



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
2890 WOODBRIDGE AVENUE
EDISON, NEW JERSEY 08837-3679

MAY 09 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7012 3460 0002 1650 6818

Mr. Kei Hara, President
Denka Corporation
780 Third Avenue, 8th floor
New York, NY 10017

Re: In the Matter of Denka Corporation
Docket No. TSCA-02-2016-0802

Dear Mr. Hara:

Enclosed is a fully executed copy of the Administrative Consent Agreement and Final Order in the above-referenced proceeding, signed by the Regional Administrator of the U.S. Environmental Protection Agency, Region 2.

Please note that the forty-five (45) day period for payment of the civil penalty commenced as of the date this Consent Agreement was signed by the Regional Judicial Officer. Please arrange for payment of this penalty according to the instructions given within the enclosed document under "Terms of Consent Agreement." Further, please ensure that a copy of your payment check or documentation of electronic payment is provided to the EPA staff member listed in that section of the Agreement.

Please contact Mark Bean of my staff at (732) 321-6606 or by electronic mail at bean.mark@epa.gov, should you have any questions regarding this matter.

Sincerely,

John Gorman, Chief
Pesticides and Toxic Substances Branch

Enclosure

U.S. Environmental
Protection Agency-Reg 2
2016 MAY 17 PM 12:03
REGIONAL HEARING
CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

-----X
: In the Matter of :
: :
: Denka Corporation, : CONSENT AGREEMENT AND
: : FINAL ORDER
: Respondent. :
: Docket No. TSCA-02-2016-0802
: Proceeding under Section 16(a) of :
: the Toxic Substances Control Act. :
-----X

U.S. Environmental
Protection Agency-Reg 2
2016 MAY 18 PM 12:03
REGIONAL HEARINGS
OFFICE

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §2615(a). Pursuant to 40 C.F.R. § 22.13(b) of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," 40 C.F.R. Part 22 (July 1, 2000), where the parties agree to settlement of one or more causes of action before the filing of an Administrative Complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Order pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

The Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency, Region 2 ("EPA" or "Complainant"), alleges that Denka Corporation ("Denka" or "Respondent") violated Section 5 of TSCA, 15 U.S.C. § 2604, and the regulations promulgated pursuant to the provisions of this section which are set forth at 40 C.F.R. Part 723 Subpart B, Specific Exemptions. The Complainant further alleges that Respondent has thereby violated Section 15 of TSCA, 15 U.S.C. § 2614. EPA and Denka agree

that settling this matter by entering into this Consent Agreement and Final Order (hereinafter "CAFO") pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) is an appropriate means of resolving this case without further litigation. This CAFO is being issued pursuant to said provisions of 40 C.F.R. Part 22.

FINDINGS OF FACT

1. Respondent is Denka Corporation.
2. Respondent owns, operates, and/or controls the facility located at 780 Third Avenue, 8th Floor, New York, New York 10017.
3. On July 10, 2015 and August 7, 2015, Denka disclosed to EPA that it had imported small volumes of two chemical substances, hereinafter designated Chemical A and Chemical B, which were not listed on EPA's Master Inventory.
4. Respondent failed to submit Low Volume Exemptions for Chemical A and Chemical B as required by 40 C.F.R. § 723 Subpart B at least thirty days prior to those substances being imported by the Respondent's facility.

CONCLUSIONS OF LAW

1. Respondent is a "person" as that term is defined in 40 C.F.R. § 720.3.
2. Respondent is an "importer" as that term is defined at 40 C.F.R. § 720.3.
3. At all times relevant to this action Chemical A and Chemical B were subject to the requirements of Section 5(a) of TSCA and the regulations promulgated pursuant to Section 5 of TSCA set forth at 40 C.F.R. Part 720.
4. Importation of a chemical substance not listed on EPA's Master Inventory without a valid exemption is a violation of 40 C.F.R. § 723 Subpart B, which is a violation of TSCA Sections 5(a) and 15 U.S.C. §§ 2604(a) and 2614.

