



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

SEP 14 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Bill Woods
PDI Director
Safety & Environmental Services
Praxair Distribution, Inc.
700 High Grove Boulevard
Burr Ridge, Illinois 60527

Re: Praxair Distribution, Inc.
Docket No.: TSCA-04-2010-2730(b)

Dear Mr. Woods:

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 Paragraph 26 of the CAFO, the assessed penalty of \$14,468 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 the U.S. Environmental Protection Agency's (EPA's) 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. Mark Bean at (404) 562- 9000.

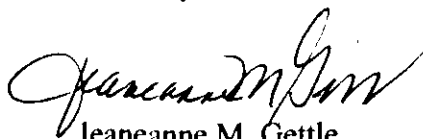
Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document

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

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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 "Jeaneanne M. Gettle". The signature is fluid and cursive, with the first name being the most prominent.

Jeaneanne M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

IN THE MATTER OF:)

Praxair Distribution, Inc.)

Respondent.)
_____)

Docket No.: TSCA-04-2010-2730(b)

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EPA REGION 4

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 the 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 Praxair Distribution, 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. Pursuant to Section 15 of TSCA, 15 USC § 2614, it is unlawful for any person to: (1) fail or refuse to comply with any rule or order promulgated pursuant to Sections 4, 5, 8, 12, or 13 of TSCA (15 USC § 2603, § 2604, § 2607, § 2611, or § 2612); (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 TSCA Section 5, 15 USC § 2604; (3) fail to maintain records, submit reports or information, or permit access to allow copying of records as required by TSCA; and, (4) refuse to permit entry or inspection as authorized by Section 11 of TSCA, 15 USC § 2610. 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, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. For a violation occurring after March 15, 2004, but before January 12, 2009, 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 USC § 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. Within Region 4, the authority has been further delegated to the Director of the Air, Pesticides, and Toxics Management Division by Regional Delegation 12-2-A, dated January 14, 2009.
5. Complainant will file the original non-confidential CAFO with the Regional Hearing Clerk and a copy will be mailed to the Respondent. To determine the confidential business information (CBI) that was deleted (CBI deleted) from this CAFO, Complainant

and Respondent should refer to the EPA Confidential Notice of Violation dated April 8, 2010.

6. 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:

Mark Bean, Life Scientist
Chemical Products and
Asbestos Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-9000.

III. Specific Allegations

7. On February 3, 2009, a duly credentialed EPA representative conducted an inspection at the chemical manufacturing facility owned by Respondent located at 2534 NW 16th Boulevard, Okeechobee, Florida 34972 (the Okeechobee facility).
8. As a result of that inspection, Respondent submitted to EPA documentation including the 2006 Inventory Update Report (IUR) for the Okeechobee facility and summaries of chemical products imported or manufactured at that facility during calendar year 2005. The documentation submitted was claimed by Respondent to be Confidential Business Information (CBI), so the relevant chemical substance shall be referred to hereinafter as Chemical A, as it was designated by EPA in the non-confidential Notice of Opportunity to Show Cause Pursuant to Potential Violation of the Toxic Substances Control Act (Show Cause) letter to Respondent dated April 8, 2010.
9. In the documentation submitted, Respondent indicated that the manufactured volume of Chemical A from the Okeechobee facility was [CBI deleted], a regulated quantity.

10. On its 2006 IUR, Respondent indicated that the manufactured volume of Chemical A from the Okeechobee facility was [CBI deleted], an amount greater than ten percent of the actual manufactured volume.
11. Chemical A was a chemical substance as that term is defined in 40 C.F.R. § 710.3(d).
12. Respondent is a person as that term is defined in 40 C.F.R. § 710.43.
13. Respondent is a manufacturer as that term is defined in 40 C.F.R. § 710.43.
14. As defined in 40 C.F.R. § 710.43, the reporting year applicable to this matter was calendar year 2005.
15. As defined in 40 C.F.R. § 710.43, the submission period is the period in which information generated during the reporting year is submitted to EPA.
16. As designated in 40 C.F.R. § 710.53, the submission period applicable to this matter was between the dates of August 25, 2006, and March 23, 2007, inclusive.
17. Respondent submitted to EPA Form U (2006) Partial Updating of Inventory Data Base Site Report for the above-named facility for calendar year 2005, dated December 13, 2006.
18. According to the documentation named in paragraph 8 above, Respondent manufactured [CBI deleted] pounds of Chemical A, an amount in excess of the minimum reporting requirements pursuant to 40 C.F.R. § 710.52(c)(3), during the reporting year.
19. Respondent over-reported [CBI deleted] pounds of Chemical A during the applicable submission period, an amount greater than ten percent of the actual volume manufactured at the Okeechobee facility for calendar year 2005, a violation of 15 U.S.C § 2614(3)(B).

IV. Consent Agreement

20. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth in Section III, above.
21. 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.
22. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
23. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA.
24. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16a 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.
25. 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

26. Respondent is assessed a civil penalty of **FOURTEEN THOUSAND SIX HUNDRED FORTY-EIGHT DOLLARS (\$14,648)** which shall be paid within 30 days from the effective date of this CAFO.
27. 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 one of the following addresses:

For payment submittal by U.S. Postal Service:

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

For payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc.):

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

Contact: Natalie Pearson (314) 418-4087

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

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Payment by wire transfer, in lieu of a cashier's or certified check, if desired, should be directed to the Federal Reserve Bank of New York

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 "

28. At the time of payment, Respondent shall send a separate copy of the check or wire transfer, 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;

Mark Bean, Life Scientist
PCB and Chemical Products
Management Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960;

and,

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

29. 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.

30. Pursuant to 31 USC § 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 principle amount not paid within 90 days of the due date.
31. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
32. This CAFO shall be binding upon the Respondent, its successors and assigns.
33. 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.

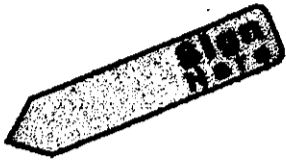
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VI. Effective Date

34. 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: Praxair Distribution, Inc.
Docket No.: TSCA-04-2010-2730(b)



By: Wilson Rice (Signature) Date: 8/16/10

Name: Wilson Rice (Typed or Printed)

Title: VP OPERATIONS, PDE (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By: Carol L. Kemker (Signature) Date: 8/24/10

Carol L. Kemker, Acting Division Director
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 13th day of Sept., 2010.

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: Praxair Distribution, Inc., Docket Number: TSCA-04-2010-2730(b), to the addressees listed below.

Mr. Bill Woods (via Certified Mail, Return Receipt Requested)
PDI Director
Safety & Environmental Services
Praxair Distribution, Inc.
700 High Grove Boulevard
Burr Ridge, Illinois 60527

Mark Bean (via EPA's internal mail)
Chemical Products and
Asbestos Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

Robert Caplan, Attorney (via EPA's internal mail)
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth St., SW
Atlanta, GA 30303

Date: 9-14-10



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