



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

JAN 31 2007

REPLY TO THE ATTENTION OF:

DT-8J

CERTIFIED MAIL

Receipt No. 7001 0320 0006 0198 4494

Nicholas Nierengarten
Gray, Plant, Moody
500 IDS Center
80 South Eight Street
Minneapolis, Minnesota 55402-3796

Consent Agreement and Final Order, Docket No. TSCA-05-2007-0003

Dear Mr. Nierengarten:

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 January 31, 2007 with the Regional Hearing Clerk.

The civil penalty in the amount of \$202,000 is to be paid in the manner prescribed in paragraphs 14, 15 and 16. Please be certain that the number **BD 2750747X002** and the docket number are written on both the transmittal letter and on the check. Payment is due by March 2, 2007 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

for 
Terence Bonace
Pesticides and Toxics Branch

Enclosures

cc: Marcy Toney, Regional Judicial Officer/C-14J (w/Encl.)
Andre Daugavietis, ORC/C-14J (w/Encl.)
Eric Volck, USEPA Cincinnati Finance/NWD (w/Encl)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 5

IN THE MATTER OF:)	Docket No. TSCA-05-2007-0003
)	
Cortec Corporation)	Proceeding to Assess a Civil
4119 White Bear Parkway)	Penalty under Section 16 of the Toxic
St. Paul, Minnesota 55110)	Substances Control Act, 15 U.S.C.
)	§§ 2615
Respondent.)	
)	

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CONSENT AGREEMENT And FINAL ORDER

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 16 of TSCA, 15 U.S.C. 2615, 40 C.F.R. § 720.120(f), and Sections 22.1(a)(2), 22.13(b), and 22.18(b) of 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 (2004).

2. The Complaint against Respondent, Cortec Corporation (Cortec or Respondent), which is being filed simultaneously with this Consent Agreement and Final Order (CAFO), alleges that Cortec manufactured two non-exempt new chemical substances (Chemical A and Chemical B), for a non-exempt commercial purpose, without filing a notice with U.S. EPA under Section 5 of TSCA in violation of Section 5(a)(1)(A) of TSCA, 15 U.S.C. § 2604(a)(1)(A), and 40 C.F.R. § 720.120(a) and (b), and proposes a civil penalty of \$237,434.

3. 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.

4. Respondent consents to entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

5. Respondent admits the jurisdictional allegations in this CAFO, and neither admits nor denies the factual allegations in this CAFO.

6. 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 any right to appeal this CAFO.

Procedural Matters

7. On or about February 15, 2006, U.S. EPA issued to the Respondent a letter giving notice of the alleged violations and proposed assessment of civil penalties, and offering the Respondent an opportunity to confer with U.S. EPA.

8. On April 12, 2006, and subsequent dates, the Respondent conferred with U.S. EPA regarding the alleged violations and potential settlement of this matter.

9. In the interests of settlement, to avoid the disruption of orderly business activities and the expenses of protracted litigation, Respondent, for purposes of this proceeding, consents to the terms of this CAFO. Respondent enters in to this CAFO as a compromise of a disputed claim, and payment of a civil penalty is not to be construed as an admission of liability, but rather Respondent expressly denies liability.

Compliance

10. Respondent has demonstrated and certifies that it is now in compliance with the requirements that formed the basis of the allegations set forth in Section II of this CAFO. Respondent filed a Low Volume Exemption for Chemical A and Chemical B on August 9, 2005.

40 CFR § 723.50 provides for an exemption for filing of a Premanufacture Notice for chemicals manufactured in quantities of less than 10,000 kg. per year.

Civil Penalty

11. As set forth in the Complaint, pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, Complainant proposed a civil penalty in the amount of \$237,434 for the violations alleged. As part of this agreed settlement of the case, Complainant agrees to mitigate the penalty pursuant to this CAFO, as set forth in the following paragraphs.

12. In assessing an appropriate civil penalty in settlement of this matter, Complainant took into account the applicable statutory penalty factors; information exchanged by the parties; the nature, circumstances, extent, and gravity of the alleged violations; Respondent's ability to pay, and the effect of the penalty on Respondent's ability to continue to do business; whether Respondent had prior TSCA violations, the degree of culpability, Respondent's cooperation, and the steps Respondent has taken and has agreed to take to achieve and maintain compliance, and has determined that it is appropriate to settle the violations alleged above on the terms set forth in this CAFO.

13. Complainant determined the settlement penalty amount based, in part, on information submitted to U.S. EPA by Respondent which indicated that after the violations were brought to its attention, Respondent timely achieved compliance with the above-cited requirements, and based on Respondent's co-operation and good faith in reaching the negotiated settlement set forth in this CAFO.

14. Respondent shall pay the \$202,000 civil penalty by cashier's or certified check, payable to the "Treasurer, United States of America," within thirty (30) days of the effective date of this CAFO.

15. Respondent shall send the cashier's or certified check to the following address:

U.S. EPA, Region 5
P.O. Box 371531
Pittsburgh, PA 15251-7531

16. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Regional Hearing Clerk (E-13J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604

Terence Bonace (DT-8J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604

Andre Daugavietis (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604

17. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the original \$202,000 civil penalty amount with interest, under

Section 16 (a)(4) of TSCA, 15 U.S.C. § 2615(a)(4). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

18. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c). A charge will be assessed to cover the costs of debt collection, including processing and handling costs. In addition, a non-payment penalty charge of six percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 4 C.F.R. §§ 102.13(d) and (e).

General Terms of Settlement

19. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Allegations of Violation section of this CAFO.

20. If Respondent fails to comply with any provision contained in this CAFO, Respondent waives any rights it may possess in law or equity to challenge the authority of U.S. EPA to bring a civil action in the appropriate United States District Court to compel compliance with this CAFO.

21. The settlement effected in this CAFO is conditioned upon the accuracy of Respondent's representations to U.S. EPA.

22. This CAFO does not restrict the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law not otherwise resolved herein.

23. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state and local statutes, laws, ordinances and regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by Complainant, except as to those matters resolved herein, and it is the responsibility of Respondent to comply with such laws and regulations.

24. This CAFO constitutes "compliance history" as referenced in the Amended TSCA Section 5 Enforcement Response Policy," dated June 8, 1989.

25. Respondent's obligations under this CAFO shall end when it has made the scheduled penalty payment.

26. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.08 to be present during U.S. EPA discussions, or to be served with and reply to, any memorandum or communications, where the purpose of such discussion, memorandum or communication is to persuade such an official to accept and issue the CAFO.

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

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

29. This CAFO shall apply to and be binding upon Respondent, its officers, directors, servants, employees, agents, successors and assigns.

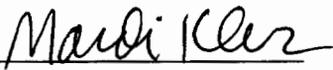
30. This CAFO constitutes the entire agreement between the parties.

31. Respondent and U.S. EPA agree to the issuance and entry of the accompanying Final Order.

32. This CAFO shall become effective on the date it is filed with the Regional Hearing Clerk, Region 5.

CONSENT AGREEMENT AND FINAL ORDER
In the Matter of Cortec Corporation
Docket No. TSCA-05-2007-0003

United States Environmental Protection Agency, Complainant



Mardi Klevs, Chief
Pesticides and Toxics Branch
Waste, Pesticides and Toxics Division

Date: 1-10-07



Margaret M. Guerriero, Director
Waste, Pesticides and Toxics Division

Date: 1/25/07

Cortec Corporation, Respondent



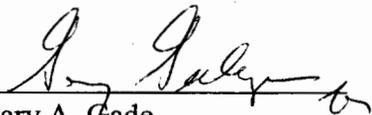
Boris A. Miksic
President and CEO
Cortec Corporation

Date: 1/2/2007

**CONSENT AGREEMENT AND FINAL ORDER
CORTEC CORPORATION, ST. PAUL, MINNESOTA
Docket No. TSCA-05-2007-0003**

Final Order

It is ordered as agreed to by the parties and stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk. This Final Order disposes of this proceeding pursuant to 40 C.F.R. § 22.18.



Mary A. Gade
Regional Administrator
United States Environmental Protection Agency
Region 5

Date: 1/29/07

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving Cortec Corporation, was filed on January 31, 2007, with the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, and that I mailed by Certified Mail, Receipt No. 7001 0320 0006 0198 4494, a copy of the original to the Respondents:

Nicholas Nierengarten
Gray, Plant, Moody
500 IDS Center
80 South Eight Street
Minneapolis, Minnesota 55402-3796

and forwarded copies (intra-Agency) to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J
Andre Daugavietis, ORC/C-14J (w/Encl.)
Eric Volck, USEPA Cincinnati Finance/NWD (w/Encl)



Elizabeth Lytle
Pesticides and Toxics Branch
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Docket No. **TSCA-05-2007-0003**

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