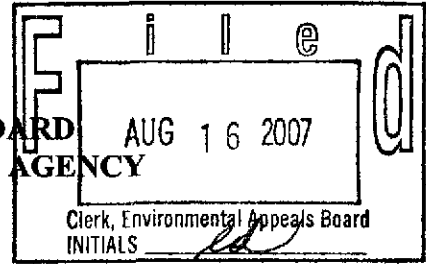


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In the Matter of:)
)

Ashland Inc.)
)

Respondent.)
_____)

Docket Number TSCA-HQ-2007-5013

FINAL ORDER

The United States Environmental Protection Agency as Complainant, and Ashland Inc. as Respondent, the Parties herein, having signed and consented to entry of the attached Consent Agreement incorporated by reference into this Final Order,

NOW, THEREFORE, IT IS ORDERED THAT:

1. Respondent, Ashland Inc., shall comply with all terms of the Consent Agreement;
2. Respondent is assessed a civil penalty of **Four Thousand Four Hundred Forty Eight Dollars and Eighty Nine Cents (\$4,448.89.)**; and
3. Respondent shall, in accordance with the payment provisions set forth in the Consent Agreement, make payment via a certified or cashier's check or through a wire transfer as described in the Consent Agreement.

IT IS SO ORDERED.

By: Anna Holst
Environmental Appeals Board

Dated: August 16, 2007

CERTIFICATE OF SERVICE

I certify that the foregoing "Consent Agreement and Final Order," *Ashland Inc.*, Docket No. TSCA-HQ-2007-5013, was filed and copies of the same were mailed to the parties as indicated below:

Kathy M. Clark, Esq.
Waste and Chemical Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W. (Mail Code 2249A)
Washington, D.C. 20460
(202) 564-4164
Fax: (202) 564-0035

Kristina M. Woods, Esq.
Law Department
Ashland Inc.
5200 Paul G. Blazer Memorial Parkway
Dublin, OH 43017

Douglas H. Green, Esq.
Venable LLP
575 7th Street, N.W.
Washington, D. C. 20004
(202) 344-4483
Fax: (202) 344-8300
dgreen@venable.com



Annette Duncan
Secretary
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460-0001

Dated: 8/20/07

5. Respondent owns and operates the manufacturing facilities identified in Appendix A of this CAFO.
6. Respondent "manufactures," which means to import into the customs territory of the United States, produce or manufacture, as defined in TSCA section 3(7), 15 U.S.C. § 2602(7).
7. The term "chemical substance," with certain exceptions, means any organic or inorganic substance of a particular molecular identity including (i) any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature and (ii) any element or uncombined radical. TSCA section 3(2), 15 U.S.C. § 2602(2).
8. Any chemical substance which is not included in the chemical substance list (TSCA Inventory) compiled and published under TSCA section 8(b), 15 U.S.C. § 2607(b), is a "new chemical substance" pursuant to TSCA section 3(9), 15 U.S.C. § 2602(9).
9. Pursuant to TSCA section 5(a)(1), 15 U.S.C. § 2604(a)(1), except as provided in TSCA section 5(h), no person may manufacture a new chemical substance unless such person submits a Premanufacture Notification (PMN) to the appropriate EPA office at least ninety (90) days before manufacturing that substance.

COUNT 1

10. TSCA section 8(a), 15 U.S.C. § 2607(a), provides that the Administrator shall promulgate rules under which each person who manufactures a chemical substance shall maintain such records and shall submit such records as the Administrator may reasonably require.
11. Pursuant to 40 C.F.R. § 720.102(a), a rule promulgated under the authority of TSCA section 8(a), any person who commences the manufacture or import of a new chemical substance for a non-exempt commercial purpose for which that person previously submitted a section 5(a) notice under this part must submit a Notice of Commencement (NOC) of manufacture or import.
12. Pursuant to 40 C.F.R. § 720.102(b), a rule promulgated under the authority of TSCA section 8(a), the submitter must submit the notice to EPA on, or no later than thirty (30) calendar days after, the first day of such manufacture or import.
13. TSCA section 15(3)(B), 15 U.S.C. § 2614(3)(B), provides that it is unlawful for any person to fail or refuse to submit reports, notices, or other information as required by TSCA, or a rule thereunder, for which a penalty may be assessed pursuant to TSCA section 16(a), 15 U.S.C. § 2615(a).
14. Respondent filed a PMN for a chemical identified by Respondent as P-05-0355 (Chemical A) on February 28, 2005, and the 90-day review period expired on May 28, 2005.

15. Respondent manufactured Chemical A on October 6, 2005, October 15, 2005, and December 15, 2005.
16. Respondent sold Chemical A that was manufactured on October 6, 2005, October 15, 2005, and December 15, 2005 for commercial purposes on November 17, 2005 and December 30, 2005.
17. Respondent failed to file a NOC on, or no later than thirty (30) calendar days, after the first date of manufacture or import as required by 40 C.F.R. § 720.102(b).
18. On June 2, 2006, Respondent voluntarily informed EPA in writing that Respondent manufactured Chemical A on October 6, 2005, October 15, 2005, and December 15, 2005, and that some of those batches were sold for commercial purposes on November 17, 2005 and December 30, 2005.
19. On June 2, 2006, Respondent voluntarily informed EPA in writing that it had failed to submit a NOC for Chemical A.
20. Therefore, Respondent failed to submit a NOC in violation of TSCA section 15(3)(B), 15 U.S.C. § 2614(3)(B).

SECTION III. TERMS OF SETTLEMENT

Subsection A. General Terms of Settlement

21. EPA has concluded that Respondent's past actions, as alleged in Paragraphs 14-20, constituted a violation of TSCA section 15(3)(B), 15 U.S.C. § 2614(3)(B), for which a penalty may be assessed pursuant to TSCA section 16(a), 15 U.S.C. § 2615(a).
22. The civil penalty for such violations, pursuant to TSCA's Section 5 Enforcement Response Policy - Amended July 1, 1993 (ERP), is \$19,343. The gravity-based penalty is based on the following factors: (a) the nature of the violation is hazard assessment, (b) the circumstance level is 3, and (c) the extent level is major. Pursuant to the ERP, Complainant reduced the civil penalty by 77 percent to \$4,448.89 because Respondent (a) self-disclosed (25%) (b) within thirty (30) days of discovery of the violation (25%), (c) took all steps reasonably expected to remedy the violation (15%), and (d) was cooperative in its attitude (12%).
23. Through the execution of this Consent Agreement, Respondent certifies, and EPA confirms, that Respondent has corrected the violation alleged in Paragraphs 14-20, such that Respondent presently is in full compliance with TSCA with respect to the actions alleged in Paragraphs 14-20.
24. Respondent voluntarily offered and has agreed to review its compliance at various facilities, as set forth at Subsection C of this section.

25. In settlement of the claims alleged in Paragraphs 14-20, Respondent agrees to:

- (a) pay a civil penalty of \$4,448.89, as further discussed at Subsection B of this section;
- (b) conduct a TSCA sections 5 and 13 Compliance Audit (Audit) covering the facilities described in Appendix A; and
- (c) pay additional civil penalties for violations discovered as a result of the Audit, as further discussed at Subsections E and F of this section.

26. The payment of the Civil Penalty and performance of the acts required under the Consent Agreement shall effect a complete settlement of all civil administrative claims and causes of action for all violations identified in the CAFO, and for all, if any, violations identified by Ashland and resolved through Ashland's subsequent penalty payment as described in Paragraphs 27 and 82 as a result of the Audit. With respect to such violations identified in the Final Audit Report by Ashland and resolved through Ashland's subsequent penalty payment as described in Paragraphs 27 and 82 as a result of the Audit, this settlement shall be complete only if Respondent:

- (a) corrects the violations in the manner required at Subsection D of this section; and
- (b) pays any penalty that may be due in compliance with Subsections E and F of this section.

Nothing in this paragraph is intended to limit EPA's ability to issue notification letters prohibiting or limiting the manufacturing, processing, distribution, use or disposal of such chemical substances as it relates to Ashland's disclosed violations or orders prohibiting or limiting the manufacturing, processing, distribution, use or disposal of such chemical substance as it relates to Ashland's disclosed violations under TSCA sections 5(e) or 5(f).

27. Within thirty (30) calendar days of EPA's receipt of Respondent's Final Audit Report, the parties shall consult in good faith, if Ashland requests such a consultation, regarding any violations identified under the Audit for which the Agency intends to assess a civil penalty, and EPA shall allow Ashland an opportunity to explain why penalty mitigation pursuant to Paragraph 33 of this CAFO, or other relevant basis, is appropriate.

- (a) Within (30) calendar days following such good faith consultation and explanation, if EPA determines in its sole discretion that violations remain for which Ashland must pay civil penalties, Complainant will submit to Respondent a demand letter as described in Paragraph 82 which specifies the civil penalties due and owed by Respondent.
- (b) Within thirty (30) calendar days following Respondent's receipt of such demand letter, Respondent shall pay the civil penalties in the amount and manner specified in Subsections E and F.

Subsection B. Payment of Civil Penalty for Violation Alleged in the Consent Agreement

28. Respondent agrees to pay a civil penalty in the sum of \$4,448.89.

29. Not more than sixty (60) calendar days after the effective date of the Final Order, Respondent shall either submit a cashier's or certified check with a notation of "Ashland Inc., Civil Penalty Docket No. TSCA-HQ-2007-5013," payable to the order of the "Treasurer, United States of America," in the amount of \$4,448.89 to:

EPA-Washington
Hearing Clerk
Docket No. TSCA-HQ-2007-5013
P.O. Box 360277
Pittsburgh, PA 15251-6277

or pay \$4,448.89 by wire transfer with a notation of "Ashland Inc., Civil Penalty Docket No. TSCA-HQ-2007-5013" by using the following instructions:

Name of Beneficiary: EPA
Number of Account for deposit: 68010099
The Bank Holding Acct: Treas_NYC
The ABA routing Number: 021030004

30. Respondent shall forward a copy of the check or documentation of a wire transfer to:

Tony R. Ellis, Case Development Officer
U.S. Environmental Protection Agency (2249A)
Waste and Chemical Enforcement Division
1200 Pennsylvania Ave., NW
Washington, D.C. 20460
(202) 564-4167
Fax (202) 564-0035

31. If Respondent fails to make the payment in a timely manner, as described in Paragraph 29, Respondent shall pay a stipulated penalty of One Thousand Dollars (\$1,000) per calendar day for every day the penalty payment is late, unless EPA in writing excuses or mitigates the stipulated penalty. EPA may excuse or mitigate the stipulated penalty if EPA determines that the failure to comply occurred despite the exercise of good faith and due diligence by the Respondent.

Subsection C. TSCA Compliance Audit

32. At least six months prior to Respondent's discovery of its NOC violation and without any legal obligation to do so, Respondent voluntarily approached EPA about conducting a TSCA Compliance Audit prior to any formal or informal EPA enforcement response.

33. Respondent shall conduct an Audit in accordance with the Agency's self-disclosure policy, "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations," 65 Fed. Reg. 19618 (April 11, 2000)(Audit Policy) to review, report, and correct its compliance with the requirements of TSCA section 5 and related importation certification requirements of TSCA section 13. EPA will determine whether Respondent has satisfied the terms of EPA's Audit Policy by applying the conditions of that policy.

(a) In determining whether Respondent has satisfied the voluntary discovery condition for violations discovered by the Respondent after the date of the Final Order of this Consent Agreement, EPA will deem violations reported under this CAFO to meet condition D.2 (voluntary discovery) of the Audit Policy.

(b) In determining whether Respondent has satisfied the prompt disclosure condition for violations discovered by the Respondent after the effective date of the Final Order of this Consent Agreement, if the Respondent is in compliance with Paragraphs 48, 50, 55, 60, and 70 of this CAFO, then EPA will deem Respondent's disclosure to meet condition D.3 (prompt disclosure) of the Audit Policy.

(c) In determining whether Respondent has satisfied the correction and remediation condition for violations discovered by the Respondent after the date of the Final Order of this Consent Agreement, EPA will deem violations that are corrected and remediated by the Respondent in compliance with Paragraphs 48, 49-51, 54-56, 59-61, 67-74 of this CAFO to meet condition D.5 (correction and remediation) of the Audit Policy.

34. The Audit shall cover the requirements of TSCA sections 5 and 13 for chemical substance manufacturing, importing, processing, distribution in commerce, use, and disposal activities being conducted in the United States by Respondent's following business units: Specialty Polymers and Adhesives, Composite Polymers, Casting Solutions, Drew Industrial, Environmental and Process Solutions, Ashland Distribution, Valvoline and Drew Marine, which encompass the facilities listed in Appendix A.

35. If Respondent sells or otherwise transfers ownership of a facility listed in Appendix A without completing an audit under this CAFO for such facility, it shall so notify EPA as set forth in Paragraphs 44 and 45.

36. If Respondent acquires additional facilities after the date of entry of this CAFO that it wishes to include in the Audit, it may request in writing that such facilities be covered by the Audit. EPA will use its discretion in deciding whether to grant such a request.

37. Within sixty (60) days after Respondent receives an order entered by the EPA Environmental Appeals Board (EAB) or its designated representative approving this CAFO, Respondent shall provide EPA as specified in Paragraph 45 with the schedule by which it will audit its facilities, the chemical production lines to be included in the Audit, and specific chemical substances covered by the Audit.

38. The Audit of Respondent's facilities, in accordance with this CAFO, shall commence no later than seventy five (75) days after Respondent receives an order entered by the EPA EAB or its designated representative approving this CAFO and end no later than eighteen (18) months after receipt of such an order.

39. Unless otherwise specified in this CAFO, Respondent shall submit to EPA as specified in Paragraphs 44 and 45 a report disclosing discovered violations covered by the terms of this CAFO on a quarterly basis. The first report shall be due ninety (90) days from the commencement of the Audit. To determine whether the violations disclosed by Respondent meet the terms of this CAFO, EPA as specified in Paragraph 45 will need factual information specific to each of those applicable terms. Therefore, the quarterly audit reports shall contain the following information in tabular form.

(a) Provide the following information for each potential violation, if applicable, so that the Agency has complete information on the violations that may have occurred and on each facility's compliance record:

Facility name;
Facility type (if appropriate);
Facility address (street, city, state, zip code);
Date facility began operations, (if known);
Nature of potential violations;
Years of possible noncompliance;
Chemical involved;
Number/dates of batches;
Quantity of materials (lbs.) in each batch;
Quantity of materials manufactured, imported, processed, used or distributed;
For compliance schedule modification chemicals pursuant to Subsection E of this section, dates of manufacture, importing, processing, using or distributing after discovery of violations;
Date Respondent discovered possible non-compliance;
Date EPA notified of possible noncompliance;
Date facility returned to compliance;

Actions taken to return to compliance; and
Cost of compliance.

(b) Where information regarding (1) number/dates of batches, (2) quantity of materials (lbs) in each batch, or (3) quantity of materials manufactured, imported, processed, used or distributed, is not available for any portion of time encompassing the reported violation because such information is not required to be maintained under applicable regulatory requirements and is no longer retained by Respondent pursuant to Respondent's record retention policies, Respondent shall, to the extent possible, provide a good-faith estimate of the requested information.

40. Respondent shall take the actions necessary to correct any discovered violations in accordance with Subsection D of this section.

41. On or before the end of the 15th month of the Audit, Respondent shall notify EPA as specified in Paragraph 45 in writing if Respondent believes that it will be unable to complete the Audit by the end of the required 18-month period. Respondent may request an extension of the Audit Completion Date to allow time to complete any outstanding actions contemplated by the CAFO. Any extensions shall be subject to EPA's sole discretion.

42. No later than sixty (60) days after the completion of the Audit, Respondent shall submit a Final Audit Report. The Final Audit Report shall describe how future noncompliance will be avoided and include a statement signed by the General Counsel or Senior Vice President certifying the Audit has been conducted pursuant to the terms of this CAFO and is complete. The Final Audit Report shall contain a summary of the quarterly reports in tabular form.

43. If, in the course of conducting the Audit, Respondent discovers a violation(s) of TSCA that may present an imminent and substantial endangerment to human health or the environment, notwithstanding any other language herein to the contrary, Respondent agrees to take remedial action to protect human health and the environment and to notify EPA orally as specified in Paragraph 45 within twenty-four (24) hours of discovery and shall notify EPA as specified in Paragraph 45 in writing within ten (10) business days of such discovery and Respondent's remedial action.

44. Whenever this CAFO requires Respondent to give notice or submit reports, information, or other documents to EPA, such information shall be accompanied by the following certification:

"To the best of my knowledge and belief after due inquiry, under penalty of law, I certify that the information contained in and accompanying this (fill in type of submission) is true, accurate, and complete."

and shall contain the date, the official's signature, and the official's title.

45. Except as otherwise provided in this CAFO, whenever this CAFO requires Respondent to give notice or submit reports, information, certifications, or documents to EPA, such information shall be submitted to the following person and address:

Tony R. Ellis, Case Development Officer
U.S. Environmental Protection Agency (22495A)
Waste and Chemical Enforcement Division
1200 Pennsylvania Ave., NW
Washington, D.C. 20460
(202) 564-4167
Fax (202) 564-0035

By written notice to Respondent, EPA may change the person and/or address listed above.

46. Whenever this CAFO requires EPA to give notice or submit reports, information, certifications, or documents to Respondent, such information shall be submitted to the following person and address:

Kristina M. Woods, Esq.
Law Department
Ashland Inc.
5200 Paul G. Blazer Memorial Parkway
Dublin, OH 43017
(614) 790-3678
(480) 419-3365

By written notice to EPA as specified in Paragraph 45, Respondent may change the person and/or address listed above.

47. Where PMN submissions and/or other appropriate submissions are required, Respondent shall submit the required documents and information to the appropriate EPA office, as defined in applicable EPA regulations, guidance, and practices at the time of the submissions, and also provide notice to EPA as specified in Paragraph 45 under this CAFO.

Subsection D. Compliance Schedule for Audit Violations

i. General Violations

48. For all TSCA sections 5 and 13 violations not covered below, Respondent shall comply with any applicable statute, regulation and/or order, or take other actions as directed by EPA in a notification letter within the time specified by the appropriate EPA office, and submit to the

appropriate EPA office any documents that were required to be submitted by an applicable statute, regulation, and/or order or notification letter within thirty (30) days of discovery of any such violations.

ii. TSCA PMN Violations

49. Except as provided in Subsection D(v) of this section, Compliance Schedule Modification Requests, if Respondent discovers that it is manufacturing a chemical substance without having timely submitted to the appropriate EPA office a notice required under TSCA section 5 or an appropriate exemption notice required under TSCA section 5 for such chemical substance, Respondent immediately shall stop manufacturing, importing, processing, distributing in commerce, and using the chemical substance as soon as the violation is discovered; and quarantine all existing stocks of the chemical substance until a PMN or other appropriate exemption notice is submitted and the applicable review period has elapsed, or it is otherwise determined by the appropriate EPA office that the chemical substance is on the confidential portion of the TSCA Chemical Substances Inventory. For purposes of this paragraph, the terms "a notice" and "an appropriate exemption notice" mean a PMN, a Low Volume Exemption (LVE) notice, Low Release Low Exposure (LoRex) application, or other notice which is required to be provided to EPA under TSCA section 5 prior to the manufacturing of a chemical substance, but do not include a NOC, polymer exemption report, or other similar notices which do not have to be provided to EPA under TSCA section 5 prior to manufacturing a chemical substance.

50. Within thirty (30) days of discovery of a PMN violation described in Paragraph 49, Respondent shall also:

(a) provide EPA as specified in Paragraph 45 with an inventory of quarantined existing stocks of such chemical substances;

(b) notify EPA as specified in Paragraph 45 and the appropriate EPA office as specified in Paragraph 47 of the first date of non-exempt commercial manufacture for chemical substances that do not meet an exemption, and;

(c) submit, as appropriate, a PMN, Low Volume Exemption (LVE), Low Release Low Exposure (LoREX) application, or other applicable exemption notice documents to the appropriate EPA office as specified in Paragraph 47 and also provide copies of the cover letters to EPA as described in Paragraph 45 under this Agreement.

51. After the expiration of the applicable review period for the chemical substance and where EPA has decided not to further regulate the chemical substance, Respondent may release any quarantined existing stocks of that chemical.

52. For violations described in Paragraphs 48 and 49 that are reported or otherwise disclosed to EPA as specified in Paragraph 45 in accordance with Paragraph 33 of this CAFO, a penalty, if any, shall be assessed in accordance with Paragraph 76 of this CAFO.

53. For violations described in Paragraphs 48 and 49 that are reported or otherwise disclosed to EPA as specified in Paragraph 45 but not in accordance with Paragraph 33 of this CAFO, Respondent shall be assessed the applicable penalties in Paragraph 77 of this CAFO.

iii. TSCA Significant New Use Rule (SNUR) Violations

54. If a Significant New Use Rule (SNUR) violation for a chemical substance, which Respondent is currently manufacturing, importing, processing, distributing in commerce, or using, is discovered, Respondent immediately shall stop manufacturing, importing, processing, distributing, and using the chemical substance for the new use identified in the SNUR; and quarantine all existing stocks of the chemical substance until a Significant New Use Notice (SNUN) is submitted and the statutory ninety (90) day review period has elapsed.

55. Within thirty (30) days of discovery of a SNUR violation, Respondent shall:

(a) provide EPA as specified in Paragraph 45 with an inventory of quarantined existing stocks of such chemical substances that were manufactured, processed, distributed or used in violation of the SNUR and;

(b) submit a SNUN to the appropriate EPA office as specified in Paragraph 47 or otherwise satisfy one of the exemptions set forth in 40 CFR § 721.45 and provide copies of the cover letters to EPA as specified in Paragraph 45; and

(c) provide EPA as specified in Paragraph 45 with a list of the recipients of the substance which is the subject of the SNUR over the preceding twelve (12) months and the quantity of the substance which is the subject of the SNUR sent to each location, and notify each of the chemical substance recipients that the chemical substance is or could be subject to a SNUR.

56. After a SNUN is submitted, Respondent may commence the new use, and release any quarantined existing stocks of that chemical upon expiration of the ninety (90) day review period, provided that Respondent complies with any regulatory restrictions the appropriate EPA office imposes via a TSCA section 5(e) order or otherwise.

57. For violations described in Paragraph 54 that are reported or otherwise disclosed to EPA as specified in Paragraph 45 in accordance with Paragraph 33 of this CAFO, a penalty, if any, shall be assessed in accordance with Paragraph 76 of this CAFO.

58. For violations described in Paragraph 54 that are reported or otherwise disclosed to EPA as specified in Paragraph 45 but not in accordance with Paragraph 33 of this CAFO, Respondent shall be assessed the applicable penalties in Paragraph 77 of this CAFO.

iv. TSCA Section 5(e) or (f) Violations

59. As soon as a TSCA section 5(e) or section 5(f) violation is discovered, Respondent immediately shall cease manufacturing, importing, processing, distributing, and using the chemical substance, and quarantine all existing stocks of the chemical substance.

60. Within fifteen (15) days of Respondent's discovery of its failure to comply with an existing TSCA section 5(e) order or section 5(f) order or rule, Respondent shall:

(a) notify EPA as specified in Paragraph 45 as to the steps taken to cease noncompliance, describe how future noncompliance will be avoided, and proceed to correct the violations pursuant to applicable regulations; and

(b) provide EPA as specified in Paragraph 45 with a list of the recipients of the chemical substance over the preceding twelve (12) months and the quantity of the chemical substance sent to each location, and notify each of the chemical substance recipients that the chemical substance is or could be subject to a TSCA section 5(e) order or section 5(f) order or rule.

61. Respondent may release any quarantined existing stocks of the chemical upon expiration of the ninety (90) day review period, provided that Respondent complies with any regulatory restrictions the appropriate EPA office imposes via a TSCA section 5(e) order or otherwise.

62. For violations described in Paragraphs 59 and 60 of this section that are reported or otherwise disclosed to EPA as specified in Paragraph 45 in accordance with Paragraph 33 of this CAFO, a penalty, if any, shall be assessed in accordance with Paragraph 76 of this CAFO.

63. For violations described in Paragraphs 59 and 60 of this section that are reported or otherwise disclosed to EPA as specified in Paragraph 45 but not in accordance with Paragraph 33 of this CAFO, Respondent shall be assessed the applicable penalties in Paragraph 77 of this CAFO.

64. Respondent shall be assessed a penalty in accordance with Paragraph 78 of this CAFO for each day Respondent fails to comply with an existing TSCA section 5(e) order or section 5(f) order or rule that prohibits or restricts manufacture, use, importation, processing, disposal, or distribution in commerce after Respondent discovers the violation and also may be subject to a subsequent enforcement action.

65. Respondent shall comply with any TSCA section 5(e) or 5(f) action applicable to Respondent after the issuance of this CAFO, within the time specified in such order or notice.

66. Respondent's failure to comply with a TSCA section 5(e) or 5(f) action applicable to Respondent after the effective date of this CAFO may subject Respondent to additional penalties under Paragraph 79 of this CAFO as well as a subsequent enforcement action.

v. Compliance Schedule Modification Requests

67. Respondent may seek a compliance schedule modification, on a chemical substance-specific basis, to continue manufacturing, importing, processing, distributing in commerce, or using a chemical substance for commercial purposes where Respondent can demonstrate that cessation of manufacture, import, process, distribution, or use of the chemical substance by Respondent pending EPA's complete review of a PMN or SNUN submission, or an LVE, or LoREX or other exemption application is anticipated to result in significant economic dislocation, including dislocation to downstream users or other entities or persons not responsible for the violations, and that such economic hardship would not be in the public interest. Respondent, however, shall cease all violative activities upon discovery of such violations and pending EPA's granting or rejection of a compliance schedule modification request. The decision to approve or deny this request will be at EPA's unreviewable discretion. A decision to approve such a request does not absolve Respondent of liability for penalties under this section.

68. Respondent shall submit the following information in its compliance schedule modification request to EPA as specified in Paragraph 45, along with the PMN, SNUN, or other exemption application to the appropriate EPA office as specified in Paragraph 47, to demonstrate that cessation of manufacture, import, process, distribution, or use of the chemical substance by Respondent pending EPA's complete review of a PMN or SNUN submission, or an LVE, or LoREX or other exemption application is anticipated to result in significant economic dislocation and that such economic hardship would not be in the public interest. Such information shall include the following:

(a) a description of the use(s) of the Respondent's product or downstream products, by downstream processors or end users, that are the basis for the request;

(b) information demonstrating that there are no viable substitutes for the Respondent's or downstream products;

(c) information demonstrating that the Respondent's or downstream product is important to the downstream user's overall business; and

(d) information demonstrating that even a temporary supply interruption or restriction of the type needed to avoid non-compliance would lead to economic hardship.

69. The granting of a compliance schedule modification request for a chemical substance is conditional upon the accuracy of the Respondent's representations to EPA.

70. With respect to any chemicals for which Respondent has requested a compliance schedule modification, Respondent shall submit a PMN or LVE or LoREX application, or other appropriate exemption documents, for such chemical substance not later than fifteen (15) days after discovery of the violation, and shall include data which Respondent believes demonstrates the manufacture, processing, distribution in commerce, use and disposal of the substance, or any combination of activities will not present an unreasonable risk of injury to human health or the environment.

71. With respect to any chemicals for which Respondent has requested and been granted a compliance schedule modification, manufacturing, importing, processing, distribution in commerce, or use by Respondent pending EPA's complete review of the PMN, LVE, or LoREX or other exemption application, and prior to expiration of the applicable review period, shall be limited to meeting the needs of existing customers, with no additional manufacturing, importing, processing, distribution, or use of the chemical for new customers.

72. With respect to any chemicals for which Respondent has requested a compliance schedule modification, upon Respondent's violation disclosure to EPA as specified in Paragraph 45, Respondent shall provide to EPA as specified in Paragraph 45 a list of the recipients of the chemical, the quantity provided, and to each location distributed. This information shall be updated if the request is granted and if additional distributions of the chemical substance are made.

73. With respect to any chemicals for which Respondent has requested a compliance schedule modification that has been granted, Respondent shall pay a penalty in accordance with Paragraph 80(a) and (b).

74. With respect to any chemicals for which Respondent has requested and been granted a compliance schedule modification, EPA may notify Respondent by letter to cease manufacturing, importing, processing, distributing in commerce, or using at any time after granting a compliance schedule modification request, including where EPA in its sole discretion determines that such a notification may be necessary to prevent a potential unreasonable risk of injury to human health or the environment. Respondent agrees to obey such letter notification immediately upon receipt.

75. Respondent's failure to cease manufacturing, importing, processing, distributing in commerce or using the chemical substance after notification from EPA pursuant to Paragraph 74 to cease may subject Respondent to additional penalties under Paragraph 80(c) of this CAFO as well as a subsequent enforcement action.

Subsection E. Audit Penalties

76. The Parties agree that violations reported or otherwise disclosed to EPA, as specified in Paragraph 45 under this CAFO, and that meet all the terms of this CAFO, in accordance with Paragraph 33, are eligible for 100 percent mitigation of gravity-based penalties; EPA will require Respondent to pay a penalty equal to Ashland's economic benefit from violations where appropriate. EPA will calculate any economic benefit in accordance with established EPA policies and procedures for calculating the economic benefit of self-disclosed TSCA violations of the type involved, such as the "BEN" model that is currently used by EPA to determine economic benefit gained by an entity's noncompliance, including economic benefit from the delayed and avoided expenditures of filing PMNs for specific chemical substances.

77. Respondent agrees that EPA shall assess the following penalties for violations discovered and disclosed during the Audit that fail to meet the terms of Paragraph 33 of this CAFO. Unless otherwise specified below, penalties are to be assessed per chemical substance and as "one day" violations:

(a) Violations of the terms of any existing TSCA section 5(e) order or 5(f) order or rule shall be assessed a \$32,500 penalty for each applicable section 5(e) order or 5(f) order or rule.

(b) Violations of TSCA section 5 for chemical substances for which EPA determines, based upon EPA's review of Respondent's submissions under this Agreement, that a TSCA section 5(e) order or 5(f) order or rule would be appropriate, shall be assessed a penalty of \$32,500.

(c) All other TSCA section 5 violations shall be assessed a \$19,343 penalty.

(d) TSCA section 13 import certification requirements violations shall be assessed a \$1,290 penalty on a per-chemical substance basis.

78. Respondent shall be assessed a penalty of \$32,500 per day for each day Respondent fails to comply with an existing TSCA section 5(e) order or section 5(f) order or rule to cease or restrict manufacture, use, importation, processing, disposal or distribution in commerce after Respondent discovers the violations.

79. Respondent shall pay a penalty of \$32,500 per day for each day Respondent fails to comply with a letter notification, TSCA section 5(e) order, or section 5(f) order or rule, to cease or restrict manufacture, use, importation, processing, disposal or distribution in commerce in response to a submitted PMN or SNUN issued after the effective date of this Agreement under this Audit.

80. With respect to compliance schedule modification request chemicals, Respondent shall pay a penalty of:

(a) \$27,000 per day for each day Respondent continues to manufacture a chemical substance after discovery of a LVE, LoREX, or PMN violation but prior to the expiration of the applicable review period; and

(b) \$27,000 per shipment for each customer to whom Respondent continues to distribute in commerce a chemical substance after discovery of a LVE, LoREX, or PMN violation but prior to the expiration of the applicable review period.

(c) If Respondent fails to comply with a letter from EPA to cease manufacture, use, or distribution in commerce of a compliance schedule modification request chemical substance issued in accordance with Paragraph 74, Respondent agrees Paragraphs 67, 76, and 77 of this CAFO are voided as to the grant of the compliance schedule modification request for the chemical, and Respondent shall be assessed penalties (1) pursuant to the TSCA Section 5 ERP for all past illegal manufacturing prior to the grant of the compliance schedule modification request for that chemical, (2) pursuant to Paragraph 80(a) and (b) for any manufacture or distribution in commerce after the grant of the compliance schedule modification request for that chemical prior to the receipt of the letter, and (3) \$32,500 for any manufacture or distribution which occurs after receipt of such a letter from EPA for that chemical but prior to the expiration of the applicable review period. Respondent agrees the letter may be issued via facsimile, electronically, first class mail (including by certified mail or return receipt requested, Overnight Express and Priority Mail), or any reliable commercial delivery service.

81. Respondent shall pay a penalty of \$32,500 if Respondent fails to comply with the requirements of Paragraph 43 of this CAFO.

Subsection F. Payment of Audit Penalties

82. EPA shall make a written demand for civil penalties for violations disclosed under the Audit. Respondent shall pay civil penalties described in Paragraphs 76 through 81 above, owing to the United States, either by current electronic funds transfer procedures or by certified or cashier's check, as directed by the United States, in the amount due payable as determined by EPA, in the same manner as instructed in Section III (B). Respondents maximum liability for penalties described in Paragraphs 76 and 77(c) and (d) shall in no event exceed One Million Three Hundred Thirty-Three Thousand and Three Hundred Thirty-Three Dollars (\$1,333,333) even if the total penalties arising from violations discovered during the Audit relating to Paragraphs 76 and 77(c) and (d) otherwise exceed that amount.

83. If the civil penalties provided for in this subsection are not timely paid, this Consent Agreement shall be considered an enforceable judgment for purposes of post-judgment collection of any unpaid amounts, and interest, in accordance with Rule 69 of the Federal Rules of Civil Procedure and other applicable federal or state authority.

84. 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 the Final Order or the demand letter. Any attempt by Respondent to deduct any such payment shall constitute a violation of the CAFO and the Internal Revenue Code. 26 U.S.C. § 162(f).

85. EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim and Respondent agrees to pay these amounts under this CAFO. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty agreed to herein on the date the demand letter is received by Respondent. However, EPA will not seek to recover interest on any portion of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

(a) Interest. Any unpaid portion of a civil penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717 (a)(1). Interest will be assessed at the rate of the United States Treasury tax and loan account rate in accordance with 40 C.F.R. § 13.11(a).

(b) Late Payment Penalty. On any portion of a civil penalty more than ninety (90) calendar days delinquent, Respondent must pay a late payment penalty of twelve (12) percent per annum, which will accrue from the date the penalty payment became delinquent. This late payment penalty is in addition to charges that accrue or may accrue under subparagraph (a).

SECTION IV. OTHER MATTERS

86. The effect of settlement described in Paragraph 26 is conditional upon the accuracy of the Respondent's representations to EPA, as memorialized in Paragraphs 14-20, of this Consent Agreement and Final Order, Respondent's letter dated June 2, 2006, and Respondent's Final Audit Report.

87. Nothing in this CAFO obviates the need for Respondent to comply with any future notification letter, order or notice within the time specified in such notification letter, order or notice.

88. EPA agrees to use its best efforts to review and respond to requests under this CAFO as expeditiously as possible.

89. Compliance with this CAFO shall not be a defense to any actions commenced by EPA with respect to any violations not (a) identified by this CAFO or (b) resolved by EPA for which EPA demands a penalty under Paragraphs 27 and 82 and Ashland has paid the penalty as described in Paragraphs 27 and 82 as a result of Ashland's Audit. Nothing in this CAFO is intended to, or shall be construed to, operate in any way to resolve any criminal liability of Respondent.

90. For the sole purpose of establishing Respondent's compliance history in any future enforcement proceeding that EPA might bring against Respondent within five (5) years of the date of execution of the Final Order, Respondent admits it is liable for the violations alleged in this Consent Agreement and the subsequent demand letter described in Paragraph 82. Respondent neither admits nor denies that reporting and mitigation of an alleged violation by Respondent pursuant to this CAFO constitutes a violation of TSCA but nonetheless agrees to pay penalties in accordance with Sections III(B), (E) and (F) of this CAFO.

91. Respondent's obligations under this Agreement shall end when it has submitted the Final Audit Report, corrects violations reported or otherwise disclosed to EPA under this Agreement, and paid any penalty that may be due under this Agreement.

92. Except as set forth in Paragraph 26, wherein EPA may issue an order effectively modifying this Agreement, this Agreement may be modified by mutual written approval of the Parties.

93. Both Parties agree to bear their own costs and attorney fees in this matter.

94. This Agreement shall be effective upon its having been signed by all of the persons identified below.

95. Respondent may assert claims of confidentiality under TSCA section 14 for submission under this CAFO. All such assertions must be made in strict accordance with TSCA section 14 and EPA regulations thereunder.


96. Respondent agrees to waive any and all defenses related to statute of limitations or laches for any TSCA violation or potential TSCA violation discovered during the pendency of the Audit and the CAFO.

97. This Consent Agreement shall take full effect upon the entry of an order by EPA's Environmental Appeals Board or its designated representative approving this CAFO.

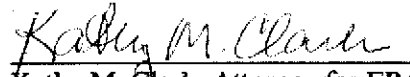
98. All of the terms and conditions of this Consent Agreement together comprise one settlement agreement, and each of the terms and conditions is in consideration for all of the other terms and conditions. In the event that this Consent Agreement (or one or more of its terms and conditions) is held invalid, or is not executed by all of the signatory parties in identical form, or is not approved in such identical form by EPA's Environmental Appeals Board or its designated representative, then the entire Consent Agreement shall be null and void.

WE AGREE TO THIS:

For Complainant:

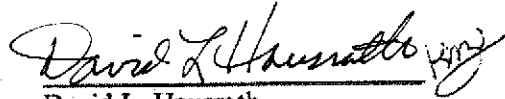

Rosemarie A. Kelley, Director
Waste and Chemical Enforcement Division
Office of Civil Enforcement
United States Environmental
Protection Agency

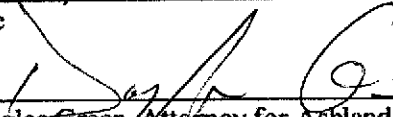
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Date

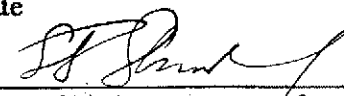

Kathy M. Clark, Attorney for EPA
Waste and Chemical Enforcement Division
Office of Civil Enforcement
United States Environmental
Protection Agency

July 18, 2007
Date

For Respondent:


David L. Hausrath
Senior Vice President and General Counsel
Ashland Inc.

4/30/07
Date

Douglas Green, Attorney for Ashland Inc.
DLA Piper US LLP

5/1/07
Date

Steven Shimberg, Attorney for Ashland Inc.
DLA Piper US LLP
5/1/07
Date

APPENDIX A

DIVISION		Street 1	Street 2	State	City	Zip
1	ADMIN	One Drew Plaza		NJ	Boonton	07005
2	ADMIN	3499 Blazer Parkway		KY	Lexington	40509
3	ADMIN	500 Diederich Boulevard		KY	Russell	41169
4	ADMIN	5200 Blazer Parkway		OH	Dublin	43017
5	Ashland Distribution	170 Lockhouse Rd.		MA	Westfield	01085
6	Ashland Distribution	400 Main Street		MA	Tewksbury	01876
7	Ashland Distribution	350 Roosevelt Avenue		NJ	Carteret	07008
8	Ashland Distribution	3 Broad Street		NY	Binghamton	13901
9	Ashland Distribution	1101 New Ford Mill Road		PA	Morrisville	19067
10	Ashland Distribution	2410 Patterson Avenue, S.W.		VA	Roanoke	24016
11	Ashland Distribution	3930 Glenwood Drive		NC	Charlotte	28208
12	Ashland Distribution	729 Mauney Drive		SC	Columbia	29201
13	Ashland Distribution	105 Chapman Rd.		SC	Anderson	29625
14	Ashland Distribution	5263 National Drive		TN	Knoxville	37914-6514
15	Ashland Distribution	23740 Cooper Drive		IN	Eikhart	46514
16	Ashland Distribution	1817 West Indiana Avenue		IN	South Bend	46613
17	Ashland Distribution	204 Madison Street		WI	Menasha	54952
18	Ashland Distribution	395 James Ave		MN	St. Paul	55102
19	Ashland Distribution	4401 Valley Industrial Blvd. S.		MN	Shakopee	55379
20	Ashland Distribution	11524 West Addison Street		IL	Franklin Park	60131
21	Ashland Distribution	8500 S. Willow Springs Road		IL	Willow Springs	60480
22	Ashland Distribution	7710 Polk Street		MO	St. Louis	63111
23	Ashland Distribution	3536 SOUTH FIRST ST		MO	St. Louis	63118
24	Ashland Distribution	5020 Swartz Road		KS	Kansas City	66106
25	Ashland Distribution	5420 Speaker Rd.		KS	Kansas City	66106
26	Ashland Distribution	3701 River Road		NY	Tonawanda	14150
27	Ashland Distribution	12005 Toepfer Rd.		MI	Warren	48089
28	Ashland Distribution	2011 Turner Street		MI	Lansing	48906
29	Ashland Distribution	150 W. Fourth Avenue		PA	Freedom	15042
30	Ashland Distribution	Buncher Industrial Park		PA	Leetsdale	15056
31	Ashland Distribution	4185 Algonquin Parkway	Avenue B	KY	Louisville	40211
32	Ashland Distribution	345 A Blue Sky Pkwy		KY	Lexington	40509
33	Ashland Distribution	8019 Allison Avenue		IN	Indianapolis	46268
34	Ashland Distribution	3250 Southwest Blvd.		OH	Grove City	43123
35	Ashland Distribution	3849 Fisher Road		OH	Columbus	43228
36	Ashland Distribution	1610 E. Highland Rd.		OH	Twinsburg	44087
37	Ashland Distribution	1842 Enterprise Parkway		OH	Twinsburg	44087
38	Ashland Distribution	2788 Glendale-Milford Road		OH	Cincinnati	45241
39	Ashland Distribution	5399 E Provident Drive		OH	Cincinnati	45246
40	Ashland Distribution	2854 Springboro West		OH	Moraine	45439
41	Ashland Distribution	15280 Herriman Boulevard		IN	Noblesville	46060
42	Ashland Distribution	8315 East 33rd Street		IN	Indianapolis	46226
43	Ashland Distribution	4th Street Bldg. #4		PR	Catano, Bayamon	00962
44	Ashland Distribution	4550 N.E. Expressway		GA	Doraville	30340
45	Ashland Distribution	400 Telfair Road	Las Palmas Industrial Park	GA	Savannah	31401

APPENDIX A

DIVISION		Street 1	Street 2	State	City	Zip
46	Ashland Distribution	1929 Directors Row		FL	Orlando	32809
47	Ashland Distribution	200 N.E. 181st Street		FL	Miami	33162
48	Ashland Distribution	5125 West Hanna Avenue		FL	Tampa	33634
49	Ashland Distribution	3300 Ball Street		AL	Birmingham	35234
50	Ashland Distribution	701 Western Drive		AL	Mobile	36607
51	Ashland Distribution	2315 Clifton Avenue		TN	Nashville	37209
52	Ashland Distribution	2351 Channel Avenue		TN	Memphis	38113
53	Ashland Distribution	455 Industrial Drive		MS	Jackson	39209
54	Ashland Distribution	11109 S. Choctaw Drive		LA	Baton Rouge	70815
55	Ashland Distribution	1900 W. 65th St, Ste 11		AR	Little Rock	72209
56	Ashland Distribution	3101 Wood Drive		TX	Garland	75041
57	Ashland Distribution	8901 Old Galveston Rd.		TX	Houston	77034
58	Ashland Distribution	10919 County Rd. 127 West		TX	Midland	79711
59	Ashland Distribution	P.O. Box 160367	P.O. Box 60578 Freepport Center, Bldg. 12	UT	Clearfield	84016
60	Ashland Distribution	6839 West Chicago Street		AZ	Chandler	85226
61	Ashland Distribution	20915 S. Wilmington		CA	Carson	90810
62	Ashland Distribution	13003 Slover Avenue		CA	Fontana	92337
63	Ashland Distribution	2461 Crocker Circle		CA	Fairfield	94533
64	Ashland Distribution	7409 N Leadbetter St.		OR	Portland,	97203
65	Ashland Distribution	3322 N.W. 35th Ave.		OR	Portland	97210
66	Ashland Distribution	3535 W. 21st St.		OK	Tulsa	74107-3459
67	Ashland Distribution	156 W. 56th Avenue		CO	Denver	80216-1618
68	Ashland Distribution	291 Adams Street		CA	Colton	92324
69	Performance Materials	2191 West 110th Street		OH	Cleveland West	44102
70	Performance Materials	4600 East 71st Street		OH	Cleveland East	44125
71	Performance Materials	2650 Neville Rd.		PA	Pittsburgh	15225
72	Performance Materials	2801 Christopher Columbus Blvd.		PA	Philadelphia	19148
73	Performance Materials	2801 State Route 60 West		PA	Philadelphia	19148
74	Performance Materials	260 Grell Lane		FL	Bartow	33830
75	Performance Materials	1901 N. Redmond Rd.		WI	Johnson Creek	53038
76	Performance Materials	5106 Wheeler Ave.		AR	Jacksonville	72076
77	Performance Materials	6608 East 26th Street		AR	Fl. Smith	72901
78	Performance Materials	90 Malfese Drive		CA	Los Angeles	90040
79	Performance Materials	7210 Cessna Drive		NJ	Totowa	07512
80	Performance Materials	802 Harmon Avenue		NC	Greensboro	27409
81	Performance Materials	1745 Cottage Street		OH	Columbus	43223
82	Performance Materials	6870 S. 13th Street		OH	Ashland	44805
83	Performance Materials	7221 S. 10th Street		WI	Oak Creek	53154
84	Performance Materials	142nd & Paxton		WI	Oak Creek	53154
85	Performance Materials	900 Industrial Circle Drive		IL	Calumet City	60409
86	Performance Materials	5200 Blazer Parkway		OR	White City	97503
87	Valvoline	501 Railroad Street		OH	Dublin	43017
88	Valvoline	4680 Edison Drive		PA	Rochester	15074
89	Valvoline	720 Vaiden Street		GA	College Park	30337
90	Valvoline	3901 River Road		MS	Hernando	38632
				OH	Cincinnati	45204

APPENDIX A

DIVISION		Street 1	Street 2	State	City	Zip
91	Valvoline	8450 Willow Springs Road		IL	Willow Springs	60480
92	Valvoline	2627 Tidal Road		TX	Deer Park	77536
93	Valvoline	9520 John Street		CA	Santa Fe Springs	90670
94	Valvoline	22nd & Front Street	APAL Engine Testing Lab	KY	Ashland	41101
95	Valvoline	3499 Blazer Parkway		KY	Lexington	40509
96	Valvoline	2925 McCracken Street		MS	Hernando	38632
97	Valvoline	40 E Robinson Street	Distribution Center IG-LO	MS	Hernando	38632
98	Water Technologies	1106 HARRISON AVE		NJ	Kearny	07032
99	Water Technologies	6121 Alameda-Genoa Rd.		TX	Houston	77048
100	Water Technologies	One Drew Plaza		NJ	Boonton	07005
101	Water Technologies	1819 Underwood Drive	Unit #3	NJ	Delran	08075
102	Water Technologies	608 W. 132nd Street		NY	New York	10027
103	Water Technologies	7377 Washington Blvd.	Suite 105	MD	Elkridge	21075
104	Water Technologies	208 Holland Rd.		SC	Simpsonville	29681
105	Water Technologies	3155 Fiberglas Rd.		KS	Kansas City	66115
106	Water Technologies	7377 Washington Blvd.	Suite 105	MD	Elkridge	21075
107	Water Technologies	1819 Underwood Drive	Unit #3	NJ	Delran	08075
108	Water Technologies	608 W. 132nd Street		NY	New York	10027
109	Water Technologies	208 Holland Rd.		SC	Simpsonville	29681
110	Water Technologies	10 South Waverly Street		MA	Brighton	02135
111	Water Technologies	53 Maselli Rd		CT	Newington	06111
112	Water Technologies	2401 Doyle Street		NC	Greensboro	27406
113	Water Technologies	135 Dixieland Drive		WV	Stanaford	25802