

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

**Ravago Chemical Distribution Inc.)
dba Pacific Coast Chemicals)
2424 4th Street)
Berkley, CA 94710)**

Respondent

Docket Number TSCA-HQ-2018-5003

**CIVIL COMPLAINT AND NOTICE OF
OPPORTUNITY FOR HEARING**

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I. COMPLAINT

This Complaint and Notice of Opportunity for Hearing (Complaint) is filed pursuant to section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, Pub. L. No. 114-182, June 22, 2016, 130 Stat 448 (2016 Act), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules of Practice), 40 C.F.R. Part 22, a copy of which is enclosed with this Complaint. The Complainant is Gregory Sullivan, Director, Waste and Chemical Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, United States Environmental Protection Agency (EPA), who has been duly delegated the authority to institute this action.

The Respondent is Ravago Chemical Distribution Inc., dba Pacific Coast Chemicals, (PCC or Respondent), located at 2424 4th Street, Berkley, CA 94710.

As a result of an EPA inspection on April 27, 2016, and follow-up actions, Complainant alleges that Respondent has violated section 4 of TSCA, 15 U.S.C. §2603, section 8(a) of TSCA, 15 U.S.C. §2607(a), and section 13 of TSCA, U.S.C. §2612 as set forth below.

COUNT I

1. Respondent is a corporation located at 2424 4th Street, Berkley, CA 94710.
2. Respondent is a “person” as defined in 40 C.F.R. §710.3 and 40 C.F.R. §790.3 and is subject to TSCA and the regulations promulgated thereunder.
3. Respondent “manufactures” (imports) a “chemical substance,” as defined respectively by section 3(9) of TSCA, 15 U.S.C. §2602 (9) and section 3(2)(A) of TSCA, 15 U.S.C. §2602 (2)(A).
4. Pursuant to 40 C.F.R. §799.5089 promulgated under section 4(a)(1)(B) of TSCA, 15 U.S.C §2603(a)(1)(B), manufacturers, importers or processors of Benzene, 1-chloro-4(trifluoromethyl), (CAS No. 98-56-6) are subject to specified testing requirements. The sunset date for CAS No. 98-56-6 is May 19, 2020.
5. Respondent reported importing CAS No. 98-56-6 during the 2016 Chemical Data Reporting period.
6. Respondent failed to submit a letter of intent to test or apply to EPA for an exemption in violation of 40 C.F.R. §799.5089 and 40 C.F.R. §790.45(d)(1).
7. Respondent’s failure to comply with 40 C.F.R. §799.5089 and 40 C.F.R. §790.45(d)(1) violates section 15(1) of TSCA, 15 U.S.C. §2614(1) and section 15(3)(B) of TSCA, 15 U.S.C. §2614(3)(B).

COUNT II

8. Paragraphs 1 through 3 are re-alleged and incorporated herein by reference.
9. The Chemical Data Reporting Rule (CDR), 40 C.F.R. Part 711, is a rule promulgated under the authority of section 8(a) of TSCA, 15 U.S.C. § 2607(a).
10. Pursuant to 40 C.F.R. §711.8(a)(2), except as provided in §§ 711.9 and 711.10, any person who manufactured (including imported) for commercial purposes 25,000 lb. (11,340 kg.) or more of a chemical substance described in §711.5 at any single site owned or controlled by that person during any calendar year since the last principal reporting year (e.g., for the 2016 submission period, 2012, 2013, 2014, and 2015) is subject to reporting.
11. During 2015 Respondent imported 25,000 lb. (11,340 kg.) or more of Xylitol, Chemical CAS No. 87-99-0 and failed to submit a report (Form U) to EPA, including the required information pursuant to 40 C.F.R. §711.15 by October 31, 2016.
12. Respondent's failure to comply with the CDR violates section 15(1) of TSCA, 15 U.S.C. §2614(1) and section 15(3)(B) of TSCA, 15 U.S.C. § 2614(3)(B).

COUNTS III - VI

13. Paragraphs 1 through 3 are re-alleged and incorporated herein by reference.
14. Regulations under section 13 of TSCA, 15 U.S.C. § 2612 require importers to certify that each applicable imported chemical substance complies with TSCA or is not subject to TSCA.
15. Respondent imported Xylitol, CAS No. 87-99-0; 1,2,3, Propanetriol, CAS No. 56-81-5; 1,2,3 Propanetricarboxylic acid, 2-hydroxy, CAS No. 77-92-9; Phenol, 4,4'-(1-methylethylidene) bis-, polymer with (chloromethyl)oxirane, CAS No. 25068-38-6; and failed to comply with the certification requirements indicated in 40 C.F.R. § 707.20.

16. Respondent's failure to comply with 40 C.F.R. § 707.20 on four occasions violates section 15(1) of TSCA, 15 U.S.C. § 2614 (1) and section 15 (3)(b) of TSCA, 15 U.S.C. § 2614(3)(B).

II. CIVIL PENALTY ASSESSMENT

Section 16 of TSCA, 15 U.S.C. § 2615, authorizes the assessment of a civil penalty for violations of TSCA § 15, 15 U.S.C. § 2614, in an amount not to exceed \$37,500 for each day of violation.

For purposes of determining the amount of a civil penalty to be assessed, section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), requires EPA to take into account the nature, circumstances, extent, and gravity of the violations alleged, as well as Respondent's ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require. In developing a proposed penalty, Complainant took into account the particular facts and circumstances of this case; the statutory factors set forth in TSCA § 16(a)(2)(B), 15 U.S.C. § 2615(a)(2)(B), the EPA's *Enforcement Response Policy* (ERP), *TSCA § 4 Test Rules* dated May 28, 1986, and EPA's ERP, *Reporting and Recordkeeping Rules and Requirements, TSCA Sections 8, 12 and 13* (revised March 31, 1999 and effective June 1, 1999). Each ERP was developed in accordance with the *Guidelines for Assessment of Civil Penalties under Section 16 of the Toxic Substances Control Act; PCB Penalty Policy*, which sets forth a general penalty assessment policy for TSCA violations at 45 Fed. Reg. 59,770 (Sept. 10, 1980). The ERP provides a rational, consistent, and equitable calculation methodology for applying the statutory factors to cases.

Based upon the facts alleged in this Complaint, and upon the nature, circumstances, extent, and gravity of the violations alleged, as well as Respondent's ability to pay, effect on

ability to continue to do business, any history of prior such violations of TSCA, the degree of culpability, and such other matters as justice may require, the Complainant proposes that Respondent be assessed a penalty of *FORTY NINE THOUSAND, AND NINE HUNDRED EIGHTY DOLLARS* (\$49,980) for the violations alleged in this Complaint.

III. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

As provided in TSCA § 16(a)(2)(A), 15 U.S.C. § 2615(a)(2)(A), and consistent with 40 C.F.R. § 22.14, Respondent has the right to request a formal hearing to contest any material fact set forth in this Complaint or to contest the appropriateness of the proposed penalty. To request a hearing pursuant to 40 C.F.R. §22.15, Respondent must file a written Answer to the Complaint with the Headquarters Hearing Clerk, within thirty (30) days of service of this Complaint, at the following address:

Headquarters Hearing Clerk (1900L)
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Any hearing requested will be conducted in accordance with the Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*, and the Consolidated Rules of Practice. Pursuant to the Consolidated Rules of Practice, 40 C.F.R. § 22.15, Respondent's Answer must clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint of which Respondent has any knowledge. Where Respondent has no knowledge of a particular factual allegation, the Answer should so state. The Answer should contain: (1) the circumstances or arguments which are alleged to constitute the grounds of any defense; (2) the facts which Respondent disputes; (3) the basis for opposing any proposed relief; and (4) a statement as to whether a hearing is requested.

The denial of any material fact or the raising of any affirmative defense shall be construed as a request for a hearing. All material facts not denied in the Answer will be considered as admitted.

If Respondent fails to file a written Answer within thirty (30) days of service of this Complaint, such failure shall constitute an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing on such factual allegations. Failure to file a written Answer may result in Complainant's filing of a Motion for Default Order imposing the penalties herein without further proceedings.

A copy of Respondent's Answer and all other documents that Respondent files in this action should be sent to the attorney of record assigned to represent EPA in this matter:

Geraldine Gardner, Esq.
Waste and Chemical Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Ave., N.W. (Mail Code 2249A)
Washington, D.C. 20460
Telephone: (202) 564-4032
E-mail: gardner.geraldine@epa.gov

IV. INFORMAL SETTLEMENT CONFERENCE

Whether or not Respondent requests a hearing, Respondent may confer informally with EPA to discuss the facts of this case, or amount of the penalty, and the possibility of settlement. An informal settlement conference does not, however, affect Respondent's obligation to file a timely written Answer to the Complaint.

EPA has the authority, where appropriate, to modify the amount of the penalty, once determined, to reflect any settlement reached with Respondent in an informal conference. The terms of such an agreement would be embodied in a Consent Agreement, signed by EPA and Respondent. The terms and conditions specified in the Consent Agreement are binding upon issuance of a Final Order by the Environmental Appeals Board.

Please be advised that the Consolidated Rules of Practice prohibit any *ex parte* (unilateral) discussion of the merits of this action with the Administrator, the members of the Environmental Appeals Board, the assigned Administrative Law Judge, or any person likely to advise these officials in the decision of the case, after the issuance of this Complaint. See 40 C.F.R. § 22.8.

V. PAYMENT OF PENALTY

Instead of filing an Answer, requesting a hearing, or requesting an informal settlement conference, Respondent may choose to pay the proposed penalty to resolve this matter pursuant to 40 C.F.R. § 22.18(a). Such payment should be made by sending either a cashier's or certified check with a notation of "Ravago Chemical Distribution Inc., dba Pacific Coast Chemicals," Penalty Docket No. "TSCA-HQ-2018-5003," payable to the order of the "Treasurer, United States of America," to:

U.S. Environmental Protection Agency
Fines and Penalties
Docket No. TSCA-HQ-2018-5003
Cincinnati Finance Center
P.O.Box 979077
St. Louis, MO 63197-9000

or pay by wire transfer with a notation of Ravago Chemical Distribution Inc., dba Pacific Coast Chemicals, Penalty Docket No. "TSCA-HQ-2018-5003" by using the following instructions:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read: "D 68010727 Environmental Protection Agency"

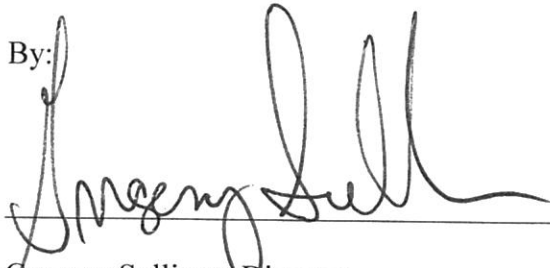
A copy of the check or other instrument of payment must be sent to the attorney of record assigned to represent EPA in this matter.

U.S. ENVIRONMENTAL PROTECTION AGENCY

TSCA-HQ-2018-5003

In the Matter of: Ravago Chemical Distribution Inc., dba Pacific Coast Chemicals

By:

A handwritten signature in black ink, appearing to read "Gregory Sullivan", is written over a horizontal line.

Date:

Jan. 12, 2018

Gregory Sullivan, Director
Waste and Chemical Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency

ATTACHMENT

Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules of Practice), 40 C.F.R. Part 22.

CERTIFICATION

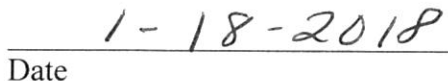
I hereby certify that the original of the foregoing Complaint and Notice of Opportunity for Hearing, Docket No. TSCA-HQ-2018-5003, has been filed with the Headquarters Hearing Clerk and that a copy was sent certified mail, return receipt requested to:

Ms. Shene Mitchell
Corporate Counsel
RAVAGO HOLDINGS AMERICA, INC.
1900 Summit Tower Blvd.
Suite 900
Orlando, FL 32810



Carolyn Bernota

Enforcement Officer
Waste and Chemical Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency (Mail Code 2249A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460



Date