



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2008 APR 25 AM 10:10
REGIONAL HEARING
CLERK

April 25, 2008

Honorable Susan L. Biro
Chief Administrative Law Judge
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1900L
Washington, DC 20460

Joseph Carey, Esq.
Attorney at Law
1081 Main Street, Suite E
Fishkill, NY 12524

Re: In the Matter of Zierick Manufacturing Corporation, Docket No. EPCRA-02-2007-4006
Fully Executed Consent Agreement and Final Order

Dear Madame/Sir:

Enclosed please find a copy of the fully-executed Consent Agreement and Final Order ("CAFO") for the above-referenced case.

Mr. Carey, as you will note, the Final Order was signed on April 23, 2008. Pursuant to Paragraph 8 of the CAFO, Respondent's payment of the penalty is due on or before 30 calendar days after the date of signature of the Final Order.

Judge Biro, in regards to your Order of April 15, 2008, in this matter, the filing of the enclosed, fully executed CA/FO fully complies with the requirements of that Order.

If you have any questions, please call me at (212) 637-3172. Again, thank you for your cooperation and assistance in this matter.

Sincerely yours,

Andrew L. Praschak
Assistant Regional Counsel
Office of Regional Counsel

Enclosures

cc: Regional Hearing Clerk, Region II (with Original CAFO)

In the Matter of Zierick Manufacturing Corporation, Docket No. EPCRA-02-2007-4006

Certificate of Service

I certify that the foregoing Letter enclosing fully-executed copy of the Consent Agreement and Final Order in this matter, was sent this day in the following manner to the addressees below:

Original and one copy by hand-delivery to:

Office of Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

Copy by Pouch Mail to:

Honorable Susan L. Biro
Chief Administrative Law Judge
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1900L
Washington, DC 20460

**Copy by Facsimile and Certified Mail,
Return Receipt Requested to:**

Joseph P. Carey, Esq.
Attorney at Law
1081 Main Street, Suite E
Fishkill, NY 12524
Fax: (845) 896-0602

Date: April 25, 2008
Name: Brenda Hadley
Title: Branch Secretary.
Address: 290 Broadway, NYC 10007.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2008 APR 25 AM 10:10
REGIONAL HEARINGS
CLERK

IN THE MATTER OF:)
)
Zierick Manufacturing Corporation)
131 Radio Circle)
Mount Kisco, New York,)
)
)
Respondent.)

DOCKET NO. EPCRA-02-2007-4006

CONSENT AGREEMENT AND
FINAL ORDER

Under Section 325 of the
Emergency Planning and
Community Right-to-Know
Act, 42 U.S.C. § 11045

I. PRELIMINARY STATEMENT

Complainant, the United States Environmental Protection Agency (“EPA”), Region 2, and Respondent, Zierick Manufacturing Corporation, by their undersigned representatives, hereby consent and agree as follows:

1. EPA initiated this proceeding for the assessment of civil penalties pursuant to Section 325 of the Emergency Planning and Community Right to Know Act (“EPCRA”), 42 U.S.C. §11045, by issuing an Administrative Complaint, Docket No. EPCRA-02-2007-4006 (hereinafter, “Complaint”), against Respondent on September 27, 2007.
2. Respondent is the owner and/or operator of a facility located at 131 Radio Circle, Mount Kisco, New York 10549 (hereinafter, the “Facility” or “Respondent’s Facility”).
3. The Complaint charged Respondent with the following counts:
 - a. One count for violation of EPCRA § 312 for Respondent’s failure to file a Tier I/Tier II form for the year 2002 by March 1, 2003 with the Local Emergency Planning Committee (“LEPC”), State Emergency Response Commission (“SERC”), and/or the local fire department, for Respondent’s Facility;
 - b. One count for violation of EPCRA § 312 for Respondent’s failure to file a Tier I/Tier II form for the year 2003 by March 1, 2004 with the LEPC, SERC, and/or the local fire department, for Respondent’s Facility;

- c. One count for violation of EPCRA § 312 for Respondent's failure to file a Tier I/Tier II form for the year 2004 by March 1, 2005 with the LEPC, SERC, and/or the local fire department, for Respondent's Facility; and
 - d. One count for violation of EPCRA § 312 for Respondent's failure to file a Tier I/Tier II form for the year 2005 by March 1, 2006 with the LEPC, SERC, and/or the local fire department, for Respondent's Facility.
4. Respondent hereby certifies that it has fulfilled all reporting obligations for the violations cited in the Complaint. Respondent also hereby certifies that it is in compliance with all relevant reporting requirements of EPCRA Section 312, 42 U.S.C. § 11022, with respect to its Facility.
 5. Respondent admits the jurisdictional allegations set forth in the Complaint.
 6. Pursuant to Section 325 of EPCRA, and taking into consideration the nature of the violations, penalty reductions, and other mitigating factors, EPA has determined that an appropriate civil penalty to settle this action is nine thousand dollars (\$9,000).
 7. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the assessment of the civil penalty cited in the foregoing paragraph.
 8. Respondent agrees to pay nine thousand dollars (\$9,000) as a civil penalty for the counts alleged in the Complaint and set forth in Paragraph 3, above, by cashier's or certified check payable to the "Treasurer, United States of America." The check shall be identified with a notation of the name and docket number of this case (set forth in the caption on the first page of this document) and shall be sent to:

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

A copy of the check and any transmittal letter shall be sent to each of the following:

Andrew L. Praschak
Assistant Regional Counsel
U.S. Environmental Protection Agency
290 Broadway, 17th Floor
New York, New York 10007

and

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, New York 10007.

Respondent agrees to make such payment on or before thirty (30) calendar days after the date of signature of the Final Order at the end of this document (hereafter referred to as the "due date").

- a) Failure to pay the penalty in full according to the above provisions may result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for appropriate enforcement, including collection of the amount set forth in Paragraphs 6, plus allowable interest and such other penalties as provided for in this Consent Agreement.
- b) Further, if payment is not received on or before the due date, Respondent agrees to the assessment of interest, at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, Respondent agrees to pay a late payment handling charge of \$15 for each thirty (30) day period (or any portion thereof) following the due date in which the balance remains unpaid.
- c) Respondent also agrees that a 6% per annum penalty will also be applied on any principal amount not paid within ninety (90) days of the due date.

9. The penalties specified in Paragraphs 6 and 8, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of State or Federal taxes.
10. Nothing in this Consent Agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this Consent Agreement or of the statutes and regulations upon which this Consent Agreement is based, or for Respondent's violation of any applicable provision of law.

II. GENERAL PROVISIONS

11. Respondent neither admits nor denies the factual allegations contained in Paragraphs 5, 6, 8 -15, 17, 20, 23, and 26 of the Complaint. Respondent waives any right to contest the allegations contained in the Complaint and/or to appeal the Final Order accompanying this Consent Agreement.
12. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions between EPA staff and the Regional Administrator or Deputy Regional Administrator of EPA Region 2, and further waives the right to be served with and to reply to any memorandum or communication addressed by EPA staff to the Regional Administrator or Deputy Regional Administrator, where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.
13. This Consent Agreement and Final Order shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, State, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, State or local permit. Nothing in this Consent Agreement and Final Order is intended to nor shall be construed to operate in any way to resolve any criminal liability of Respondent. Compliance with this Consent Agreement and Final Order shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.
14. Each party to this action shall bear its own costs and attorney fees.
15. Full and complete satisfaction of the requirements of this Consent Agreement and Final Order shall resolve Respondent's liability for Federal civil penalties only for the violations alleged in the Complaint.
16. The person signing below on behalf of Respondent hereby certifies that he or she is fully authorized by Respondent to execute this Consent Agreement on behalf of Respondent and to legally bind Respondent to this Consent Agreement in accordance with all of the terms and conditions contained herein.
17. The Director of the Emergency and Remedial Response Division of EPA Region 2 has been delegated the authority to sign the Consent Agreement in this action, and the Regional Administrator of EPA Region 2 has been delegated the authority to sign the Final Order in this action.

18. Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by any EPA employee, in lieu of service made by the EPA Region 2 Regional Hearing Clerk.

Consent Agreement In the Matter of Zierick Manufacturing Corporation,
Docket No. EPCRA-02-2007-4006

For Respondent
Zierick Manufacturing Corporation:

Judith A. Zienck
Signature

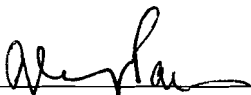
Date: 3/27/2008

Gritchen A. Zienck
Name (Printed or Typed)

President
Title (Printed or Typed)

Consent Agreement In the Matter of Zierick Manufacturing Corporation,
Docket No. EPCRA-02-2007-4006

For Complainant
U.S. Environmental Protection Agency:



George Pavlou, Director
Emergency and Remedial Response
Division, Region 2

Date: April 22, 2008

In the Matter of Zierick Manufacturing Corporation,
Docket No. EPCRA-02-2007-4006

FINAL ORDER

The Consent Agreement In the Matter of Zierick Manufacturing Corporation, Docket No. EPCRA-02-2007-4006, signed on behalf of Respondent Zierick Manufacturing Corporation and the Environmental Protection Agency ("U.S. EPA") is hereby approved, incorporated herein, and issued by U.S. EPA, as a Final Order. The effective date of this Final Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.

4-23-08

Date

Alan J. Steinberg

Alan J. Steinberg
Regional Administrator
U.S. EPA, Region 2

Does George sign for Alan?