



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

4APT-PTSB

AUG 26 2008

Certified Mail – Return Receipt Requested

Mr. Michael Pinto
Principal Environmental Engineer
Legacy Site Services
468 Thomas Jones Way
Exton, PA 19341

SUBJ: Docket No. TSCA-04-2008-2540(b)
Arkema, Inc.

Dear Mr. Pinto:

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.

As stated in Section 24 of the CAFO, the assessed penalty of \$8,610 is due within 30 days from the effective date. Please ensure that the face of your cashier's or certified check includes the name of the company and the docket number of this case.

Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125 or by written correspondence to her attention at U.S. Environmental Protection Agency (EPA), Cincinnati Accounting Operations address identified in the CAFO. Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Mr. Keith Bates at (404) 562-8992.

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 (SEC) any environmental enforcement actions taken by EPA.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeanne M. Gettle".

Jeanne M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures

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

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

In the Matter of:)
)
Arkema, Inc.)
)
)
Respondent.)
_____)

Docket No. TSCA-04-2008-2540(b)

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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, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Arkema, Inc.
2. 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

3. The Administrator of EPA promulgated rules in 40 C.F.R. Part 761, pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605. Failure to comply with any such rule constitutes a violation of Section 15 of TSCA, 15 U.S.C. § 2614. Any person who violates a provision of Section 15 of TSCA may be assessed a penalty of up to \$27,500 for each such violation occurring between January 30, 1997, and March 15, 2004, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. For each such violation occurring after March 15, 2004, a penalty of up to \$32,500 may be assessed. Each day a violation continues may constitute a separate violation.
4. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under TSCA to EPA Region 4 by EPA Delegation 12-2-A, dated May 11, 1994.
5. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Keith Bates
PCB and Chemical Products
Management Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-8992.

III. Specific Allegations

6. Respondent was a user of Polychlorinated Biphenyl (PCB) Items prior to approximately July 2, 2007, operating in the Commonwealth of Kentucky and is a "person" as defined in 40 C.F.R. §761.3.
7. On or about July 2, 2007, an inspection was conducted at Respondent's facility located at 2927 Kentucky State Route 70 in Mexico, Kentucky to determine compliance with

regulations promulgated under Section 6(e) of TSCA pertaining to PCBs. This facility was formerly a fluorspar mill and has not been in operation for many years.

8. The inspection was conducted in response to the reported theft and vandalism of transformers potentially containing PCBs.
9. Respondent possessed three PCB-Contaminated Transformers identified as GE SN# D435787-59P, GE SN# D435786-59P, and GE SN# D435785-59P prior to their theft and vandalism around June 20, 2007. Two of the PCB-Contaminated Transformers were stolen and removed from the site and the other was vandalized resulting in the spill of PCB-Contaminated dielectric fluid. Each of the PCB-Contaminated Transformers are estimated to have contained approximately thirty gallons of PCB-contaminated dielectric fluid.
10. Soil contaminated with PCBs as a result of the spill, the transformer carcass that remained at the site and the two transformer carcasses that were recovered and returned to the site were removed and disposed around July 2, 2007. No known PCBs or PCB Items remain at Respondent's facility.
11. Respondent's facility ceased operation in the 1970's and there were no plans for reuse of the three PCB-Contaminated Transformers identified in paragraph 9 above and as such the Respondent must have considered the transformers to be PCB waste and stored for disposal prior to their theft and vandalism.
12. Pursuant to 40 C.F.R. § 761.65(a)(1), any PCB wastes shall be disposed within 1-year from the date it was determined to be PCB waste and the decision was made to dispose of it. EPA considers equipment not in use if a facility is shut down. EPA also considers PCB Articles that are not in use with no plans for reuse as stored for disposal and therefore waste.

13. Respondent violated 40 C.F.R. § 761.65(a)(1) by failing to dispose the three PCB-Contaminated Transformers identified in paragraph 9 above within 1-year of the PCB-Contaminated Transformers being considered PCB waste.
14. Pursuant to 40 C.F.R. § 761.65(b), owners or operators of any facilities used for the storage of PCBs and PCB Items designated for disposal shall comply with certain storage unit requirements. The storage unit requirements include, but are not limited to:
 - (1) adequate roof and walls to prevent rain water from reaching the PCBs and PCB items;
 - (2) an adequate floor that has continuous curbing with a minimum six inch curb to contain any spills;
 - (3) no drain valves, floor drains, expansion joints, sewer lines, or other openings that would permit liquids to flow from the curbed area;
 - (3) floors and curbing constructed of Portland cement, concrete, or a continuous, smooth, non-porous surface which prevents or minimizes penetration of PCBs; and
 - (4) not located at a site that is below the 100-year flood water elevation.
15. Respondent violated 40 C.F.R. § 761.65(b) by failing to store the three PCB-Contaminated Transformers identified in paragraph 9 above for disposal prior to their theft and vandalism in a facility with an adequate roof and walls and an adequate floor that has continuous curbing with a minimum six inch curb.
16. Pursuant to 40 C.F.R. § 761.65(c)(5), all PCB Items in storage shall be checked for leaks at least once every 30 days. Records of inspections, maintenance, cleanup and disposal must be maintained in accordance with 40 C.F.R. § 761.180(a) and (b).
17. Respondent failed to inspect the three PCB-Contaminated Transformers identified in paragraph 9 above in storage for disposal prior to their theft and vandalism at least once every 30 days and maintain records pursuant to 40 C.F.R. § 761.180(a).

IV. Consent Agreement

18. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above. Respondent and Complainant recognize that this CAFO has been negotiated in good faith and that the actions undertaken by Respondent in accordance with this CAFO do not constitute an admission of liability. Respondent does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this CAFO, the validity of the factual allegations contained in this CAFO
19. 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.
20. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
21. Respondent certifies that as of the date of its execution of this CAFO, the Mexico, KY facility is in compliance with all relevant requirements of TSCA.
22. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA, for the specific violations alleged herein. Except as specifically provided in this CAFO, EPA reserves all other civil and criminal enforcement authorities, including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is Respondent's responsibility to comply with said laws and regulations.
23. 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.

V. Final Order

24. Respondent is assessed a civil penalty of EIGHT THOUSAND SIX HUNDRED TEN DOLLARS (\$8,610), which shall be paid within 30 days from the effective date of this CAFO.
25. Respondent shall remit the civil penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check to the following address by U.S. Postal Service:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000.

The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.

For payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc.), please use the following address:

U. S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson (314) 418-4087

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

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960;

Keith Bates
PCBs and Chemical Products
Management Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960;

and

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

27. 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.
28. 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 civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. 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.
29. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
30. This CAFO shall be binding upon the Respondent, its successors and assigns.
31. The undersigned representative of the party to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

AGREED AND CONSENTED TO:

Respondent: Arkema, Inc.
Docket No.: TSCA-04-2008-2540(b)

By: Stan Beisert (Signature) Date: 8/8/08

Name: Stan Beisert (Typed or Printed)

Title: President, Legacy Site Services LLC (Typed or Printed)
(Agent for Arkema Inc.)

Complainant: U.S. Environmental Protection Agency

By: Beverly H. Banister for Date: 8/20/08

Beverly H. Banister
Director
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 25th day of August, 2008.

By: Susan B. Schub
Susan B. Schub
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: Arkema, Inc., Docket Number: TSCA-04-2008-2540(b), to the addressees listed below.

Mr. Michael Pinto
Principal Environmental Engineer
Legacy Site Services
468 Thomas Jones Way
Exton, PA 19341

(via Certified Mail, Return Receipt Requested)

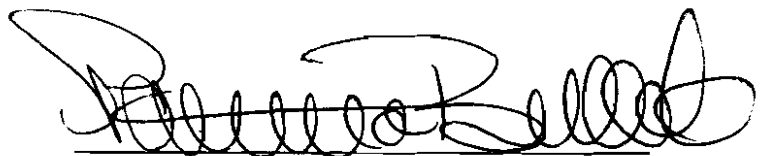
Keith Bates
PCB and Chemical Products
Management Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

(via EPA's internal mail)

Robert Caplan, Attorney
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth St., SW
Atlanta, GA 30303

(via EPA's internal mail)

Date: 8-26-08



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth St., SW
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 8/22/08
(Name) (Date)

in the Region 4, ORC, 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

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

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

The Total Dollar Amount of the Receivable: \$ 8610 --
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: TSCA 04 2008 2540(b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program 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) |