



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JAN 10 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Tom Cone
Cone Solvents
3601 Ralph Avenue
Louisville, KY 60499-0730

Re: Consent Agreement and Final Order In the Matter of Cone Solvents, Inc.
Docket No. CAA-04-2007-1502(b)

Dear Mr. Cone:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) for Cone Solvents, Inc., regarding Docket No. CAA-04-2007-1502(b). The original CAFO has been filed with the Regional Hearing Clerk as directed in Section 22.5(a) of the Consolidated Rules of Practice, as amended. Please refer to Section IV, Final Order, for the terms and instructions regarding your final payment on the penalty due.

Also enclosed is a copy of the "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 (SEC) any environmental enforcement actions taken by the Environmental Protection Agency. If you have any questions with regard to the SEC's environmental disclosure requirements, you may refer to the contact phone number at the bottom of the Notice.

Should you have any questions, please contact Ms. Rosalyn Hughes at (404) 562-9206.

Sincerely,

A handwritten signature in cursive script that reads "Carol G. Remkey for".

Beverly Banister
Director
Air, Pesticides and Toxics
Management Division

Enclosures

cc: Art Williams, Director, Louisville APCD

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

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**NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE
ENVIRONMENTAL LEGAL PROCEEDINGS**

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

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

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

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

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

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

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:

Cone Solvents, Inc.
Louisville, KY

Respondent.

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Docket No. CAA-04-2007-1502(b)

RECEIVED
EPA REGION IV
2007 JAN 10 PM 4:32
SEARCHING CLERK

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is an administrative proceeding to assess a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).
2. The authority to take action under Section 113(d) of CAA, 42 U.S.C. § 7413(d), is vested in the Administrator of the United States Environmental Protection Agency (EPA). The Administrator of EPA has lawfully delegated this authority under the CAA to the Regional Administrators by EPA Delegation 7-6-A, last updated on August 4, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by EPA Region 4 Delegation 7-6-A, dated November 15, 1993. 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. The Respondent is Cone Solvents, Inc., a corporation doing business in Louisville, Kentucky.
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.
4. Section 110 of the Clean Air Act (CAA), 42 U.S.C. § 7410, provides that each state must submit a State Implementation Plan (SIP) which provides for implementation, maintenance, and enforcement of the national primary and

secondary ambient air quality standards (NAAQS) to the Administrator of EPA within three years of the promulgation or revision of such standards.

5. EPA promulgated final approval of the Kentucky SIP program, which includes Jefferson County's Local Implementation Plan (LIP), on January 25, 1980 (45 Fed. Reg. 6092), and the program became effective on that date.
6. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and 40 C.F.R. Part 19, EPA may assess a penalty of not more than \$25,000 for each violation of Section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d), that occurred prior to January 31, 1997, not more than \$27,500 for each violation that occurred on or after January 31, 1997, and not more than \$32,500 for each violation that occurred after March 15, 2004.
7. The Jefferson County, Kentucky, portion of the Kentucky SIP, 40 CFR 52.920(c) Table 2, Regulation 2.17, Federally Enforceable District Origin Operating Permits (FEDOOP), Section 3, General Provisions, 3.1 states that the stationary source shall comply with all terms and conditions in a FEDOOP, including subsequent revisions. Regulation 2.17-3.2 states that all terms and conditions in a FEDOOP, including those requirements designed to limit a stationary source's potential to emit, are enforceable by the EPA.
8. Cone Solvents, Inc., is a chemical distributor located at 3601 Ralph Avenue in Louisville, Kentucky, that receives bulk liquid chemical products and redistributes them.
9. On January 31, 2004, the Louisville Air Pollution and Control District (APCD) issued FEDOOP number 312-03-F to Respondent.

II. Allegations

10. Based on the findings of an inspection of Respondent's facility conducted by the Louisville APCD and EPA's subsequent review of Respondent's records, EPA has determined and alleges that Respondent violated FEDOOP number 312-03-F as set forth herein.
11. Additional Conditions 2. a. ii. 2) and iv. 2) of FEDOOP number 312-03-F require the Respondent to maintain daily records for the Truck loading rack and the Railcar loading/unloading operations. Respondent violated the permit by failing to maintain daily records for the time period of February 2004 through May 2004.

12. General Condition 9. of FEDOOP number 312-03-F states that the Respondent shall provide written notification to the Louisville APCD and receive approval prior to any changes to equipment or processes that would result in actual emissions of any regulated pollutant in excess of the allowable emission specified in the permit.
13. The Respondent stored chemicals in several of its tanks different from the chemicals that the tanks were permitted to hold, under FEDOOP number 312-03-F. Respondent failed to notify the Louisville APCD prior to making the changes in storage and thereby violated its permit.
14. The operating permits for the Respondent expired on February 28, 2003 and the Respondent did not have a new permit in place. Also, the Respondent had not submitted a permit application before the operating permit expired.
15. The renewal application was due to the Louisville APCD no later than ninety days prior to the expiration date.
16. The renewal application was submitted on April 17, 2003, after Louisville APCD notified Respondent that the operating permits had expired.
17. The Respondent failed to obtain and operate with a valid operating permit for eleven months in violation of 40 C.F.R. Part 52, Section 920(c).
18. General Condition 12 of FEDOOP number 312-03-F requires the Respondent to submit quarterly reports to the Louisville APCD by no later than 60 days following the end of each calendar quarter.
19. General Condition 3 of FEDOOP number 312-03-F requires that all reports submitted to the Louisville APCD shall be certified by a responsible official. Respondent's first quarterly report for the period January through March 2004 was due by May 31, 2004, but was not submitted until August 2, 2004. The report was not certified by a responsible official. Additionally, Respondent's second quarterly report for the period April through June 2004, also submitted on August 2, 2004, was not certified by a responsible official. Therefore, Respondent violated General Conditions 3 and 12 of the FEDOOP.
20. Based on the foregoing, EPA has found Respondent's facility to be in violation of 40 C.F.R. Part 52, Section 920(c) - Table 2, Regulation 2.17.

III. Consent Agreement

21. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.

22. Respondent waives its right to a hearing on the allegations contained herein.
23. Respondent consents to the assessment of 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 applicable requirements of the CAA.
25. Compliance with this CAFO shall resolve the allegations of violations contained herein and known to the EPA at this time. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither 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 for allegations of violations not contained in this CAFO.
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 the CAA.

IV. Final Order

27. Respondent is assessed a civil penalty of **THIRTY-TWO THOUSAND DOLLARS (\$32,000)**.
28. Respondent shall pay the penalty by forwarding a cashier's or certified check in the amount specified in paragraph 25, payable to: "Treasurer, United States of America," to the following address:

U.S. Environmental Protection Agency
Cincinnati Accounting Operations
Mellon Lockbox 371099M
Pittsburgh, PA 15251-7099

The check shall reference on its face the name and the Docket Number of the CAFO (Cone Solvents, Inc., Docket Number CAA-04-2007-1502(b)).
Payment shall be made within 30 days of receipt of this filed CAFO.

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

Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960

Rosalyn Hughes (AEEB)
U.S. EPA - Region 4
Air, Pesticides and Toxics Management Division
Air and EPCRA Enforcement Branch
61 Forsyth Street
Atlanta, Georgia 30303

Saundi Wilson (EAD)
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303

30. 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.
31. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the payment referenced in paragraph 25, from the date of entry of this CAFO, if any such payment is not paid by the date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge of ten percent per year compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.
32. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
33. This CAFO shall be binding upon the Respondent, its successors and assigns.
34. 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 legally bind that party to it.

Effective Date

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

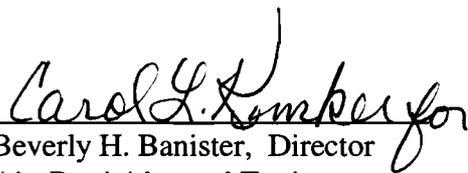
AGREED AND CONSENTED TO:

CONE SOLVENTS, INC.

By: 
Tom Cone, President
Cone Solvents, Inc.

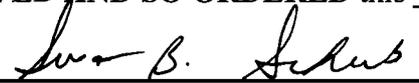
Date: 11-7-2006

U.S. Environmental Protection Agency

By: 
Beverly H. Banister, Director
Air, Pesticides and Toxics
Management Division
Region 4

Date: 12/8/06

APPROVED AND SO ORDERED this 10th day of Jan., 2007.


Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of Cone Solvents, Inc; Docket No. CAA-04-2007-1502(b), on the parties listed below, which are also authorized to receive service relating to this proceeding:

Complainant (Via EPA's internal mail)

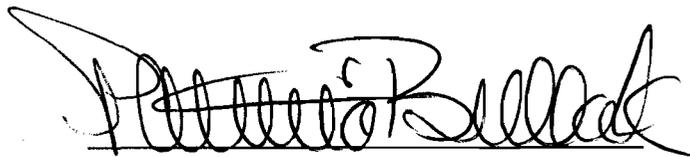
Robert Caplan
U.S. EPA, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street
Atlanta, Georgia 30303
(404) 562-9575

Rosalyn Hughes (AEEB)
U.S. EPA, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street
Atlanta, Georgia 30303
(404) 562-9201

Respondent (Via Certified Mail - Return Receipt Requested)

Mr. Tom Cone
Cone Solvents, Inc.
3601 Ralph Avenue
Louisville, Kentucky

Date 1-10-07



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street
Atlanta, GA 30303
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 12/22/06
(Name) (Date)

in the OEA at (404) 562-9504
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree
USAO COLLECTS

Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree
DOJ COLLECTS

Oversight Billing - Cost Package required:
Sent with bill

Other Receivable

Not sent with bill

This is an original debt

Oversight Billing - Cost Package not required

This is a modification

PAYEE: Cone Solvents Inc
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 32,000
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CAA 04 2007-1502(b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

A. JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the FINAL JUDICIAL ORDER should be mailed to:

- | | |
|--|------------------------------|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD) |
| | 3. Designated Program Office |

B. ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |