



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

MAY 24 2011

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Michael L. Thrasher  
Environmental Health  
and Safety Manager  
Gardner Gibson, Inc.  
4161 East 7th Avenue  
Tampa, Florida 33605

Re: Gardner Gibson, Inc.  
Ratified Consent Agreement and Final Order  
Docket No.: TSCA-04-2011-2529(b)

Dear: Mr. Thrasher

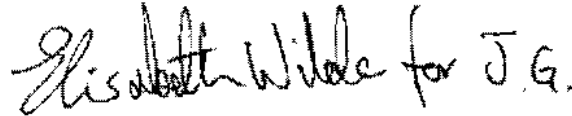
Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 CFR Part 22.

As stated in Section V of the CAFO, the assessed penalty of \$35,142.47 is due within 180 days from the effective date. Please ensure that the face of your cashier's or certified check includes the name of the respondent and the docket number of this case. Penalty payment questions should be directed to Mr. Bryson Lehman either by telephone at (513) 487-2123 or by written correspondence to his attention at U.S. Environmental Protection Agency, Cincinnati Accounting Operations at the address identified in the CAFO.

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 EPA.

Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Mr. Verne George of the EPA Region 4 staff at (404) 562-8988.

Sincerely,

A handwritten signature in cursive script that reads "Elisabeth Wilde for J.G.".

Jeananne M. Gettle  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures



## **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 this CAFO has been redacted. To determine the identity of the chemical substance referenced in this CAFO or the CBI that was deleted (CBI deleted), Complainant and/or Respondent should refer to the letter, dated August 23, 2010, sent to the Respondent 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:

Verne George  
Chemical Products and Asbestos Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-8988.

### **III. Specific Allegations**

8. Respondent is a manufacturer of coatings, sealants, caulks and adhesives.
9. Respondent is also an importer as the term is defined in 40 C.F.R. § 704.3.
10. Respondent operates twelve manufacturing and distribution facilities throughout the United States.
11. Respondent's corporate headquarters office is located at 4161 East 7<sup>th</sup> Avenue, Tampa, Florida.
12. On or about July 13, 2009, Respondent submitted its 2005 import records to EPA.

13. Upon review of Respondent's 2005 import records, Complainant discovered that Respondent had imported reportable quantities of [CBI deleted], hereinafter referred to as "Chemical A" and [CBI deleted], hereinafter referred to as "Chemical C".
14. Pursuant to 40 C.F.R. § 710.45, Chemical A and Chemical C are substances for which information was required to be reported on the 2006 Inventory Update Report (IUR).
15. During the IUR reporting period (August 25, 2006 through March 23, 2007) described in 40 C.F.R. § 710.53, Respondent failed to submit a timely 2006 IUR to the EPA in Washington D.C. for Chemical A and Chemical C as required by 40 C.F.R. § 710.52.
16. On or about December 16, 2010, Respondent submitted the 2006 IUR for Chemical A and Chemical C.
17. Respondent violated 40 C.F.R. § 710.52 by failing to submit a 2006 IUR to EPA during the reporting period for Chemical A and Chemical C.

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

18. 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.
19. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed Final Order accompanying the Consent Agreement.
20. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
21. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with the TSCA regulations referenced in this CAFO.
22. 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.

23. 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.

**V. Final Order**

24. Respondent is assessed a civil penalty of **THIRTY FIVE THOUSAND, SEVENTY FIVE DOLLARS and TWENTY CENTS (\$35,075.20)**. Three payments will be made to complete payment of the entire civil penalty including interest. The first installment is due within 30 days of the effective date of this CAFO. The second installment is due in 90 days of the effective date of the CAFO, and the third installment is due in 180 days of the effective date of the CAFO. Including the civil penalty and interest, the total amount that will be paid upon the completion of all payments will be **THIRTY FIVE THOUSAND, ONE HUNDRED FORTY TWO DOLLARS and FORTY SEVEN CENTS (\$35,142.47)**. Respondent shall make payments in accordance with the following schedule:

<b><u>Payment Number</u></b>	<b><u>Payment Due Date</u></b>	<b><u>Payment Due</u></b>
1	within 30 days of filing of CAFO	\$11,691.74
2	within 90 days of filing of CAFO	\$11,730.17
3	within 180 days of filing of CAFO	\$11,720.56

25. Respondent shall remit the penalty payment by either a cashier's or certified check made payable to the "Treasurer, United States of America." **The Respondent shall note on**

**the face of the check the Respondent's name and the Docket Number associated with this CAFO.**

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

26. At the time of payment, Respondent shall send a separate copy of the check 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, S.W.  
Atlanta, Georgia 30303-8960;

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



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

27. If Respondent fails to make one of the installment payments in accordance with the schedule set forth above, and if such payment is not made within 30 days after the due date, that payment plus all subsequent payments (the entire unpaid balance) **and all accrued interest** shall become immediately due and payable on the 31<sup>st</sup> day from such due date. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described below in the event of any such failure or default.
28. Further, if Respondent fails to pay the installment payments in accordance with the schedule set forth above, EPA may refer the debt to a collection agency, a credit reporting agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
29. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth above, Respondent may pay the entire civil penalty of **THIRTY FIVE THOUSAND, SEVENTY FIVE DOLLARS and TWENTY CENTS (\$35,075.20)** within thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a). In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire

principal balance remaining, together with interest accrued up to the date of such full payment.

30. 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.
31. 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.
32. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
33. This CAFO shall be binding upon the Respondent, its successors and assigns, and the Complainant.
34. The undersigned representative of the party 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.

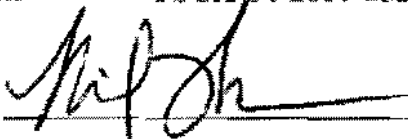
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**VI. Effective Date**

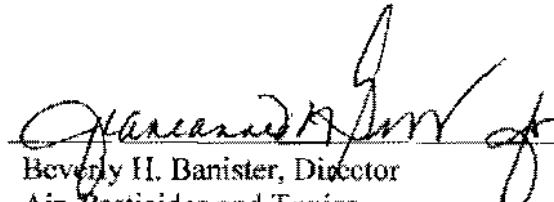
35. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**

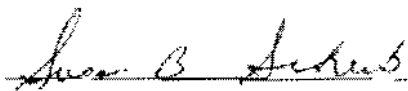
**Respondent:** Gardner-Gibson, Inc.  
**Docket No.:** TSCA-04-2011-2529(b)

By:  Date: 4/18/11  
Name: Michael Thrasher  
Title: Corporate EHS Manager

**Complainant:** U.S. ENVIRONMENTAL PROTECTION AGENCY

By:  Date: 04/25/11  
Beverly H. Banister, Director  
Air, Pesticides and Toxics  
Management Division

**APPROVED AND SO ORDERED** this 24<sup>th</sup> day of May, 2011.

By:   
Susan B. Schuh  
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 Gardner Gibson, Inc. Docket Number: TSCA-04-2011-2529(b), to the addressees listed below.

Michael L. Thrasher (via Certified Mail, Return Receipt Requested)  
Environmental Health and Safety  
Manager  
Gardner Gibson, Inc.  
4161 East 7th Avenue  
Tampa, FL 33605

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

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

By:



Date:

5-24-11

Patricia A. Bullock  
Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth St., S.W.  
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: Saundi Wilson on 4/27/11  
(Name) (Date)

in the Region 4, ORC, OEA 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

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: Gardner Gibson Inc.  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 35,142.47 / 3 installments  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: TSCA 04 2011 2529 (b)

The Site Specific Superfund Account Number: \_\_\_\_\_

The Designated Regional/Headquarters Program Office: \_\_\_\_\_

The IFMS Accounts Receivable Control Number is: \_\_\_\_\_ Date \_\_\_\_\_

If you have any questions, please call: \_\_\_\_\_ 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<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7611, Benjamin Franklin Station<br>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     | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD)    |