



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

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2007 AUG 23 PM 1:39
REGIONAL HEARING
CLERK

AUG 21 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Ira Krakower, CEO
Hexcel Corporation
11711 Dublin Blvd.
Dublin, California 94568

Re: In the Matter of Hexcel Corporation
Docket No. TSCA-02-2007-9110

Dear Mr. Krakower:

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 Administrator. 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 is mailed to the EPA staff member listed in that section of the Agreement.

Please contact Mr. Chester Norman of my staff at (732) 906-6811, should you have any questions regarding this matter.

Sincerely,


Kenneth S. Stoller, P.E., QEP, DEE
Chief
Pesticides and Toxic Substances Branch

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
2007 AUG 23 PM 1:40
REGIONAL HEARING
CLERK

-----X
In the Matter of :
Hexcel Corporation, :
Respondent. :
Proceeding under Section 16(a) of :
the Toxic Substances Control Act. :
-----X

: CONSENT AGREEMENT
: AND
: FINAL ORDER
: Docket No.
: TSCA-02-2007-9110

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).

The Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency ("EPA"), issued a Complaint and Notice of Opportunity for Hearing to Respondent, Hexcel Corporation ("Respondent"), on April 9, 2007.

The Complaint charged Respondent with one violation of Section 6(e) of the TSCA, 15 U.S.C. § 2605(e), and the regulations promulgated pursuant to that Section, set forth at 40 C.F.R. Part 761, relating to polychlorinated biphenyls ("PCBs") and Section 15(1) of TSCA, 15 U.S.C. § 2614(1).

FINDINGS OF FACT

1. Respondent is Hexcel Corporation.
2. Respondent owns, operates, and/or controls the facility in and around 205 Main Street in Lodi, New Jersey (hereinafter "Respondent's facility").
3. On or about November 6, 2006, duly designated representatives of the EPA conducted an inspection of and at Respondent's facility.
4. Respondent failed to identify PCB waste submitted on March 31, 2006 for off-site disposal on EPA Manifest form 8700-22.
5. On May 9, 2007, the parties met for an informal settlement conference.
6. During the settlement Respondent asserted that they had no plausible reason to suspect the presence of PCBs in the waste material, based on significant body of process data, and that the presence of PCBs may be attributed to a complex and unexpected concentration phenomenon. Respondent further asserts that Respondent's actions did not result in any actual harm to human health and environment.

CONCLUSIONS OF LAW

1. Respondent, as the owner and/or operator of the facility which is the subject of the above referenced Complaint, is subject to the regulations and requirements pertaining to PCBs and PCB Items promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e), and set forth at 40 C.F.R. Part 761.
2. Respondent is a "person" within the meaning of 40 C.F.R. § 761.3.
3. Failure to identify PCB waste submitted for off-site disposal on EPA Manifest form 8700-22 is a violation of 40 C.F.R. § 761.207(a), which is a violation of Section 6(e) and Section 15(1)(C) of TSCA, 15 U.S.C. §§ 2605(e), 2614(1)(C).

TERMS OF CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits", 40 C.F.R. § 22.18 (64 Federal Register 40138, 40182-83 [July 23, 1999]) (hereinafter "Consolidated Rules"), it is hereby agreed by and between the parties hereto, and accepted by Respondent, that Respondent voluntarily and knowingly agrees to, and shall, comply with the following terms:

1. Respondent shall hereinafter comply with all applicable provisions of TSCA and the regulations promulgated pursuant to it.

2. For the purposes of this Consent Agreement, Respondent (a) admits the jurisdictional allegations of the Complaint, and (b) neither admits nor denies the specific factual allegations contained in the Complaint.

3. Respondent shall pay, by cashier's or certified check, a civil penalty in the amount of **Twenty Four Thousand Dollars (\$24,000.00)**, payable to the "Treasurer of the 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.

Such check shall be mailed to:

EPA Region 2 (Regional Hearing Clerk)
P.O. Box 360188M
Pittsburgh, Pennsylvania 15251

Respondent shall also send copies of this payment to each of the following:

Chester Norman MS-205
Pesticides and Toxic Substances Branch
2890 Woodbridge Avenue
Edison, New Jersey 08837

and

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

Payment must be received at the above address on or before 45 calendar days after the date of the signature of the Final Order at the end of this document (the date by which payment must be received shall hereinafter be referred to as the "due date").

a. Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for collection.

b. Further, if payment is not received on or before the due date, interest will be assessed, at the annual rate established by the Secretary of the Treasury pursuant to the Debt

Collection Act, 31 U.S.C. §3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

1. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full and final settlement of the civil liabilities that might have attached as a result of the allegations in the Complaint. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable, and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.

2. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement, and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

3. Respondent explicitly waives its right to request or to seek any Hearing on the Complaint or any of the allegations therein asserted, on this Consent Agreement or the Findings of Fact and Conclusions of Law herein, or the accompanying Final Order.

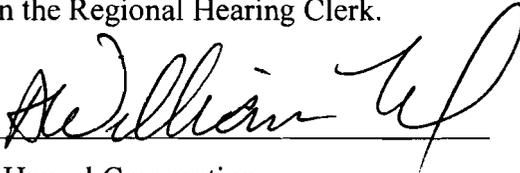
4. Respondent waives any right it may have pursuant to 40 C.F.R. 22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, 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.

5. This Consent Agreement does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable federal, state, or local laws, rules, or regulations.

6. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all terms and conditions set forth in this Consent Agreement.

- 7. Each party shall bear its own costs and attorneys fees in this matter.
- 8. Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

RESPONDENT:

BY: 
Hexcel Corporation

NAME: A. William Nosil

(PLEASE PRINT)

TITLE: Director, Corporate Environmental Engineering

DATE: July 20, 2007

COMPLAINANT:

 PATRICK
DUNN
FOR DL
Dore LaPosta, Director
Division of Enforcement and
Compliance Assistance
U.S. Environmental Protection
Agency - Region 2
290 Broadway
New York, NY 10007

DATE: JULY 27, 2007

In the Matter of Hexcel Corporation

Docket Number TSCA-02-2007-9110

FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement, entered into by the parties in full settlement of EPA's Complaint bearing Docket No. TSCA-02-2007-9110, issued in the matter of Hexcel Corporation, is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA Region 2, New York, New York.

DATE: _____

8-17-07



Alan J. Steinberg
Regional Administrator
U.S. Environmental Protection Agency
Region 2
290 Broadway
New York, New York 10007

CERTIFICATE OF SERVICE

This is to certify that on the 21st day of August 2007,
I served a true and correct copy of the foregoing fully executed Consent Agreement and Final
Order bearing Docket Number TSCA-02-2007-9110, by certified mail, return receipt requested,
to:

Mr. Ira Krakower, CEO
Hexcel Corporation
11711 Dublin Blvd.
Dublin, California 94568

On the same date, I mailed via EPA internal mail to the Region 2 Regional Hearing Clerk at 290
Broadway, New York, New York 10007 the original and one copy of the foregoing Consent
Agreement and Final Order.

A handwritten signature in cursive script, appearing to read "Elvira Roman", written in black ink.