



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

February 7, 2013

REPLY TO THE ATTENTION OF:

LC-8J

**CERTIFIED MAIL**

**Receipt No. 7009 1680 0000 7641 3596**

Mr. Ethan R. Ware, Esq.  
McNair Law Firm, P.A.  
Environmental Regulatory Practice Division  
1221 Main Street, 16<sup>th</sup> Floor  
Columbia, South Carolina 29201

Consent Agreement and Final Order in the Matter of  
IGM Resins, Inc., Docket No. TSCA-05-2013-0005

Dear Mr. Ware:

I have enclosed a copy of an original fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on February 7, 2013, with the Regional Hearing Clerk.

The civil penalty in the amount of \$59,099 is to be paid in the manner described in paragraphs 50 and 51. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by March 11, 2013 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Meghan Dunn".

Meghan Dunn  
Pesticides and Toxic Compliance Section

Enclosures

cc: Eric Volck, Cincinnati Finance/MWD (w/Encl.)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of: ) Docket No. TSCA-05-2013-0005  
)  
IGM Resins, Inc. ) Proceeding to Assess a Civil Penalty  
St. Charles, Illinois, ) Under Section 16(a) of the  
) Toxic Substances Control Act,  
Respondent. ) 15 U.S.C. § 2615(a).  
)

Notice of Treatment of Confidential Business Information

Portions of the attached Consent Agreement and Final Order ("CAFO") include information which Respondent submitted to the U.S. Environmental Protection Agency ("EPA") as Confidential Business Information ("CBI"). Information in the CAFO constituting or based on CBI has been deleted as is indicated by the following term: "redacted." Attachment A to this CAFO contains the CBI which has been redacted and is being kept in the secure files of the Land and Chemicals Division, EPA, Region 5. It will be treated as confidential unless and until Respondent waives confidentiality thereto or the EPA releases the information in accordance with 40 C.F.R. Part 2.

RECEIVED

FEB 07 2013

REGIONAL HEARING CLERK  
USEPA  
REGION 5

BD

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of: ) Docket No. TSCA-05-2013-0005  
)  
IGM Resins, Inc. )  
St. Charles, Illinois, )  
)  
Respondent. )  
\_\_\_\_\_ )  
)

Proceeding to Assess a Civil Penalty  
Under Section 16(a) of the  
Toxic Substances Control Act,  
15 U.S.C. § 2615(a).

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FEB 07 2013

Consent Agreement and Final Order

Preliminary Statement

REGIONAL HEARING CLERK

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1. This is an administrative action commenced and concluded under Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency ("EPA"), Region 5.
3. Respondent is IGM Resins, Inc., a corporation doing business in the State of Illinois.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order ("CAFO"). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.
6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

### Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the Introductory and Regulatory Background and the general and specific allegations in this CAFO, and enters into this CAFO solely in the interest of settling matters alleged herein without the cost and expense of litigation.

8. As a term of settlement, Respondent waives any right to contest the allegations in this CAFO and its right to appeal this CAFO.

### Statutory and Regulatory Background

9. Section 8(b)(1) of TSCA, 15 U.S.C. § 2607(b)(1), requires the Administrator to compile, keep current, and publish a list of each chemical substance which is manufactured or processed in the United States. This list is known as the "Master Inventory File," 40 C.F.R. § 710.23.

10. Section 8(a)(1)(A) of TSCA, 15 U.S.C. § 2607(a)(1)(A), states, in part, that the Administrator shall promulgate rules under which each person who manufactures or processes or proposes to manufacture or process a chemical substance shall maintain such records, and shall submit to the Administrator such reports, as the Administrator may reasonably require.

11. Section 3(7) of TSCA, 15 U.S.C. § 2602(7), states, in part, that the term "manufacture" also means to import into the customs territory of the United States.

12. Pursuant to Section 8(a) of TSCA, 15 U.S.C. § 2607(a), the Administrator issued the Inventory Reporting Regulations on December 23, 1977 (42 Fed. Reg. 64572). EPA issued the "Partial Updating of TSCA Inventory Data Base" rule (a/k/a "Inventory Update Rule" or "IUR") pursuant to Section 8 of TSCA, 15 U.S.C. § 2607, on June 12, 1986 (51 Fed. Reg. 21447). EPA has amended these regulations which are codified at 40 C.F.R. Part 710.

13. The IUR requirements for reporting year 2006 were amended on January 7, 2003 (68 Fed. Reg. 890).

14. The term "chemical substance" is defined at 40 C.F.R. § 710.3 as any organic or inorganic substance of a particular molecular identity, including any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and any chemical element or uncombined radical.

15. The term "reporting year" is defined at 40 C.F.R. § 710.43 as the calendar year in which information to be reported to EPA during an IUR submission period is generated, i.e., for purposes of this matter, calendar year 2005.

16. The term to "manufacture or import" "for commercial purposes" is defined at 40 C.F.R. § 710.3, in part, as to manufacture, produce, or import with the purpose of obtaining an immediate or eventual commercial advantage, and includes, for example, the manufacture or import of any amount of a chemical substance or mixture for commercial distribution.

17. The term "person" is defined at 40 C.F.R. § 710.3 as any natural or juridical person including any individual, corporation, partnership, or association, any State or political subdivision thereof, or any municipality, any interstate body and any department, agency, or instrumentality of the Federal Government.

18. The term "site" is defined at 40 C.F.R. § 710.3 as a contiguous property unit and, for a person who imports a substance, the "site" is the operating unit within a person's organization which is directly responsible for importing the substance and which controls the import transaction.

19. 40 C.F.R. § 710.45 requires information to be reported for any chemical substance which is in the Master Inventory File at the beginning of a submission period, described in

§ 710.53, unless that chemical substance is specifically excluded by § 710.46.

20. 40 C.F.R. § 710.48 states, in part that, except as provided in §§ 710.49 and 710.50, any person who imported, for commercial purposes, 25,000 lbs or more of a chemical substance described in § 710.45 at any single site owned or controlled by that person at any time during calendar year 2005, is subject to the reporting requirements of Part 710.

21. 40 C.F.R. § 710.52 states, in part, that any person who must report under this subpart must submit the information described in this section to EPA, for each chemical substance described in § 710.45, that the person imported for commercial purposes in an amount of 25,000 lbs or more at any one site during calendar year 2005.

22. 40 C.F.R. § 710.49 states, in part, that a person may be partially exempt from the reporting requirements of 40 C.F.R. Part 710 if such person qualifies as a "small manufacturer or importer" by either the "First standard" or "Second standard" as defined in 40 C.F.R. § 704.3.

23. 40 C.F.R. § 710.53 requires all information reported to EPA in response to the IUR requirements to be submitted during an applicable submission period. The submission period for calendar year 2005 was from August 25, 2006 to March 23, 2007.

24. Section 15(3) of TSCA, 15 U.S.C. § 2614(3), among other things, makes it unlawful for any person to fail to submit reports, notices or other information, as required by TSCA, or any rule promulgated thereunder.

25. Section 16 of TSCA, 15 U.S.C. § 2615, states that any person who violates a provision of Section 15 of TSCA, 15 U.S.C. § 2614, shall be liable to the United States for a civil penalty.

26. Section 16 of TSCA, 15 U.S.C. § 2616 authorizes the Administrator of EPA to assess a civil penalty of up to \$25,000 per day for each violation of TSCA. The Federal Civil

Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note (1990), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note (1996), required federal agencies to issue regulations adjusting for inflation the maximum civil penalties that may be assessed pursuant to each agency's statutes. EPA may assess a civil penalty of up to \$32,500 per day for each violation of TSCA that occurred after March 15, 2004 through January 12, 2009.

### General Allegations

27. During calendar year 2005, Respondent was a "person" as that term is defined at 40 C.F.R. § 710.3.

28. During calendar year 2005, Respondent owned or controlled a site at 1245 Humbracht Circle, Suite B, Bartlett, Illinois (the "IGM Site").

29. At the IGM Site, Respondent imported the chemicals listed in Table I below (the specific names of these chemicals are listed in Attachment A<sup>1</sup> to this CAFO), during calendar year 2005.

Table I

<b>Chemical Name</b>	<b>CAS No.</b>
[redacted], hereafter referred to as Chemical A	[redacted]
[redacted], hereafter referred to as Chemical B	[redacted]
[redacted], hereafter referred to as Chemical C	[redacted]
[redacted], hereafter referred to as Chemical D	[redacted]
[redacted], hereafter referred to as Chemical E	[redacted]
[redacted], hereafter referred to as Chemical F	[redacted]

<sup>1</sup>. Attachment A is being kept in the secure files of the Land and Chemical Division, EPA, Region 5, and will be treated as confidential unless and until Respondent waives confidentiality thereto or the EPA releases the information in accordance with 40 C.F.R. Part 2.

30. At all times relevant to this matter, the chemical substances listed in Table 1 were listed on the Master Inventory File.

Specific Allegations

Count 1

31. Complainant incorporates by reference the allegations contained in paragraphs 1 through 30 of this CAFO.

32. During calendar year 2005, Respondent imported the chemical substance Chemical A (CAS No. redacted) listed in Table 1 above for a commercial purpose, as defined at 40 C.F.R. § 710.3, in an amount in excess of IUR reporting thresholds.

33. Respondent did not submit a Form U for Chemical A for reporting year 2005, between August 25, 2006 and March 23, 2007.

Count 2

34. Complainant incorporates by reference the allegations contained in paragraphs 1 through 30 of this CAFO.

35. During calendar year 2005, Respondent imported the chemical substance Chemical B (CAS No. redacted) listed in Table 1 above for a commercial purpose, as defined at 40 C.F.R. § 710.3, in an amount in excess of IUR reporting thresholds.

36. Respondent did not submit a Form U for Chemical B for reporting year 2005, between August 25, 2006 and March 23, 2007.

Count 3

37. Complainant incorporates by reference the allegations contained in paragraphs 1 through 30 of this CAFO.

38. During calendar year 2005, Respondent imported the chemical substance Chemical



C (CAS No. redacted) listed in Table 1 above for a commercial purpose, as defined at 40 C.F.R. § 710.3, in an amount in excess of IUR reporting thresholds.

39. Respondent did not submit a Form U for Chemical C for reporting year 2005, between August 25, 2006 and March 23, 2007.

Count 4

40. Complainant incorporates by reference the allegations contained in paragraphs 1 through 30 of this CAFO.

41. During calendar year 2005, Respondent imported the chemical substance Chemical D (CAS No. redacted) listed in Table 1 above for a commercial purpose, as defined at 40 C.F.R. § 710.3, in an amount in excess of IUR reporting thresholds.

42. Respondent did not submit a Form U for Chemical D for reporting year 2006, between August 25, 2006 and March 23, 2007.

Count 5

43. Complainant incorporates by reference the allegations contained in paragraphs 1 through 30 of this CAFO.

44. During calendar year 2005, Respondent imported the chemical substance Chemical E (CAS No. redacted) listed in Table 1 above for a commercial purpose, as defined at 40 C.F.R. § 710.3, in an amount in excess of IUR reporting thresholds.

45. Respondent did not submit a Form U for Chemical E for reporting year 2005, between August 25, 2006 and March 23, 2007.

Count 6

46. Complainant incorporates by reference the allegations contained in paragraphs 1 through 30 of this CAFO.

47. During calendar year 2005, Respondent imported the chemical substance Chemical F (CAS No. redacted) listed in Table 1 above for a commercial purpose, as defined at 40 C.F.R. § 710.3, in an amount in excess of IUR reporting thresholds.

48. Respondent did not submit a Form U for Chemical F for reporting year 2005, between August 25, 2006 and March 23, 2007.

Civil Penalty

49. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant determined that an appropriate civil penalty to settle this action is \$59,099. In determining this penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, and, with respect to Respondent, ability to pay, effect on ability to continue to do business, any history of such prior violations, and degree of culpability. Complainant also considered "The Enforcement Response Policy for Reporting and Recordkeeping Rules and Requirements for TSCA Sections 8, 12 and 13," effective June 1, 1999.

50. Respondent agrees to pay a \$59,099 civil penalty for the TSCA violations alleged herein, within 30 days after the effective date of this CAFO, by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

51. The check must note "IGM Resins, Inc.," on its face and the docket number of this CAFO.

52. Respondent must also send a notice of payment that states Respondent's name, complete address, and the case docket number to EPA at the following addresses when it pays

the penalty:

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd  
Chicago, Illinois 60604

Meghan Dunn (LC-8J)  
Pesticides and Toxics Compliance Section  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd  
Chicago, Illinois 60604

Terence Stanuch (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd  
Chicago, Illinois 60604

53. If Respondent does not pay timely the civil penalty, EPA may refer this matter to the Attorney General who will recover such amount, plus interest, in the appropriate district court of the United States under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

54. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

#### General Provisions

55. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged herein.

56. This CAFO does not affect the rights of EPA or the United States to pursue

appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

57. This CAFO does not affect Respondent's responsibility to comply with the IUR and any other applicable federal, state and local laws.

58. Respondent certifies that it has submitted to the IUR reports for the six chemicals listed in Table 1 for calendar year 2005, and is complying with the IUR.

59. The terms of this CAFO bind Respondent, and its successors and assigns.

60. The civil penalty assessed herein is not deductible for federal tax purposes.

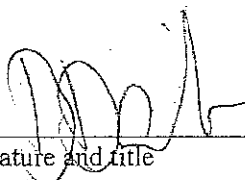
61. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

62. Each party agrees to bear its own costs and attorneys fees in this action.

63. This CAFO constitutes the entire agreement between the parties.

**For IGM Resins, Inc., Respondent**


January 15, 2013  
Date

 VP Supply Chain  
Signature and title

B. E. Baeten  
Printed Name

**For the United States Environmental Protection Agency, Complainant**

1/31/2013  
Date

  
Margaret M. Guerriero  
Director  
Land and Chemicals Division



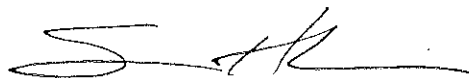
In the Matter of: IGM Resins, Inc., St. Charles, Illinois  
Docket No. TSCA-05-2013-0005

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 5. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

2-4-13

Date



Susan Hedman  
Regional Administrator  
United States Environmental Protection Agency  
Region 5

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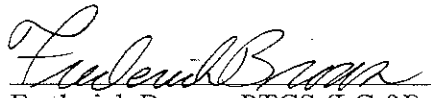
**CERTIFICATE OF SERVICE**

This is to certify that the original and one copy of this Consent Agreement and Final Order in the resolution of the civil administrative action involving IGM Resins, Inc., was filed on February 7, 2013, with the Regional Hearing Clerk (E-19J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that a true correct copy was sent by Certified Mail, Receipt No. 7009 1680 0000 7641 3596 to:

Mr. Ethan R. Ware, Esq.  
McNair Law Firm, P.A.  
Environmental Regulatory Practice Division  
1221 Main Street, 16<sup>th</sup> Floor  
Columbia, South Carolina 29201

and forwarded intra-Agency copies to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J  
Terence Stanuch, Counsel for Complainant/C-14J  
Eric Volck, Cincinnati Finance/MWD

  
Frederick Brown, PTCS (LC-8J)  
U.S. EPA - Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

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