



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590  
April 3, 2013

REPLY TO THE ATTENTION OF:

LC-8J

**CERTIFIED MAIL**

**Receipt No. 7009 1680 0000 7673 4875**

Mr. Terry Bruni  
Veyance Technologies  
703 S. Cleveland Massillon Rd.  
Fairlawn, Ohio 44333

Consent Agreement and Final Order in the Matter of  
Veyance Technologies, Inc., Docket No. TSCA-05-2013-0007

Dear Mr. Bruni:

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 April 3, 2013, with the Regional Hearing Clerk.

The civil penalty in the amount of \$5,754 is to be paid in the manner described in paragraphs 22 and 23. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by May 03, 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 that reads "Kenneth Zolnierczyk".

Kenneth Zolnierczyk  
Pesticides and Toxic Compliance Section

Enclosures

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

RECEIVED

APR - 3 2013

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:	)	Docket No. TSCA-05-2013-0007
	)	
Veyance Technologies, Inc.	)	Proceeding to Assess a Civil
St. Marys, Ohio,	)	Penalty Under Section 16(a) of the
	)	Toxic Substances Control Act,
Respondent.	)	15 U.S.C. § 2615(a).
_____	)	

Consent Agreement and Final Order

Preliminary Statement

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 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. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent is Veyance Technologies, Inc., a corporation operating under the laws of the State of Ohio.
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 factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

### Statutory and Regulatory Background

9. The Polychlorinated Biphenyls (PCB) Disposal and Marking regulations were lawfully promulgated pursuant to Section 6(e)(1) of TSCA, 15 U.S.C. § 2605(e)(1), on February 17, 1978 (43 Federal Register [Fed. Reg.] 7150). The PCB Manufacturing, Processing, Distribution in Commerce and Use regulations (the PCB Rule) were lawfully promulgated on May 31, 1979 (44 Fed. Reg. 31514) and incorporated the disposal and marking regulations. The PCB rule was subsequently amended and partially recodified at 40 C.F.R. Part 761.

10. The PCB Rule at 40 C.F.R. § 761.1(b)(1) states, in part, that the regulations at 40 C.F.R. Part 761 apply to all persons who manufacture, process, distribute in commerce, use, or dispose of PCBs or PCB Items.

11. The PCB Rule at 40 C.F.R. § 761.1(b)(3) states, in part, that provisions that apply to PCBs at concentrations greater than or equal to 50 ppm also apply to PCB contaminated surfaces with PCB concentrations greater than or equal to 10 µg/100cm<sup>2</sup>.

12. Unless otherwise stated at 40 C.F.R. § 761.60(a)(2)-(5), 40 C.F.R. § 761.60 requires that PCBs at concentrations of 50 ppm or greater be disposed of in an incinerator which complies with 40 C.F.R. § 761.70.

13. The PCB Rule at 40 C.F.R. § 761.3 defines "disposal" as spills, leaks and other uncontrolled discharges of PCBs.

### General Allegations

14. Respondent is a "person" as defined at 40 C.F.R. § 761.3 and is subject to the prohibitions set forth at 40 C.F.R. Part 761.
15. Respondent is the owner and operator of the facility at 1115 South Wayne Street in St. Marys, Ohio (the Facility).
16. On April 8 and 9, 2008, an EPA representative inspected Respondent's Facility.

### Specific Allegations

17. After the EPA inspection, Respondent took samples and found PCBs on the surface of a transformer at Respondent's Facility at substation IBS10 at a concentration of 150  $\mu\text{g}/100\text{cm}^2$ .
18. After the EPA inspection, Respondent took samples and found PCBs on the surface of the floor beneath a transformer at Respondent's Facility at substation 1ES21 at a concentration of 700,000  $\mu\text{g}/100\text{cm}^2$ .
19. After the EPA inspection, Respondent took samples and found PCBs in the concrete floor beneath a transformer at Respondent's Facility at substation 1KS12 at a concentration of 350 mg/kg.
20. Respondent's failure to dispose of the PCBs identified above, in accordance with the applicable disposal requirements, constitute violations of 40 C.F.R. § 761.60 and Section 15 of TSCA, 15 U.S.C. § 2614.

### Civil Penalty

21. 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 \$5,754. In determining the 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, the degree of culpability, and Respondent's cleanup efforts in response to the alleged violations. 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.

22. Respondent agrees to pay a \$5,754 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

23. Respondent must also send a notice of payment that states Respondent's name, complete address, the case docket number and the billing document 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

Ken Zolnierczyk (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

24. This civil penalty is not deductible for federal tax purposes.

25. 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.

26. 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

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

28. 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 alleged violations of law.

29. This CAFO does not affect Respondent's responsibility to comply with the PCB Rule and other applicable federal, state and local laws.

30. Respondent certifies that, to the best of its knowledge, it is complying with the PCB Rule.

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

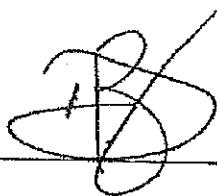
32. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

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


**For Veyance Technologies, Inc., Respondent**

JANUARY 17, 2013  
Date

  
\_\_\_\_\_  
Terry Bruni  
Vice President Global Operations

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

3/27/2013  
Date

  
\_\_\_\_\_  
Margaret M. Guerriero  
Director  
Land and Chemicals Division  
U.S. Environmental Protection Agency, Region 5

In the Matter of: Veyance Technologies, Inc., St. Marys, Ohio  
Docket No. TSCA-05-2013-0007

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.

4-1-13

Date



Susan Hedman  
Regional Administrator  
United States Environmental Protection Agency  
Region 5



APR - 5 2013

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY



**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 Veyance Technologies, Inc., was filed on April 3, 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 7673 4875 to:

Mr. Terry Bruni  
Veyance Technologies  
703 S. Cleveland Massillon Rd.  
Fairlawn, Ohio 44333

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

Docket No. TSCA-05-2013-0007

