



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
2890 WOODBRIDGE AVENUE
EDISON, NEW JERSEY 08837-3679

MAY 09 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7012 3460 0002 1650 6818

Mr. Kei Hara, President
Denka Corporation
780 Third Avenue, 8th floor
New York, NY 10017

Re: In the Matter of Denka Corporation
Docket No. TSCA-02-2016-0802

Dear Mr. Hara:

Enclosed is a fully executed copy of the Administrative Consent Agreement and Final Order in the above-referenced proceeding, signed by the Regional Administrator of the U.S. Environmental Protection Agency, Region 2.

Please note that the forty-five (45) day period for payment of the civil penalty commenced as of the date this Consent Agreement was signed by the Regional Judicial Officer. Please arrange for payment of this penalty according to the instructions given within the enclosed document under "Terms of Consent Agreement." Further, please ensure that a copy of your payment check or documentation of electronic payment is provided to the EPA staff member listed in that section of the Agreement.

Please contact Mark Bean of my staff at (732) 321-6606 or by electronic mail at bean.mark@epa.gov, should you have any questions regarding this matter.

Sincerely,

John Gorman, Chief
Pesticides and Toxic Substances Branch

Enclosure

U.S. Environmental
Protection Agency-Reg 2
2016 MAY 17 PM 12:03
REGIONAL HEARING
CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

-----X
In the Matter of :
Denka Corporation, :
Respondent. :
Proceeding under Section 16(a) of :
the Toxic Substances Control Act. :
-----X

REGIONAL HEARINGS
2016 MAY 18 PM 12:03
U.S. Environmental
Protection Agency-Reg 2

CONSENT AGREEMENT AND
FINAL ORDER
Docket No. TSCA-02-2016-0802

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §2615(a). Pursuant to 40 C.F.R. § 22.13(b) of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," 40 C.F.R. Part 22 (July 1, 2000), where the parties agree to settlement of one or more causes of action before the filing of an Administrative Complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Order pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

The Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency, Region 2 ("EPA" or "Complainant"), alleges that Denka Corporation ("Denka" or "Respondent") violated Section 5 of TSCA, 15 U.S.C. § 2604, and the regulations promulgated pursuant to the provisions of this section which are set forth at 40 C.F.R. Part 723 Subpart B, Specific Exemptions. The Complainant further alleges that Respondent has thereby violated Section 15 of TSCA, 15 U.S.C. § 2614. EPA and Denka agree

that settling this matter by entering into this Consent Agreement and Final Order (hereinafter "CAFO") pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) is an appropriate means of resolving this case without further litigation. This CAFO is being issued pursuant to said provisions of 40 C.F.R. Part 22.

FINDINGS OF FACT

1. Respondent is Denka Corporation.
2. Respondent owns, operates, and/or controls the facility located at 780 Third Avenue, 8th Floor, New York, New York 10017.
3. On July 10, 2015 and August 7, 2015, Denka disclosed to EPA that it had imported small volumes of two chemical substances, hereinafter designated Chemical A and Chemical B, which were not listed on EPA's Master Inventory.
4. Respondent failed to submit Low Volume Exemptions for Chemical A and Chemical B as required by 40 C.F.R. § 723 Subpart B at least thirty days prior to those substances being imported by the Respondent's facility.

CONCLUSIONS OF LAW

1. Respondent is a "person" as that term is defined in 40 C.F.R. § 720.3.
2. Respondent is an "importer" as that term is defined at 40 C.F.R. § 720.3.
3. At all times relevant to this action Chemical A and Chemical B were subject to the requirements of Section 5(a) of TSCA and the regulations promulgated pursuant to Section 5 of TSCA set forth at 40 C.F.R. Part 720.
4. Importation of a chemical substance not listed on EPA's Master Inventory without a valid exemption is a violation of 40 C.F.R. § 723 Subpart B, which is a violation of TSCA Sections 5(a) and 15 U.S.C. §§ 2604(a) and 2614.

TERMS OF CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and in accordance with the Consolidated Rules of Practice at 40 C.F.R. Part 22, it is hereby agreed by and between the parties hereto, and accepted by Respondent, that Respondent voluntarily and knowingly agrees to, and shall comply with, the following terms:

1. Respondent shall hereinafter comply with all applicable provisions of TSCA and the regulations promulgated pursuant to it.
2. For the purposes of this Consent Agreement, Respondent: a) admits that EPA has jurisdiction to commence a civil administrative proceeding for the violations alleged in the "Findings of Fact" and "Conclusions of Law" sections, above; b) neither admits nor denies the specific factual allegations contained in this Consent Agreement; c) consents to the assessment of the civil penalty as set forth below; and d) consents to the issuance of the Final Order accompanying this Consent Agreement.
3. Respondent shall pay, by cashier's or certified check, a civil penalty in the amount of **FIFTY THREE THOUSAND FOUR HUNDRED SEVENTY FIVE DOLLARS (\$53,475)**, payable to the "Treasurer of the United States of America." The check shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. Such check shall be mailed to:

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

Alternatively, payment may be made by Electronic Fund Transfer (EFT) directed to the Federal Reserve Bank of New York. Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- 3) Account: 68010727
- 4) ABA number: 021030004
- 5) Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"
- 6) Name of Respondent
- 7) Docket Number

Promptly after payment has been made, Respondent shall send copies of this payment or furnish reasonable proof that such payment has been made to both:

Mark Bean, Life Scientist
U.S. Environmental Protection Agency, Region 2
Pesticides and Toxic Substances Branch
2890 Woodbridge Avenue, MS-105
Edison, NJ 08837

and

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007

Payment must be received at the above address (or account of EPA) on or before **45 calendar days** after the date of the signature of the Final Order at the end of this document (the date by which payment must be received shall hereinafter be referred to as the "due date").

a. Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for collection.

b. Further, if payment is not received on or before the due date, interest will be assessed, at the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6%

per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

4. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full and final settlement of the civil liabilities under the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*, and the regulations promulgated thereunder that attach or might have attached as a result of the “Findings of Fact and Conclusions of Law” section, above. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable, and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.

5. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement, and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

6. Respondent hereby waives its right to seek or to obtain any hearing (pursuant to Subpart D of 40 C.F.R. Part 22) or other judicial proceeding on the assertions or allegations contained in the “Findings of Fact and Conclusions of Law” section, above, or on any allegations arising thereunder. Respondent further waives its right otherwise to contest all such assertions and/or allegations.

7. Respondent waives any right it may have pursuant to 40 C.F.R. §22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

8. This Consent Agreement does not waive, extinguish, or otherwise effect Respondent's obligation to comply with all applicable federal, state, or local laws, rules, or regulations.

9. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all terms and conditions set forth in this Consent Agreement.

10. Each party shall bear its own costs and fees in this matter.

11. Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

RESPONDENT:

BY: Kei Hara
Denka Corporation

NAME: KEI HARA
(PLEASE PRINT)

TITLE: President

DATE: 04/29/2016

COMPLAINANT:

[Signature]
Dore LaPosta, Director
Division of Enforcement and
Compliance Assistance
U.S. Environmental Protection
Agency, Region 2
290 Broadway
New York, NY 10007

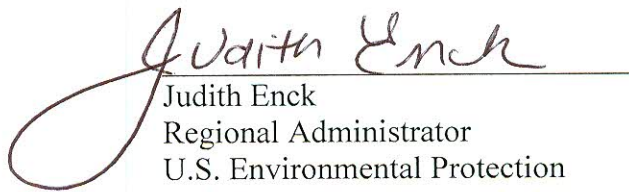
DATE: MAY 10 2016

In the Matter of Denka Corporation
Docket No. TSCA-02-2016-0802

FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement, entered into by the parties in full settlement of EPA's Administrative Action bearing Docket No. TSCA-02-2016-0802, issued in the matter of Denka Corporation is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.

DATE: May 10, 2016

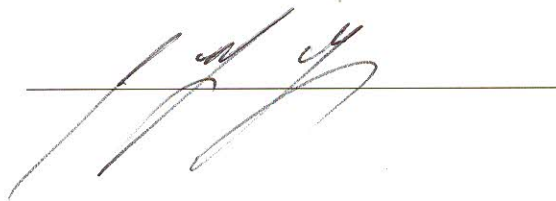

Judith Enck
Regional Administrator
U.S. Environmental Protection
Agency, Region 2
290 Broadway
New York, NY 10007

CERTIFICATE OF SERVICE

This is to certify that on *May 13, 2016*, I served a true and correct copy of the foregoing fully executed Consent Agreement and Final Order bearing Docket Number TSCA-02-2016-0802, by certified mail, return receipt requested, to:

Kei Hara, President
Denka Corporation
780 Third Avenue
8th floor
New York, NY 10017

On the same date, I mailed via EPA internal mail to the Region 2 Regional Hearing Clerk at 290 Broadway, New York, New York 10007 the original and one copy of the foregoing Consent Agreement and Final Order.

A handwritten signature in black ink, appearing to be 'Kei Hara', is written over a horizontal line. The signature is stylized and cursive.