

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:)
)
Illinois Tool Works, Inc./Signode Division)
)
Respondent)
_____)

Docket Number: TSCA-04-2007-2743(b)

RECEIVED
EPA REGION IV
2007 JUL 17 PM 4:30
HEARING CLERK

CONSENT AGREEMENT 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), 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 Illinois Tool Works, Inc./Signode Division (hereinafter, "Respondent").

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 Administrator of EPA promulgated rules in 40 C.F.R. Part 761, pursuant to Section 6(e) of TSCA, 15 U.S.C. §2605. Failure to comply with any such rule constitutes a violation of Section 15 of TSCA, 15 U.S.C. §2614. Any person who violates a provision of Section 15 of TSCA may be assessed a penalty of up to \$27,500 for each such violation occurring between January 30, 1997, and March 15, 2004, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19. For each such violation occurring after March 15, 2004, a penalty of up to \$32,500 may be assessed. Each day a violation continues may constitute a separate violation.

4. 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.

III. Specific Allegations

5. Respondent is a user of Polychlorinated Biphenyl (PCB) Items operating in the Commonwealth of Kentucky and is a "person" as defined in 40 C.F.R. §761.3.

6. On or about December 1, 2005, an inspection was conducted at Respondent's establishment located at 7080 Industrial Road in Florence, Kentucky to determine compliance with regulations promulgated under Section 6(e) of TSCA pertaining to PCBs.

7. At the time of the inspection, Respondent had a Niagara PCB Transformer, Serial Number 44959, in service containing 393 gallons of Askarel. Pursuant to 40 C.F.R. §761.30(a)(1)(vi)(A) and (C), no later than December 28, 1998, all owners of PCB Transformers, including those in storage for reuse, must register their transformers with EPA and retain a record of each PCB Transformer's registration. Respondent failed to register the Niagara PCB Transformer with EPA as required in 40 C.F.R. §761.30(a)(1)(vi)(A) and maintain a record of the registration as required in 40 C.F.R. §761.30(a)(1)(vi)(C).

IV. Consent Agreement

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

9. Respondent waives its right to a hearing on the allegations contained herein.

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

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

12. Compliance with this CAFO shall resolve the allegations of 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 pursue criminal enforcement.

13. 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.

The remainder of this page is intentionally left blank.

V. Final Order

14. Respondent is assessed a civil penalty of **Fourteen Thousand Two Hundred Forty Nine Dollars and Forty Cents (\$14,249.40)**, which is to be paid within thirty (30) calendar days of the effective date of this CAFO.

15. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to "Treasurer, United States of America," to one of the following addresses:

For payment submittal by U.S. Postal Service:

U.S. Environmental Protection Agency
Box 371099M
Pittsburgh, PA 15251

For payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc.):

Mellon Client Service Center
ATTN: Shift Supervisor, Room 0690
Lockbox 371099M
500 Ross Street
Pittsburgh, PA 15262-0001

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

16. 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, GA 30303

Keith Bates
PCB and Chemical Products
Management Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

Saundi Wilson
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303.

17. For the purposes of state and federal income taxation, 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.

18. 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 principle amount not paid within 90 days of the due date.

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

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

21. The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Keith Bates
PCB and Chemical Products
Management Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-8992

22. 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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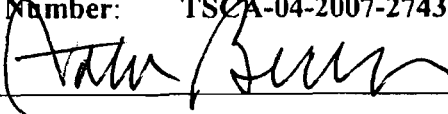
VI. Effective Date

23. 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: ILLINOIS TOOL WORKS, INC./SIGNODE DIVISION

Docket Number: TSCA-04-2007-2743(b)

By:  Date: 6/21/07

Name: John Becker (Typed or Printed)

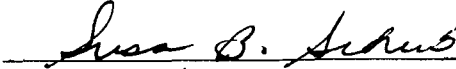
Title: Vice President & General Manager
ITW Signode CPO Plastics (Typed or Printed)

Complainant: UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

By:  Date: 7/5/07

Beverly H. Bamister, Director
Air, Pesticides and Toxics
Management Division
Region 4

APPROVED AND SO ORDERED this 17th day of July, 2007

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: Illinois Tool Works/Signode Division, Docket Number: TSCA-04-2007-2743(b), to the addressees listed below.

Keith Bates
PCB and Chemical Products
Management Section
Toxic Substances Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

(via EPA's internal mail)

Nancy Tommelleo
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth St., SW
Atlanta, GA 30303

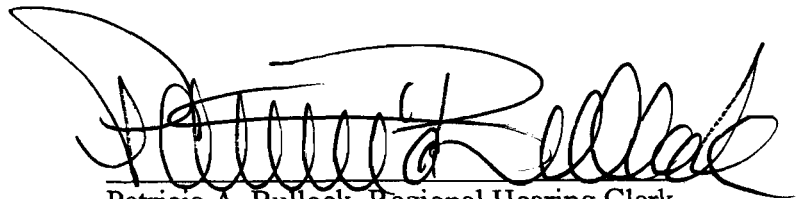
(via EPA's internal mail)

Mr. Ken Brown, CHMM
Illinois Tool Works, Inc.
Corporate Headquarters
3600 West Lake Avenue
Glenview, IL 60026-1215

(via Certified Mail, Return Receipt Requested)

Date:

7-17-07



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth St., SW
Atlanta, GA 30303
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saund, Wilson on 7/16/07
(Name) (Date)

in the DEA, OATGL at (404) 562-9504
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree
USAO COLLECTS

Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree
DOJ COLLECTS

Oversight Billing - Cost Package required:
Sent with bill

Other Receivable

Not sent with bill

This is an original debt

Oversight Billing - Cost Package not required

This is a modification

PAYEE: Illinois Tool Works Inc. / Synode Div
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 14,249.40
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: TSCA 04 2007 2743 (6)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: _____ y _____ of the Financial Management Section at: _____

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- | | |
|--|---|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD)
3. Designated Program Office |
|--|---|

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|--|---|
| 1. Originating Office
2. Regional Hearing Clerk | 3. Designated Program Office
4. Regional Counsel (EAD) |
|--|---|