



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

FEB 08 2007

REPLY TO THE ATTENTION OF:

SC-6J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Louis A. Carson, President
Scottdel, Inc.
400 Church Street
Swanton, OH 43558

Re: Scottdel, Inc., Swanton, Ohio, Consent Agreement and Final Order. Docket
No. EPCRA-05-2007-0009.

Dear Mr. Carson:

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in
resolution of the above case. The U.S. EPA has filed the other original CAFO with the
Regional Hearing Clerk on FEB 08 2007.

Please pay the civil penalty in the amount of \$37,817 in the manner prescribed in
paragraphs 35 or 36, and reference your check with the number BD 2750744E009
and docket number EPCRA-05-2007-0009. Your
payment is due on MAR 12 2007 (within thirty calendar days of
the filing date).

Please feel free to contact James Entzminger at (312) 886-4062 if you have any
questions regarding the enclosed documents. Please direct any legal questions to
Maria Gonzalez, Associate Regional Counsel, at (312) 886-6630. Thank you for your
assistance in resolving this matter.

Sincerely yours,

Mark J. Horwitz, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

cc: Regional Hearing Clerk
U.S. EPA Region 5

Maria Gonzalez (w/ enclosure)
Office of Regional Counsel
U.S. EPA Region 5

Ms. Cindy DeWulf, Co-Chairperson (w/ enclosure)
Nancy Dragani, Co-Chairperson (w/ enclosure)
Jeff Beattie (w/ enclosure)
Mel House (w/ enclosure)
Ohio SERC

Marcy Toney (w/ enclosure)
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:) **Docket No. *E* PCRA-05-2007-0009**
)
Scottdel, Inc.) **Proceeding to Assess a Civil**
Swanton, Ohio) **Penalty under Section 325(c) of the**
) **Emergency Planning and Community**
) **Right-to-Know Act of 1986,**
) **42 U.S.C. § 11045(c)**
Respondent.)

Consent Agreement and Final Order
Preliminary Statement

1. This is an administrative action commenced and concluded under Section 325(c) of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c), 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 (2005).

2. Complainant is the Branch Chief, Emergency Response Branch 1, Superfund Division, Region 5, United States Environmental Protection Agency (U.S. EPA).

3. Respondent is Scottdel, Inc. a corporation, doing business in Ohio.

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) (2005).

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 entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

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REGIONAL OFFICE
MAY 10 2007 10:07 AM
EPCRA-05-2007-0009

Jurisdiction and Waiver of Right to Hearing

7. Scottdel, Inc. admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Scottdel, Inc. 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 CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and its implementing regulations at 40 C.F.R. Part 370 require the owner or operator of a facility, which is required by the Occupational Safety and Health Act (OSHA) to prepare or have available a material safety data sheet (MSDS) for a hazardous chemical, to submit to the state emergency response commission (SERC), appropriate local emergency planning committee (LEPC) and fire department with jurisdiction over the facility by March 1, 1988, and annually thereafter, a completed Emergency and Hazardous Chemical Inventory Form (Tier I or Tier II as described in 40 C.F.R. Part 370). The form must contain the information required by Section 312(d) of EPCRA, covering all hazardous chemicals present at the facility at any one time during the preceding year in amounts equal to or exceeding 10,000 pounds and all extremely hazardous chemicals present at the facility at any one time in amounts equal to or greater than 500 pounds or the threshold planning quantity designated by U.S. EPA at 40 C.F.R. Part 355, Appendices A and B, whichever is lower.

10. Under 29 C.F.R. § 1910.1200(b)(1), all employers are required to provide information to their employees about the hazardous chemicals to which they are exposed including, but not limited to, MSDS.

11. Under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), the U.S. EPA Administrator may assess a civil penalty of up to \$25,000 per day of violation of EPCRA Section 312. The Debt Collections Improvements Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19 increased these statutory maximum penalties to \$27,500 per day of violation that occurred from January 31, 1997 through March 15, 2004, and to \$32,500 per day of violation for violations that occurred after March 15, 2004.

Factual Allegations and Violations

12. Respondent is a "person" as that term is defined under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

13. At all times relevant to this CAFO, Respondent was an owner or operator of the Facility located at 400 Church Street, Swanton, Ohio, 43558 (Facility).

14. At all times relevant to this CAFO, Respondent was an employer at the Facility.

15. Respondent's Facility consists of buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites, and which are owned or operated by the same person.

16. Respondent's Facility is a "facility" as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

17. Diphenylmethane diisocyanate is listed as a toxic and hazardous substance under Occupational Safety and Health Administration (OSHA) regulations at 29 C.F.R. § 1910, subpart Z, § 1910.1000, Table Z-1.

18. Diphenylmethane diisocyanate is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

19. Diphenylmethane diisocyanate has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

20. During at least one period of time in calendar year 2003 and 2004, diphenylmethane diisocyanate was present at the Facility in an amount equal to or greater than the minimum threshold level.

21. OSHA requires Respondent to prepare, or have available, an MSDS for diphenylmethane diisocyanate.

22. Respondent was required to submit to the SERC, LEPC, and fire department on or before March 1, 2004, a completed Emergency and Hazardous Chemical Inventory Form (Tier I or Tier II as described in 40 C.F.R. Part 370) for diphenylmethane diisocyanate for calendar year 2003.

23. Respondent was required to submit to the SERC, LEPC, and fire department on or before March 1, 2005, a completed Emergency and Hazardous Chemical Inventory Form (Tier I or Tier II as described in 40 C.F.R. Part 370) for diphenylmethane diisocyanate for calendar year 2004.

24. At all times relevant to this CAFO, the Ohio State Emergency Response Commission was the state emergency response commission (SERC) for Ohio, under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

25. At all times relevant to this CAFO, the Fulton County Local Emergency Planning Committee was the local emergency planning committee (LEPC) for the Fulton County planning district, under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

26. At all times relevant to this CAFO, the Swanton Fire Department was the fire department with jurisdiction over the Facility.

27. As of November 17, 2005, Respondent had not submitted to the LEPC, and Swanton Fire Department completed Emergency and Hazardous Chemical Inventory Forms including diphenylmethane diisocyanate, for calendar years 2003 and 2004.

28. Each day Respondent failed to submit to the LEPC a completed Emergency and Hazardous Chemical Inventory Form including diphenylmethane diisocyanate by March 1, 2004, for calendar year 2003 is a violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

29. Each day Respondent failed to submit to the Swanton Fire Department a completed Emergency and Hazardous Chemical Inventory Form including diphenylmethane diisocyanate by March 1, 2004, for calendar year 2003 is a violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

30. Each day Respondent failed to submit to the LEPC a completed Emergency and Hazardous Chemical Inventory Form including diphenylmethane diisocyanate by March 1, 2005, for calendar year 2004 is a violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

31. Each day Respondent failed to submit to the Swanton Fire Department a completed Emergency and Hazardous Chemical Inventory Form including Diphenylmethane diisocyanate by March 1, 2005, for calendar year 2004 is a violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

32. By letter dated November 17, 2005, U.S. EPA advised Respondent that it was planning to file a civil administrative complaint against Respondent for alleged violations of

Section 312 of EPCRA and that the complaint would seek a civil penalty. U.S. EPA asked Respondent to identify any factors Respondent thought the U.S. EPA should consider before issuing the Complaint.

33. Respondent submitted a letter, dated December 1, 2005, that, among other things, indicated that Respondent hand delivered the reports for calendar years 2003 and 2004 to the LEPC and the Local Fire Department, and that the LEPC Coordinator and the Fire Chief had visited their facility.

Civil Penalty

34. In consideration of Scottdel Inc.'s cooperation and quick settlement before the filing of a Complaint, U.S. EPA has determined that an appropriate civil penalty to settle this action is \$37,817.

35. Within 30 days after the effective date of this CAFO, Respondent must pay a \$37,817 civil penalty for the EPCRA violations. Respondent must pay the penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

U.S. EPA, Region 5
ATTN: Finance
P. O. Box 371531
Pittsburgh, PA 15251-7531

The check must note the case title of this matter: Scottdel, Inc., the docket number of this CAFO and the billing document number 2750744E009.

36. Alternatively, Respondent may pay by wire transfer to Federal Reserve Bank of New York, Routing/ABA Number 021030004 for Account Number 68010727, U.S. EPA. The wire payment must have the billing document number 2750744E009.

37. A transmittal letter, stating the case title, Respondent's complete address, the case docket number and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk, (E-13J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

James Entzminger, (SC-6J)
Office of Chemical Emergency Preparedness and Prevention
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

Maria Gonzalez, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

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

39. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

40. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a six percent per year penalty on any principal amount not paid within 90 days of the date that this CAFO has been entered by the Regional Hearing Clerk.

General Provisions

41. This CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

42. The effect of the settlement described in the previous paragraph is conditioned upon the accuracy of the Respondent's representations to U.S. EPA, as memorialized in paragraph 33 of this CAFO and Respondent's letter dated December 1, 2005.

43. This CAFO does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

44. This CAFO does not affect Respondent's responsibility to comply with EPCRA and other applicable federal, state and local laws, and regulations.

45. This CAFO is a "final order" for purposes of U.S. EPA's Enforcement Response Policy for Section 312 of EPCRA.

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

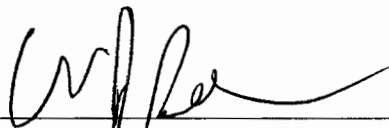
47. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

48. Each party agrees to bear its own costs and fees, including attorneys' fees, in this action.

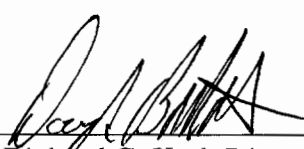
49. This CAFO constitutes the entire agreement between the parties.

U.S. Environmental Protection Agency, Complainant

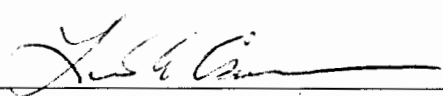
Date: 2/8/07

By: 
William J. Bolen, Branch Chief
Emergency Response Branch 1
Superfund Division
U.S. EPA, Region 5

Date: 2/5/07

By: 
for Richard C. Karl, Director
Superfund Division
U.S. EPA, Region 5

Scottdel, Inc., Respondent

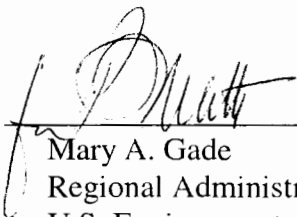
Date: 01/12/2007 By: 
Print Name: Louis J. Carson
Title: PRESIDENT
Scottdel, Inc.

In the Matter of:
Scottdel, Inc.
400 Church Street
Swanton, OH 43558
Docket No. **EPCRA-05-2007-0009**

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. IT IS SO ORDERED.

Date: 2-7-17

By: 
Mary A. Gade
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

In the Matter of:
Scottdel, Inc.
400 Church Street
Swanton, OH 43558

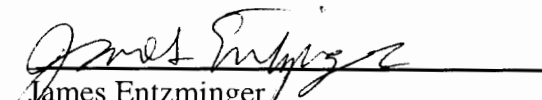
Docket No. EPCRA-05-2007-0009

Certificate of Service

I, James Entzminger, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number EPCRA-05-2007-0009 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, personally served a copy on the Regional Judicial Officer, via interoffice mail, and mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Scottdel, Inc. by placing them in the custody of the United States Postal Service addressed as follows:

Louis A. Carson, President
Scottdel, Inc.
400 Church Street
Swanton, OH 43558

on the 8 day of February, 2007.


James Entzminger
U.S. Environmental Protection Agency
Region 5

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REGIONAL HEARING CLERK