



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

FEB 02 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Camille Tooker
Associate General Counsel
Palm Commodities International, Inc.
1717 J.P. Hennessey Drive
LaVergne, Tennessee 37086

Re: Palm Commodities International, Inc.
Docket No. TSCA-04-2011-2500(b)

Dear Ms. Tooker:


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 CFR Part 22.

As stated in Section V of the CAFO, the assessed penalty of \$70,000 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 respondent and the docket number of this case. Penalty payment questions should be directed to Mr. Bryson Lehman either by telephone at (513) 487-2123 or by written correspondence to his attention at U.S. Environmental Protection Agency, Cincinnati Accounting Operations at the address identified in the CAFO.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by EPA.

Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Mr. Verne George of the EPA Region 4 staff at (404) 562-8988.

Sincerely,


Jeanette M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA**

In the Matter of:)
)
Palm Commodities International, Inc.)
)
)
Respondent.)
_____)

Docket No.: TSCA-04-2011-2500(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 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 Palm Commodities International, 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 U.S.C. § 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 U.S.C. § 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 U.S.C. § 2604; (3) fail to maintain records, submit reports or information, or permit access to or allow copying of records as required by TSCA; and
 - (4) refuse to permit entry or inspection as authorized by Section 11 of TSCA, 15 U.S.C. § 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. Pursuant to the Civil Monetary Penalty Inflation Rule 40 C.F.R. Part 19, effective January 12, 2009, the statutory penalty amount has been adjusted due to inflation to \$37,500. Each day a violation continues may constitute a separate violation.
4. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 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.
5. Complainant will file the original non-confidential CAFO with the Regional Hearing Clerk and a copy will be mailed to the Respondent.
6. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for EPA in this proceeding:

Verne George
Chemical Products
And Asbestos
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-8988.

III. Specific Allegations

7. Respondent owns and operates a chemical manufacturing plant located at 1717 JP Hennessy Drive, LaVergne, Tennessee.
8. On May 2, 2008, Complainant mailed an information request letter (IRL) to Respondent's place of business inquiring about the use of copper sulfate.
9. The IRL was mailed as an alternative to an on site inspection pursuant to Section 11(a) of TSCA, 15 U.S.C. § 2610(a).
10. On May 19, 2008, Respondent submitted a written response to the IRL.
11. On September 19, 2008, Respondent submitted a 2006 Inventory Update Report (IUR) to the EPA Region 4 for sulfuric acid copper (2+) salt (1:1) [CAS # 7758-98-7], a type of copper sulfate (hereinafter "Chemical A").
12. On September 23, 2008, Respondent submitted an IUR to the EPA Headquarters that addressed Chemical A and the following additional chemical substances: Cobalt oxide (Co₃O₄) [CAS # 1308-06-1]; Acetic acid, nickel(2+) salt [CAS # 373-02-4]; Nickel chloride (NiCl₂) [7718-54-9]; Sulfuric acid, nickel(2+) salt (1:1) [CAS # 7786-81-4]; Nitric acid, lanthanum(3+) salt [CAS # 10099-59-9]; Nitric acid, cerium(3+) salt [CAS # 10108-73-3]; Nitric acid, neodymium(3+) salt [CAS # 10045-95-1]; Lanthanum chloride (LaCl₃) [CAS # 10099-58-8]; Nitric acid, praseodymium(3+) salt [CAS # 10361-80-5]; and Zirconium, bis(nitrato- κ .O)oxo- CAS # 13826-66-9].

13. Respondent did not disclose to Complainant that a 2006 IUR referencing eleven additional chemical substances was submitted to the EPA Headquarters.
14. On September 26, 2008, Complainant mailed a show cause letter to Respondent for failing to submit a 2006 IUR for Chemical A.
15. On March 5, 2009, Complainant filed a CAFO Docket No. TSCA-04-2009-2609(b) which resulted in the settlement of the case regarding Chemical A.
16. On July 22, 2009, the EPA Headquarters informed Complainant that Respondent submitted a 2006 IUR addressing eleven additional chemical substances.
17. On December 11, 2009, Complainant mailed a second show cause letter to Respondent for failing to disclose to Complainant that they failed to submit a timely 2006 IUR for eleven additional chemical substances.
18. The eleven chemical substances were subject to the 2006 IUR as described in 40 C.F.R. § 710.45.
19. Pursuant to 40 C.F.R. § 710.48, Respondent is a manufacturer/importer that was subject to the 2006 IUR.
20. As referenced in 40 C.F.R. § 710.53, the 2006 IUR submission period was August 25, 2006, through March 23, 2007.
21. Respondent failed to submit the 2006 IUR to EPA during the submission period described in 40 C.F.R. § 710.53.
22. Pursuant to 40 C.F.R. § 710.1(c), it is unlawful for any person to fail or refuse to submit information required under the IUR Regulations.

IV. Consent Agreement

23. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
24. 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.
25. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
26. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA.
27. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) 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.
28. 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

29. Respondent is assessed a civil penalty of **SEVENTY THOUSAND DOLLARS (\$70,000)** which shall be paid within 30 days from the effective date of this CAFO.

30. 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 to the following address by U.S. Postal Service:

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

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

31. At the time of payment, Respondent shall send a separate copy of the check 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
Atlanta, Georgia 30303-8960;

Verne George
Chemical Products
and Asbestos Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960;

and

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

32. 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.

33. Pursuant to 31 U.S.C. § 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 principal amount not paid within 90 days of the due date.
34. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
35. This CAFO shall be binding upon the Respondent, its successors and assigns.
36. The undersigned representatives of the parties to this CAFO certify that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

VI. Effective Date

37. 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: Palm Commodities International, Inc.
Docket No.: TSCA-04-2011-2500(b)

By: Jeffrey [Signature] (Signature) Date: 11/29/10
Name: Jeffrey L. Peterson (Typed or Printed)
Title: President (Typed or Printed)

Complainant: U.S. ENVIRONMENTAL PROTECTION AGENCY

By: Carol G. Kamber for Date: 1/24/11
Beverly H. Banister, Director
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 1st day of February, 2011 sd

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: Palm Commodities International, Inc., Docket Number: TSCA-04-2011-2500(b), to the addressees listed below.

Camille Tooker
Associate General Counsel
Palm Commodities International, Inc.
1717 J.P. Hennessey Drive
LaVergne, Tennessee 37086

(via Certified Mail, Return Receipt Requested)

Verne George
Chemical Products
and Asbestos Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960

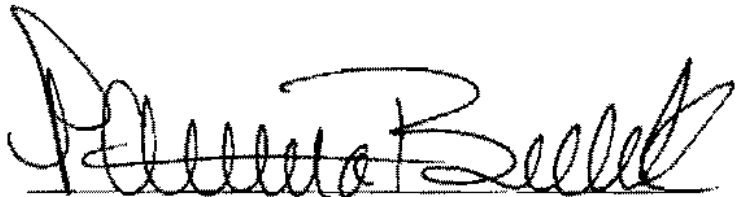
(via EPA's internal mail)

Keri Powell, Attorney
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960

(via EPA's internal mail)

Date:

2-2-11



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 1/27/11
(Name) (Date)

in the Region 4, ORC, OEA at (404) 582-9504
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree
USAO COLLECTS

Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree
DOJ COLLECTS

Oversight Billing - Cost Package required
Sent with bill

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: Palm Commodities International Inc
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 70,000
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: TSCA 04 2011 2500 (b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

The IFMS Accounts Receivable Control Number is: _____ Date: _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

A. JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the FINAL JUDICIAL ORDER should be mailed to:

- | | |
|--|------------------------------|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7811, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD) |
| | 3. Designated Program Office |

B. ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |