



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202 - 2733

31 MAR 2016

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7015 1520 0003 3990 1952

Ms. Kristina Woods
Ashland Inc.
5200 Blazer Parkway
Dublin, OH 43017

Re: Ashland Inc.: RCRA 3008 Consent Agreement and Final Order USEPA Docket No.
RCRA-06-2016-0912

Dear Ms. Woods:

Enclosed is the fully executed RCRA Consent Agreement and Final Order ("CAFO"), agreed upon by the parties to the above referenced matter. You should have already received an electronic copy of the CAFO. The CAFO becomes final upon filing with the Regional Hearing Clerk, which is indicated by the date stamp.

If you have questions please do not hesitate to contact me at (214) 665-2796 or by email at Hodges.Angela@epa.gov.

Sincerely,

A handwritten signature in cursive script that reads "Angela D. Hodges".

Ms. Angela D. Hodges
Assistant Regional Counsel

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
2016 FEB 01 PM 11:15
REGIONAL OFFICE FOR THE
EPA REGION 6

IN THE MATTER OF:

ASHLAND INC.
Dublin, OH

RESPONDENT

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Consent Agreement and Final Order
Docket No. RCRA-06-2016-0912

CONSENT AGREEMENT AND FINAL ORDER

I. PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order (“CAFO”) is entered into by the United States Environmental Protection Agency, Region 6 (“EPA”) and Respondent, Ashland Inc. (“Ashland”), which formerly owned Ashland Elastomers, LLC, owner and operator of the facility located at 1615 Main Street, Port Neches, Texas 77651 (the “Facility”) at all times relevant to the alleged violations.
2. Notice of this action has been given to the State of Texas, under Section 3008(a)(2) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a)(2).
3. For the purpose of these proceedings, Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.
4. The Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO, and waives all defenses that have been raised or could have been raised to the claims set forth in the CAFO.
5. The CAFO resolves only those violations that are alleged herein.

6. The Respondent consents to the issuance of the CAFO hereinafter recited, consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO.

II. JURISDICTION

7. This CAFO is issued by the EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), as amended by the Hazardous and Solid Waste Amendments of 1984 (“HSWA”) and is simultaneously commenced and concluded through the issuance of this CAFO under 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

8. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by the EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of the EPA to issue or enforce this CAFO, and agrees not to contest the validity of this CAFO or its terms or conditions.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. During the period of time when the alleged violations occurred, Respondent, a corporation organized under the laws of the State of Kentucky, owned Ashland Elastomers LLC (a limited liability corporation organized under the laws of the State of Delaware and authorized to do business in the State of Texas) which owned and operated the Facility located at 1615 Main Street, Port Neches, Texas 77651.

10. Respondent is a “person” within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15); and 30 Tex. Admin. Code § 3.2(25)¹, [40 C.F.R. § 260.10].

¹ All citations to the EPA authorized Texas hazardous waste program refer to Title 30 of the Texas Administrative Code (T.A.C.) as amended, effective through December 31, 2009. 77 Fed. Reg. 71344, 71352 (November 30, 2012); 40 C.F.R. Part 272, Appendix A, Texas. The corresponding Code of Federal Regulation (C.F.R.) citations are also provided.

11. Respondent's Registered Agent for service in this matter is CT Corporation System, 1999 Bryan St., Ste. 900, Dallas, TX 75201.

12. From August 25, 2011 to December 1, 2014, Respondent owned Ashland Elastomers LLC, which owned and operated the Facility in the primary business of producing rubber used by customers in a number of consumer products.

13. On October 1, 2014, an EPA inspector conducted an inspection of the Facility to determine compliance with RCRA.

14. During the inspection, EPA discovered that the Facility, at a minimum, generated and offered for shipment and treatment the following waste:

- i. Lead-contaminated hazardous waste with hazardous waste code D008; and
- ii. Flammable liquid hazardous waste with hazardous waste codes D001, F003, and F005.

15. The waste streams identified in Paragraph 14 are hazardous waste as defined in 30 Tex. Admin. Code § 335.1(69), [40 C.F.R. §§ 261.21, 261.24, and 261.31].

16. On June 11, 2014 and August 8, 2014, the Facility offered 1,962 kg and 5,166 kg of hazardous waste, respectively, for transport and treatment.

17. From the inspection, EPA determined that during the calendar year 2014, the Facility generated and offered for transport and treatment the hazardous waste streams identified in Paragraph 14 in quantities that exceeded the threshold amount of 1,000 kilograms ("kg") of hazardous waste per month, which qualified the Facility for the large quantity generator ("LQG") status during those particular months as established under 30 Tex. Admin. Code, Chapter 335, Subchapter C, [40 C.F.R. Part 262].

18. The Facility is a "solid waste management facility" within the meaning of Section 1004(29) of RCRA, 42 U.S.C. § 6903(29); a "facility" within the meaning of 30 Tex. Admin.

Code § 335.1(59), [40 C.F.R. § 260.10]; and a “hazardous waste management unit” within the meaning of 30 Tex. Admin. Code § 335.1(72), [40 C.F.R. § 260.10].

19. The Facility is a “generator” of “hazardous wastes” at the Facility, as those terms are defined in Sections 1004(5) & (6) of RCRA, 42 U.S.C. §§ 6903(5) & (6), and 30 Tex. Admin. Code §§ 335.1(65) & (69), [40 C.F.R. § 260.10].

20. As a generator of hazardous waste, the Facility is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth at 30 Tex. Admin. Code, Chapter 335, Subchapters C, [40 C.F.R. Part 262].

21. During the inspection, EPA also discovered that the Facility generates and stores “used oil” and is a “used oil generator”, as those terms are defined in 40 C.F.R. § 279.1 and adopted by reference in 30 Tex. Admin. Code § 324.2.

22. As a used oil generator, the Facility is subject to the regulations set forth at 40 C.F.R. Part 279, Subpart C and adopted by reference in 30 Tex. Admin. Code § 324.1.

Claim 1: Notification Requirements

23. The allegations in Paragraphs 1-22 are realleged and incorporated herein by reference.

24. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), any person generating a characteristic or listed hazardous waste shall file with the Administrator or authorized State a notification stating that the location and general description of such activity and the identified or listed hazardous wastes handled by such person. No identified or listed hazardous waste subject to this subchapter may be transported, treated, stored, or disposed of unless notification has been given as required by Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

25. The Facility did not file with the Administrator or with the authorized State an adequate notification of hazardous waste activities to reflect its generation of hazardous waste triggering

the LQG threshold beginning in June 2014 at the latest, in violation of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

Claim 2: Failure to Operate within Its Stated Generator Status

26. The allegations in Paragraphs 1-25 are realleged and incorporated herein by reference.

27. During the inspection, EPA determined that the notification of hazardous waste activity filed by the Facility indicated their generator status as a small quantity generator (“SQG”).

28. Pursuant to 30 Tex. Admin. Code § 335.69(d) and 40 C.F.R. § 262.34(d), as long as a SQG generator complies with the requirements set forth therein, the SQG can operate without a permit or interim status.

29. During calendar year 2014, the Facility exceeded its declared SQG status and operated as a LQG in violation of one or more of the requirements for LQGs under 30 Tex. Admin. Code Chapter 335, Subchapter C, [40 C.F.R. § 262.34].

30. At a minimum, the Facility failed to maintain a complete and up to date contingency plan pursuant to 30 Tex. Admin. Code § 335.69(a)(4) [40 C.F.R. § 262.34(a)(4)].

Claim 3: Failure to Properly Label Used Oil

31. The allegations in Paragraphs 1-30 are realleged and incorporated herein by reference.

32. Pursuant to 30 Tex. Admin. Code § 324.6 [40 C.F.R. § 279.22(c)(1)], used oil generators must clearly label containers and aboveground storage tanks used to store used oil with the terms “Used Oil”.

33. During the inspection, EPA discovered several containers and aboveground tanks with inadequate labels or labels incorrectly indicating the contents as “waste oil” rather than “used oil”.

IV. TERMS OF SETTLEMENT

A. Penalty Provisions

34. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of **twenty-five thousand dollars (\$25,000)**.

35. The penalty shall be paid within thirty (30) calendar days of the Effective Date of this CAFO and made payable to Treasurer, United States of America.

36. The following are Respondent's options for transmitting the penalties:

Checks sent via U.S. Postal Mail (including certified mail) or U.S. Postal Service Express Mail should be remitted to:

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

Checks sent via Overnight Mail (non-U.S. Postal Service) should be remitted to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
314-418-1028

Wire Transfers should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

The case name and docket number (In the Matter of Ashland Inc., Docket No. RCRA-06-2016-0912) shall be documented on or within your chosen method of payment to ensure proper credit.

37. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

Hazardous Waste Enforcement Branch (6EN-II)
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733
Attn: Gabriel Salinas

Your adherence to this request will ensure proper credit is given when penalties are received by EPA.

38. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 1311, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the Effective Date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly

throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt that remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 40 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

B. Costs

39. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

C. Termination and Satisfaction

40. When Respondent has paid the civil penalty as provided in Section IV. of this CAFO shall be deemed satisfied and terminated.

D. Effective Date of Settlement

41. This CAFO shall become effective upon filing with the Regional Hearing Clerk (the "Effective Date").

THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT

AGREEMENT AND FINAL ORDER:

FOR THE RESPONDENT:

Date: March 21, 2016



Kristina M. Woods
Senior Counsel
Ashland Inc.

FOR THE COMPLAINANT:

Date: 3.30.16



John Blevins
Director
Compliance Assurance and
Enforcement Division

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing CAFO is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those violations and causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 C.F.R. § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: 3/31/16



Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of March, 2016, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by the method below:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED 70151520000339901952

Ashland Inc.
CT Corporation System
1999 Bryan St., Ste. 900
Dallas, TX 75201

for Sandra Hardy
Ms. Lori Jackson
Paralegal