



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

DEC 08 2011

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ms. Marla Cochran  
Director of Product Safety and  
Regulatory Affairs  
Arkema, Inc.  
900 First Avenue  
King of Prussia, Pennsylvania 19046-1308

Re: Arkema, Inc.  
Consent Agreement and Final Order  
Docket No. TSCA-04-2011-2534(b)

Dear Ms. Cochran:

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.

We understand that Arkema, Inc. has previously paid the penalty amount shown in Section V of the CAFO by wire transfer.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U. S. Environmental Protection Agency. Where used in the document, "SEC" refers to the Securities and Exchange Commission.

Should you have any questions about this matter or your compliance status in the future, please contact Mr. Mark Bean of the EPA Region 4 staff at (404) 562-9000.

Sincerely,

A handwritten signature in black ink, appearing to read "Kimberly L. Bingham".

Kimberly L. Bingham  
Acting Chief  
Pesticides and Toxic  
Substances Branch

Enclosures

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

RECEIVED  
EPA REGION IV

2011 DEC -8 AM 9:57

HEARING CLERK

In the Matter of: )  
)  
Arkema Inc. )  
)  
Respondent )  
\_\_\_\_\_ )

Docket No.: TSCA-04-2011-0346

**CONSENT AGREEMENT AND FINAL ORDER**

**I. Nature of the Action**

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides, and Toxics Management Division, U. S. Environmental Protection Agency, Region 4. Respondent is Arkema Inc.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 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), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

**II. Preliminary Statements**

3. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under TSCA to EPA Region 4 by EPA Delegation 12-2-A, dated May 11, 1994.

4. Pursuant to Section 15 of TSCA, 15 U.S.C. § 2614, it is unlawful for any person to: (1) fail or refuse to comply with any rule or order promulgated pursuant to Sections 4, 5, 8, 12 or 13 of TSCA, 15 U.S.C. § 2603, § 2604, § 2607, § 2611 or § 2612; (2) use for commercial purposes a chemical substance or mixture that the person knew or had reason to know was manufactured, imported, processed, or distributed in commerce in violation of TSCA Section 5, 15 U.S.C. § 2604; (3) fail to maintain records, submit reports or information, or permit access to or allow copying of records as required by TSCA; and (4) refuse to permit entry or inspection as authorized by Section 11 of TSCA, 15 U.S.C. § 2610.
5. Any person who violates a provision of Section 15 of TSCA shall be liable for a civil penalty in an amount not to exceed \$25,000 for each such violation, in accordance with Section 16(a) of TSCA. The Debt Collection Improvement Act of 1996 requires EPA to review and adjust penalties, as necessary, for inflation at least once every four years. As such, pursuant to the Adjustment of Civil Monetary Penalties for Inflation Rule, 40 C.F.R. Part 19, the revised maximum penalty for each violation occurring after January 30, 1997, through March 15, 2004, is \$27,500; for each violation occurring after March 15, 2004, through January 12, 2009, the maximum penalty for each violation is \$32,500; and for each violation occurring after January 12, 2009, the maximum penalty for each violation is \$37,500. Each day a violation continues may constitute a separate violation.
6. All Confidential Business Information (CBI) in the CAFO has been redacted. To determine the identity of the chemical substance referenced in the CAFO or the CBI that was deleted (CBI deleted), Complainant and/or Respondents should refer to the letter, dated May 11, 2011, sent to Arkema Inc. identifying the potential violations of TSCA and notifying the Respondent of the opportunity to show cause why EPA should not proceed with an enforcement action.

7. Pursuant to 40 C.F.R. § 22.5(c)(4), the following individual is authorized to receive service for EPA in this proceeding:

Mark Bean  
Chemical Products and Asbestos Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-9000

### **III. Specific Allegations**

8. Respondent Arkema Inc. owns and operated a chemical manufacturing facility located at 13755 Highway 43 N in Axis, Alabama 36505, during calendar year 2005.
9. Pursuant to 40 C.F.R. § 710.3, Respondent is a person subject to TSCA.
10. Pursuant to 40 C.F.R. § 710.3, the facility located on this property is a site, referred to hereinafter as the Site.
11. During calendar year 2005, Respondent Arkema Inc. manufactured or processed chemical substances at the Site. In accordance with Section 11 of TSCA, 15 U.S.C. § 2610, on September 9, 2009, an authorized representative of EPA conducted an inspection at the Site. Supplemental information was submitted by Arkema Inc. subsequent to the inspection.
12. During calendar year 2005, Respondent manufactured or processed Chemical A, Chemical B, Chemical C, Chemical D, Chemical E, Chemical F, and Chemical G at the Site in amounts regulated under TSCA.
13. Pursuant to 40 C.F.R. § 710.43, the Master Inventory File is EPA's comprehensive list of chemical substances which constitute the Chemical Substances Inventory denoting existing chemicals manufactured or imported for commercial distribution within the United States.
14. Chemical A, Chemical B, Chemical C, Chemical D, Chemical E, Chemical F, and Chemical G are chemical substances listed on the Master Inventory file and subject to the reporting requirements promulgated at 40 C.F.R. § 710.45.

15. For calendar year 2005, Respondent Arkema Inc. filed an Inventory Update Report (the IUR) for the Site dated November 20, 2006. The IUR reported a manufactured volume for Chemical A. The IUR did not report any manufactured volumes for Chemical B, Chemical C, Chemical D, Chemical E, Chemical F, and Chemical G.
16. Pursuant to 40 C.F.R. § 710.43, the reporting year applicable to this matter was calendar year 2005.
17. Pursuant to 40 C.F.R. § 710.43, the submission period is the period in which information generated during the reporting year is submitted to EPA.
18. Pursuant to 40 C.F.R. § 710.53, the submission period applicable to this matter was between the dates of August 25, 2006, and March 23, 2007, inclusive.
19. Respondent manufactured or processed Chemical A in an amount that exceeded the reported manufactured volume by greater than ten percent. Complainant alleges that Respondent violated 40 C.F.R. § 710.52(c)(3)(iv).
20. Respondent manufactured or processed Chemical B, Chemical C, Chemical D, Chemical E, Chemical F, and Chemical G in volumes greater than 25,000 pounds for each chemical substance named. Complainant alleges that Arkema Inc. violated 15 U.S.C. § 2614(3)(B) for each chemical substance named in this paragraph.

#### **IV. Consent Agreement**

21. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
22. Respondent waives its right to a hearing on the allegations contained herein and their right to appeal the proposed Final Order accompanying the Consent Agreement.
23. Respondent consents to the assessment of the penalty proposed by EPA and agree that the penalty will be paid as set forth in this CAFO.

24. Respondent certifies that as of the date of its execution of this CAFO, solely regarding the specific violations set forth and alleged herein, Respondent is in compliance with the TSCA regulations referred to in this CAFO.
25. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.
26. 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 TSCA.
27. For the purposes of settlement of this matter, Arkema Inc. shall pay the penalty assessed by the CAFO.

#### **V. Final Order**

28. Respondent is assessed a civil penalty of **ONE HUNDRED THIRTY THOUSAND FOUR HUNDRED DOLLARS (\$130,400)** which shall be paid within thirty (30) days of the effective date. If the penalty is not paid as required by this CAFO, EPA reserves its rights to initiate action pursuant to Section 16(a) of TSCA to assess penalties for violations of TSCA.
29. Payment of the penalty shall be by either a cashier's or certified check made payable to the "Treasurer, United States of America" or wire transfer as set forth below. **The Respondent shall note on the face of the check the Respondent's name and the Docket Number associated with this CAFO, TSCA-04-2011-2534(b).** The penalty payment shall be sent by one of the following methods to the address identified for the method chosen.

Address for payment submittal using the United States Postal Service:

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

Address for payment submittal using other mail service (e.g., Federal Express, United Parcel Service (UPS), DHL, etc.):

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, Missouri 63101

Contact Person: Natalie Pearson – (314) 418-4087

Instructions for Wire Transfer:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York NY 10045  
Field Tag 4200 of the Fedwire message should read  
“ D 68010727 Environmental Protection Agency “

30. At the time of payment, the Respondent making the payment shall send a separate copy of the check or documentation of a wire transfer and a written statement that the payment is being 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  
Atlanta, Georgia 30303-8960,

Mark Bean  
Chemical Products and Asbestos Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960, and

Saundi J. Wilson  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960.

31. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agree not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by any Respondent to deduct any such payments shall constitute a violation of this CAFO.
32. Pursuant to 31 U.S.C. § 3717, 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 date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
33. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
34. This CAFO shall be binding upon the Respondent, their successors and assigns.
35. 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 binds that party to this CAFO.

**The remainder of this page is intentionally left blank**




**VI. Effective Date**

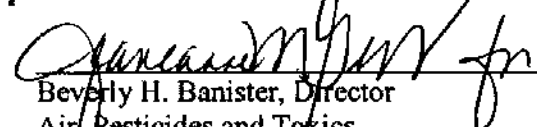
36. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**


**Respondent:** Arkema Inc.  
**Docket No.:** TSCA-04-2011-2534(b)

By:  Date: 9/19/11  
Name: Emanuel Kitz  
Title: Global Corp President

**Complainant:** U.S. Environmental Protection Agency

By:  Date: 11-29-11  
Beverly H. Banister, Director  
Air, Pesticides and Toxics  
Management Division

**APPROVED AND SO ORDERED** this 8<sup>th</sup> day of December

By:   
Susan B. Schub  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of Arkema Inc., Docket Number: TSCA-04-2011-2534(b), to the addressees listed below.

Marla Cochran (via Certified Mail, Return Receipt Requested)  
Director of Product Safety and Regulatory Affairs  
Arkema Inc.  
900 First Avenue  
King of Prussia, Pennsylvania 19046-1308

Mark Bean (via EPA's internal mail)  
Chemical Products and Asbestos Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Robert Caplan (via EPA's internal mail)  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

By:



Date:

12-8-11

Patricia Bullock  
Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth St., S.W.  
Atlanta, GA 30303

(404) 562-9511