



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

AUG 18 2015

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Steve Scheid  
Customer Service Manager  
Ecka Granules of America L.P.  
500 Prosperity Drive  
Orangeburg, South Carolina 29115

Re: Ecka Granules of America L.P.  
Consent Agreement and Final Order  
Docket No. TSCA-04-2015-2503(b)

Dear Mr. Scheid:

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. Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the Respondent's name and Docket Number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

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 the U. S. Environmental Protection Agency. Where used in the document "SEC" refers to the Securities and Exchange Commission.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony G. Toney".

Anthony G. Toney  
Chief

Chemical Safety and Enforcement Branch

Enclosures

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA, GEORGIA

In the Matter of: )  
 )  
Ecka Granules of America L.P. )  
 )  
Respondent )  
\_\_\_\_\_ )

Docket No. TSCA-04-2015-2503(b)

RECEIVED  
ENVIRONMENTAL  
PROTECTION AGENCY  
REGION 4  
ATLANTA, GA  
JAN 19 10 41 AM '15

**CONSENT AGREEMENT AND FINAL ORDER**

**I. Nature of the Action**

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4. Respondent is Ecka Granules of America L.P.
2. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under TSCA to the EPA Region 4 Regional Administrator by EPA Delegation 12-2-A, dated May 11, 1994. The Region 4 Regional Administrator has re delegated this authority to the Director of the Air, Pesticides and Toxics Management Division by EPA Region 4 Delegation 12-2-A, dated January 14, 2009. Pursuant to that Delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to

commence an enforcement action as the Complainant in this matter and has the authority to sign Consent Agreements memorializing settlements between the EPA and Respondents.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony; the making of any argument; or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

## **II. Preliminary Statements**

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 promulgated or order issued under Sections 4, 5, or 6 of TSCA, 15 U.S.C. § 2603, § 2604, or § 2605, and any requirement prescribed by Section 5 or 6 of TSCA, 15 U.S.C. § 2604 or § 2605; (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 Section 5 or 6 of TSCA, 15 U.S.C. § 2604 or § 2605; (3) fail to maintain records, submit reports or information, or permit access to or allow copying of records including but not limited to records and reports required by Section 8 of TSCA, 15 U.S.C. § 2607, and export notices required by Section 12(b) of TSCA, 15 U.S.C. § 2611(b); 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 the 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.

### **III. Specific Allegations**

6. In 2011, Respondent operated a chemical importing facility located at 500 Prosperity Drive, Orangeburg, South Carolina
7. Pursuant to 40 C.F.R. § 704.3, “importer” means any person who imports any chemical substance or any chemical substance as part of a mixture or article into the customs territory of the United States.
8. Respondent is an importer as the term is defined in 40 C.F.R. § 704.3.
9. Pursuant to 40 C.F.R. § 711.8(a), any person who manufactured (including imported) for commercial purposes 25,000 pounds (11,340 kilogram (kg)) or more of a chemical substance described in 40 C.F.R. § 711.5 at any single site owned or controlled by that person during the principal reporting year (i.e., calendar year 2011) is subject to the chemical data reporting (CDR) requirements under Section 8(a) of TSCA, 15 U.S.C. § 2607(a) and 40 C.F.R. Part 711.



10. Pursuant to 40 C.F.R. § 711.9, a person described in 40 C.F.R. § 711.8 is not subject to the requirements of 40 C.F.R. Part 711 if that person qualifies as a small manufacturer as that term is defined in 40 C.F.R. § 704.3.
11. Pursuant to 40 C.F.R. § 704.3, a *small manufacturer or importer* means a manufacturer or importer that meets either of the following standards: (1) *First standard.* A manufacturer or importer of a substance is small if its total annual sales, when combined with those of its parent company (if any), are less than \$40 million. However, if the annual production or importation volume of a particular substance at any individual site owned or controlled by the manufacturer or importer is greater than 45,400 kilograms (100,000 pounds), the manufacturer or importer shall not qualify as small for purposes of reporting on the production or importation of that substance at that site, unless the manufacturer or importer qualifies as small under standard (2) of this definition; and (2) *Second standard.* A manufacturer or importer of a substance is small if its total annual sales, when combined with those of its parent company (if any), are less than \$4 million, regardless of the quantity of substances produced or imported by that manufacturer or importer.
12. In 2011, Respondent's annual sales were between \$4 million and \$40 million and the import volume for each chemical substance was greater than 100,000 pounds. As a result, although Respondent met the total annual sales limit for being a small manufacturer (less than \$40 million), it exceeded the volume limit of 100,000 pounds and, therefore, it did not qualify for being considered a small manufacturer under the first standard. Additionally, because Respondent's sales exceeded \$4 million, it did not qualify as a small manufacturer under the second standard.



13. Pursuant to 40 C.F.R. § 711.15, Respondent was required to submit a CDR for each reportable chemical substance that was manufactured (including imported) for commercial purposes in quantities greater than 100,000 pounds in calendar year 2011.
14. Pursuant to 40 C.F.R. §§ 711.15 and 711.35, any person who reports CDR information to the EPA must do so using the e-CDRweb reporting tool provided by the EPA at <http://www.epa.gov/iur>.
15. On or about April 14, 2014, Respondent submitted certain chemical import records to the EPA that revealed that Respondent had imported the following chemical substances in quantities greater than 100,000 pounds: Aluminum Powder (chemical abstract service (CAS) number 7429-90-5); and Magnesium (CAS number 7439-95-4).
16. The chemical substances referenced in paragraph 15 were listed on the TSCA Master Inventory at the beginning of the CDR period (February 1, 2012, through August 13, 2012) referenced at 40 C.F.R. § 711.20.
17. The chemical substances referenced in paragraph 15 were subject to the 2012 CDR.
18. The EPA e-CDRweb reporting system does not contain any information from Respondent that indicates Respondent submitted a 2012 CDR Report to the EPA for either chemical substance.
19. By not submitting a 2012 CDR Report to the EPA during the submission period for each reportable chemical substance, Respondent failed to comply with 40 C.F.R. § 711.15.
20. Pursuant to 40 C.F.R. § 711.1(c), Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to submit information required under 40 C.F.R. Part 711.



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

21. 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.
22. 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.
23. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.
24. 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.
25. 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 the 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.
26. 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.
27. Pursuant to 40 C.F.R. § 22.5(c)(4), the following individual is authorized to receive service for the EPA in this proceeding:

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



**V. Final Order**

28. Respondent is assessed a civil penalty of **THIRTY SIX THOUSAND, ONE HUNDRED FIFTY DOLLARS (\$36,150)** which shall be paid within thirty (30) days of the effective date.
29. 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 methods below.

Address for payment submittal using the United States Postal Service (USPS) (excluding USPS overnight mail):

U.S. Environmental Protection Agency  
P.O. Box 979077  
St. Louis, Missouri 63197-9000.

Address for payment submittal using USPS overnight mail or other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.):

U.S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101

Contact Phone Number: (513) 487-2091

30. 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 Management and Emergency Planning Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960; and

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

31. 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.
32. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, the 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. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, the EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). 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.

33. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
34. This CAFO shall be binding upon the Respondent and its successors and assigns.
35. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and hereby legally binds that party to this CAFO.


**VI. Effective Date**

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

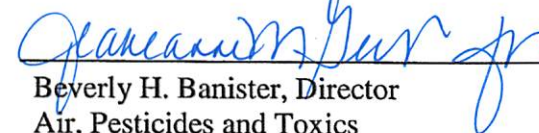
**AGREED AND CONSENTED TO:**

**Respondent: Ecka Granules of America L.P.**

**Docket No.: TSCA-04-2015-2503(b)**

By:  Date: July 20 2015  
Name: JULIE WAYMOLTA  
Title: SENIOR VICE PRESIDENT

**Complainant: U.S. Environmental Protection Agency**

By:  Date: 7-23-15  
Beverly H. Banister, Director  
Air, Pesticides and Toxics  
Management Division

**APPROVED AND SO ORDERED** this 18<sup>th</sup> day of August, 2015.

By:   
Tanya Floyd  
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 Ecka Granules of America L.P. Docket Number: TSCA-04-2015-2503(b), to the addressees listed below.

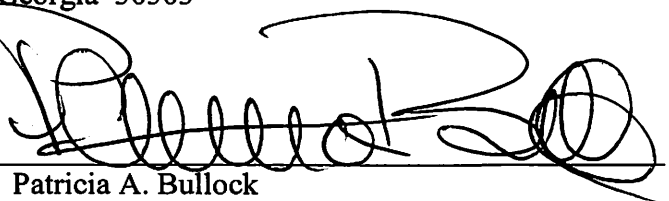
Mr. Steve Scheid (via Certified Mail, Return Receipt Requested)  
Customer Service Manager  
Ecka Granules of America L.P.  
500 Prosperity Drive  
Orangeburg, South Carolina 29115

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

Lynda Crum (via EPA's internal mail)  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

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

By:



Patricia A. Bullock  
Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth St., S.W.  
Atlanta, GA 30303

Date:

8-18-15

(404) 562-9511