



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

JUN 17 2010

CERTIFIED MAIL -
RETURN RECEIPT REQUESTED

Ms. Kristin Holloway Jones
Alston & Bird LLP
1201 West Peachtree Street
Atlanta, Georgia 30309

Re: Ortec, Inc.
Docket No. TSCA-04-2010-2720(b)

Dear Ms. Jones:

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.

As stated in Section V of the CAFO, the assessed penalty of \$27,402.30 is due within 30 days from the effective date. Please ensure that the face of your cashier's or certified check includes the name of the company and the docket number of this case.

Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125 or by written correspondence to her attention at U.S. Environmental Protection Agency (EPA), Cincinnati Accounting Operations address identified in the CAFO. Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Mr. Tony Spann at (404) 562-8971.

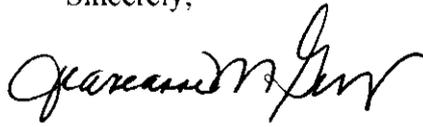
Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document

Internet Address (URL) • <http://www.epa.gov>

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puts you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by EPA.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeaneanne M. Gettle". The signature is fluid and cursive, with a large initial "J" and "G".

Jeaneanne M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures

II. Preliminary Statements

3. 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. 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, in accordance with Section 16(a) of TSCA. Pursuant to the Civil Monetary Penalty Inflation Rule 40 C.F.R. Part 19, effective January 12, 2009, the statutory penalty amount has been adjusted due to inflation to \$37,500. 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.
5. Complainant will file the original non-confidential CAFO with the Regional Hearing Clerk and a copy will be mailed to the Respondent. To determine the confidential business information (CBI) that was deleted (CBI deleted) from this CAFO, Complainant or Respondent should refer to your EPA Confidential Notice of Violation.
6. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Tony Spann
Chemical Products and
Asbestos Section
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
(404) 562-8971

III. Specific Allegations

7. Respondent owns and operates a chemical manufacturing business located at 505 Gentry Memorial Highway, Easley, South Carolina.
8. Respondent is a manufacturer as the term is defined in 40 C.F.R. § 720.3(t).
9. On May 10, 2007, an authorized agent of EPA Region 4 conducted an audit at Respondent's office pursuant to Section 11(a) of TSCA, 15 U.S.C. § 2610(a).
10. On March 28, 2005, Respondent manufactured 9,294 pounds of [CBI deleted] hereinafter referred to as Chemical B.
11. On June 20, 2005, Respondent manufactured 5,505 pounds of Chemical B.
12. According to EPA's certified statement dated July 29, 2008, Chemical B was not on the TSCA inventory when it was manufactured in 2005.
13. Pursuant to 40 C.F.R. § 720.3(v), any chemical substance which is not included on the TSCA Inventory is classified as a new chemical substance.
14. The regulation promulgated at 40 C.F.R. § 720.22(a)(1) requires any person who intends to manufacture a new chemical substance in the United States for commercial purpose to submit to the EPA a premanufacture notice (PMN) unless the substance is excluded pursuant to 40 C.F.R. § 720.30.
15. At the time of the inspection, there was no record indicating the Respondent submitted a PMN to the EPA prior to manufacturing Chemical B.

16. Respondent violated 40 C.F.R. § 720.22(a)(1) by failing to submit to the EPA a PMN for Chemical B.

IV. Consent Agreement

17. 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.
18. 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.
19. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
20. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA.
21. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA, for the specific violations alleged herein. Except as specifically provided in this CAFO, EPA reserves all other civil and criminal enforcement authorities, including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is Respondent's responsibility to comply with said laws and regulations.
22. 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

23. Respondent is assessed a civil penalty of Twenty - Seven Thousand Four Hundred Two Dollars and Thirty Cents (\$27,402.30) which shall be paid within 30 days from the effective date of this CAFO.
24. Respondent shall remit the civil penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check to the following address by U.S. Postal Service:

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

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

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

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

Contact: Natalie Pearson (314) 418-4087

25. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment has been made in accordance with this CAFO, to each of the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960;

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

and

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

26. 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.
27. 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.
28. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
29. This CAFO shall be binding upon the Respondent, its successors and assigns.

30. 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.

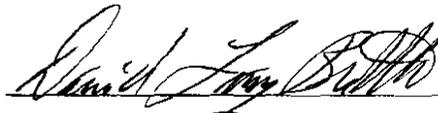
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VI. Effective Date

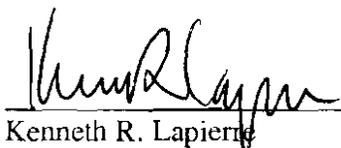
31. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

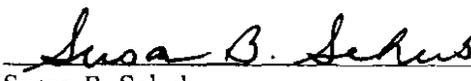
Respondent: Ortec, Inc.
Docket No.: TSCA-04-2010-2720(b)

By:  (Signature) Date: June 9, 2010
Name: David L. Brotherton (Typed or Printed)
Title: President (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By:  Date: 6/14/2010
Kenneth R. Lapierre
Acting Director
Air, Pesticides and Toxics
Management Division
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 17th day of June, 2010.

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: Ortec, Inc., Docket Number: TSCA-04-2010-2720(b), to the addressees listed below.

Kristin Holloway Jones
Alston & Bird LLP
1201 West Peachtree Street
Atlanta, GA 30309

(via Certified Mail, Return Receipt Requested)

Tony Spann
Chemical Products and
Asbestos Section
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, GA 30303

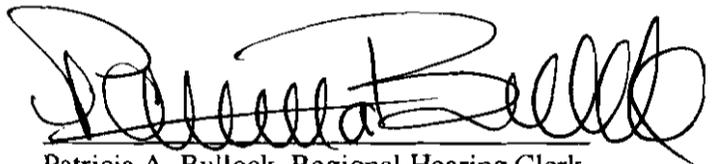
(via EPA's internal mail)

Lucia Mendez, Attorney
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth Street, SW
Atlanta, GA 30303

(via EPA's internal mail)

Date:

6-17-10



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

Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings

Securities and Exchange Commission Regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 C.F.R. 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 C.F.R. 228.103) require disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 C.F.R. 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K, or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceeding to the SEC. This notice does not create, modify, or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by government authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the Office of Chief Counsel of the SEC's Division of Corporation Finance. The phone number is (202) 551-3500.