegations, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18(b) 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 C.F.R. §§ 22.13(b) and 22.18(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

4. Respondent, Total Distribution, Inc., is a company doing business in the State of North Carolina.

5. Respondent is a “person” and is the “owner or operator” of a “facility” as those terms are defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), Section 101(20)(A) of CERCLA, 42 U.S.C. § 9601(20)(A), and Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

6. Respondent’s facility is located at 900 North Hoskins Road, Charlotte, North Carolina 28216.

III. EPA’s Allegations of Violations

Violations of Section 103(a) of CERCLA

7. Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), required the Administrator of EPA to publish a list of substances designated as hazardous substances which, when released into the environment, may present substantial danger to public health or welfare or the environment and to promulgate regulations establishing the quantity of any hazardous substance the release of which was required to be reported under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a). EPA has published and amended such a list, including the corresponding reportable quantities (RQ) for those substances. This list which is codified at 40 C.F.R. Part 302, was initially published on April 4, 1985 (50 Fed. Reg. 13474) and is periodically amended.

8. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and the regulations found at 40 C.F.R. § 302.6, require a person in charge of a facility or vessel to immediately notify the National Response Center (NRC), as soon as he or she has knowledge of a release of a hazardous substance from such facility or vessel in an amount equal to, or greater than the RQ.

9. Respondent was in charge of the facility during the relevant periods described below.

10. Benzene sulfonyl chloride (BSC) is a “hazardous substance” as that term is defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), with an RQ of 100 pounds, as specified in 40 C.F.R. § 302.4.

11. On October 16, 2015, a release of BSC above the RQ occurred at the facility.

12. EPA alleges that Respondent violated the notification requirements of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and the applicable CERCLA regulations, 40 C.F.R. § 302.6, by failing to immediately notify the NRC as soon as Respondent had knowledge of the release of BSC in an amount equal to or greater than its RQ at Respondent’s facility and is therefore subject to the assessment of penalties under Section 109 of CERCLA, 42 U.S.C. § 9609.

13. Pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609, and 40 C.F.R. Part 19, the EPA may assess a civil penalty for each violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a). Each day a violation of Section 103 of CERCLA continues constitutes a separate violation. Civil penalties under Section 109 of CERCLA, 42 U.S.C. § 9609, may be assessed by Administrative Order.

IV. Consent Agreement

14. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.

15. Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying the Consent Agreement.

16. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

17. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of CERCLA.

18. In accordance with 40 C.F.R. § 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 U.S. 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 CERCLA or other applicable laws and regulations.

19. 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 CERCLA.

V. Final Order

20. Respondent shall pay a civil penalty of **SEVENTEEN THOUSAND TWO HUNDRED NINETY DOLLARS (\$17,290)** for the CERCLA violation which shall be paid within thirty (30) days of the effective date of this CAFO.

21. Respondent shall pay the CERCLA civil penalty by forwarding a cashier's or certified check, payable to "EPA Hazardous Substance Superfund" to one of the following addresses:

BY MAIL

U.S. Environmental Protection Agency
Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, Missouri 63197-9000

BY OVERNIGHT

U.S. Environmental Protection Agency
Government Lockbox 979076
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 425-1819

BY ELECTRONIC TRANSFER*

Federal Reserve Bank of New York

ABA: 021030004

Account Number: 68010727

SWIFT address: FRNYUS33

33 Liberty Street

New York, New York 10045

Beneficiary: US Environmental Protection Agency

*Note: Foreign banks **must** use a United States Bank to send a wire transfer to the U. S. EPA.

The check shall reference on its face the name and the Docket Number of the CAFO.

22. At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been 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

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

23. For the purposes of state and federal income taxes, 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. Other Provisions

24. Pursuant to 31 U.S.C. § 3717, 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. Interest will therefore begin to accrue on the civil penalty from the effective date of this CAFO if the penalty is not paid by the date required. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

25. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

26. This CAFO shall be binding upon the Respondent, its successors, and assigns.

27. 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 legally bind that party to it.

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VII. Effective Date

28. 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:

Total Distribution, Inc.

By: William K. Hanlon (Signed) Date: 4-10-18

Name: WILLIAM K. HANLON (Typed or Printed)

Title: COO (Typed or Printed)

U.S. Environmental Protection Agency

By: Beverly H. Banister (Signed) Date: 5/24/18

Beverly H. Banister
Director
Air, Pesticides and Toxics Management Division

APPROVED AND SO ORDERED this 12th day of June, 2018

Tanya Floyd
Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order: In the Matter of Total Distribution, Inc., Docket Number: CERCLA-04-2018-2020(b), on the parties listed below in the manner indicated:

Robert W. Bookman (Via EPA's internal mail)
Chief
U.S. EPA, Region 4
Chemical Management and
Emergency Planning Section

Brandon Cobb (Via EPA's internal mail)
Associate Regional Counsel
U.S. EPA, Region 4
Office of Regional Counsel

Robert Caplan (Via EPA's internal mail)
Senior Attorney
U.S. EPA, Region 4
Office of Regional Counsel

Mr. William K. Hanlon (Via Certified Mail - Return Receipt Requested)
Chief Operating Officer
Total Distribution, Inc.
900 Hoskins Road
Charlotte, NC 28216

Date: 6-12-18



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental
Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9511