

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

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In the Matter of:	:	
	:	
IPSCO Koppel Tubulars, LLC	:	U.S. EPA Docket No. TSCA-03-2017-0047
6403 Sixth Avenue	:	
Koppel, PA 16136	:	
	:	
Respondent	:	
	:	
IPSCO Koppel Tubulars, LLC	:	Proceeding under Sections 15 and 16
6403 Sixth Avenue	:	of the Toxic Substances Control Act,
Koppel, PA 16136	:	15 U.S.C. §§ 2614 and 2615
	:	
Facility	:	
	:	

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by: the Director of the Land and Chemicals Division, U. S. Environmental Protection Agency, Region III (“Complainant”); and by IPSCO Koppel Tubulars, LLC (“Respondent”) pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Sections 15 and 16 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2614 and 2615, and 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 (“Consolidated Rules of Practice”), with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3). This Consent Agreement and the accompanying Final Order (collectively referred to herein as the “CAFO”) resolve alleged violations of TSCA and of the regulations implementing TSCA Section 6(e), 15 U.S.C. § 2605(e), as set forth in 40 C.F.R. Part 761, entitled “Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions” (“PCB regulations”).

2. The alleged violations cited herein pertain to the Respondent’s alleged failure to comply with PCB regulations promulgated pursuant to TSCA Section 6(e), 15 U.S.C. § 2605(e), governing the prohibition of, and the requirements for, the manufacture, processing, distribution in commerce, and use of polychlorinated biphenyls (“PCBs”) and PCB Items at a facility located at 6403 Sixth Avenue, Koppel, PA 16136.

II. GENERAL PROVISIONS

3. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this CAFO.
4. Except as provided in Paragraph 3 above, Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this CAFO.
5. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
6. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
7. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
8. Each Party shall bear its own costs and attorney's fees.

III. EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the findings of fact and conclusions of law set forth immediately below.
10. As used herein, the terms "PCB", "PCB Article", "PCB Capacitor", "PCB Item" and "PCB Transformer" each shall have the definition and meaning set forth in 40 C.F.R. § 761.3.
11. TSCA Section 15(1)(C), 15 U.S.C. § 2614(1)(C), provides that it shall be unlawful for any person to fail or refuse to comply with any rule promulgated or order issued under TSCA Sections 5 or 6, 15 U.S.C. §§ 2604 or 2605.
12. TSCA Section 15(1)(B), 15 U.S.C. § 2614(1)(B), provides that it shall be unlawful for any person to fail or refuse to comply with any requirement prescribed by TSCA Sections 5 or 6, 15 U.S.C. §§ 2604 or 2605.
13. IPSCO Koppel Tubulars, LLC is a Pennsylvania limited liability corporation that does business in Pennsylvania and maintains an office at 6403 Sixth Avenue, Koppel, PA 16136.

14. Respondent is a “person” as defined in 40 C.F.R. § 761.3.
15. IPSCO Koppel Tubulars, LLC is and has been, at all times relevant to this to this CAFO, the owner and operator of a manufacturing plant located at 6403 Sixth Avenue, Koppel, PA 16136 (hereinafter, “Facility”).
16. On or about April 9, 2014, during normal business hours, a duly authorized representative (“Inspector”) of the United States Environmental Protection Agency (“EPA”) Region III conducted a compliance evaluation inspection (“Inspection”) at the Facility pursuant to the authority of Section 11 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2610. The purpose of the Inspection was to evaluate Respondent’s compliance with regulations promulgated pursuant to TSCA Section 6(e), 15 U.S.C. § 2605(e), governing the prohibition of, and/or the requirements for, the manufacture, processing, distribution in commerce and use of polychlorinated biphenyls (PCBs), PCB Items and PCB Transformers at the Facility.
17. On the basis of the Facility Inspection and additional information collected subsequent thereto, Complainant has determined that Respondent has violated TSCA Sections 6(e) and 15, 15 U.S.C. §§ 2605(e) and 2614.

COUNT I

**Violations of 40 C.F.R. § 761.30(a)(1)(viii)
(Improper Storage of Combustible Materials)**

18. The allegations of paragraphs 1 through 17 of this Consent Agreement are incorporated herein by reference.
19. 40 C.F.R. § 761.30(a)(1)(viii) provides that, as of December 1, 1985, “. . . combustible materials, including, but not limited to paints, solvents, plastics, paper, and sawn wood must not be stored within a PCB Transformer enclosure . . . or, if unenclosed (unpartitioned), within 5 meters of a PCB Transformer.”
20. At the time of the Inspection in a room referred to as the Bar Mill Motor Room, the Respondent was storing combustible materials, including cardboard boxes, lumber and wood storage shelves, within 5 meters of a PCB Transformer designated as TC87 with serial no. 7016763. This PCB Transformer contained 207 gallons of Askarel PCB fluid.
21. At the time of the Inspection in a room referred to as the Sub Bloom Motor Room, the Respondent was storing combustible materials, including cardboard boxes, lumber and wood storage shelves, within 5 meters of PCB Transformers designated as TC82 with serial no. 6537790 and TC83 with serial no. 6537817. These PCB Transformers

contained 1,275 gallons and 432 gallons of Askarel PCB fluid, respectively.

22. Respondent violated TSCA Section 15, 42 U.S.C. § 2614, and the requirements of 40 C.F.R. § 761.30(a)(1)(viii), by storing combustible materials within 5 meters of its Facility's PCB Transformers.

COUNT II
Violations of 40 C.F.R. § 761.40(j)(1)
(Failure to Label Access Doors)

23. The allegations of paragraphs 1 through 22 of this Consent Agreement are incorporated herein by reference.
24. 40 C.F.R. § 761.40(j)(1) requires, at all times relevant to the allegations set forth herein and with exceptions not herein applicable, that: "PCB Transformer locations shall be marked as follows: (1) . . . the vault door, machinery room door, fence, hallway or means of access, other than grates and manhole covers, to a PCB Transformer must be marked with the mark M_L as required by paragraph (a) of this section [40 C.F.R. § 761.40]."
25. 40 C.F.R. § 761.40(a) explains that the mark illustrated in Figure 1 in 40 C.F.R. § 761.45(a) is referred to as "M_L" throughout subpart C of 40 C.F.R. Part 761.
26. At the time of the Inspection, the door providing a means of access to the Bar Mill Room, which contained a PCB Transformer designated as TC87 with serial no. 7016763, was not marked with the PCB mark "M_L", as described in 40 C.F.R. § 761.45(a) and illustrated at Figure 1 of 40 C.F.R. § 761.45.
27. At the time of the Inspection, the door providing a means of access to the Melt Shop Building, which contained PCB Transformers designated as TC74 with serial no. 6537816 and TC75 with serial no. 6537791, was not marked with the PCB mark "M_L", as described in 40 C.F.R. § 761.45(a) and illustrated at Figure 1 of 40 C.F.R. § 761.45. These PCB Transformers contained 432 gallons and 1,275 gallons of Askarel PCB fluid, respectively.
28. Respondent violated TSCA Section 15, 42 U.S.C. § 2614, and the requirements of 40 C.F.R. § 761.40(j)(1), by failing to mark the means of access (i.e., doors) to PCB Transformers at the Facility with the mark "M_L" as referenced in 40 C.F.R. § 761.40(a) and illustrated in Figure 1 in 40 C.F.R. § 761.45(a).

IV. CIVIL PENALTY

29. In satisfaction of all civil claims for penalties which Complainant may have under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), for the specific violations alleged in this

In Re:
IPSCO Koppel Tubulars, LLC

Consent Agreement
Docket No. TSCA-2017-0047

Consent Agreement, Respondent agrees to pay a civil penalty in the amount of **TWENTY NINE THOUSAND FIVE HUNDRED AND FORTY ONE DOLLARS (\$29,541.00)**, in accordance with the provisions set forth below. The civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of the CAFO, fully executed by the parties, approved by the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent.

30. The aforesaid settlement amount is consistent with the provisions and objectives of TSCA and 40 C.F.R. Part 761. Complainant has determined the appropriate penalty for the violations identified and described in this Consent Agreement based upon consideration of a number of factors, including the penalty criteria set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), *i.e.*, the nature, circumstances, extent, and gravity of the violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, degree of culpability, and such other factors as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's *Polychlorinated Biphenyls Penalty Policy* (April 9, 1990). Complainant also has considered the appropriate Adjustment of Civil Penalties for Inflation, 40 C.F.R. Part 19, and the December 6, 2013 memorandum by EPA Administrator Cynthia Giles, entitled *Amendments to the U.S. Environmental Protection Agency's Civil Penalty Policies to Account for Inflation (Effective December 6, 2013)*.
31. Payment of the civil penalty amount set forth in Paragraph 29, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 32 through 35, below, by either cashier's check, certified check, or electronic wire transfer, in the following manner:
 - a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action (***Docket No. TSCA-03-2017-0047***);
 - b. All checks shall be made payable to "**United States Treasury**";
 - c. All payments made by check and sent by regular mail shall be addressed to:

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

Customer Service Contact: (513) 487-2091

- d. All payments made by check and sent by Private Commercial Overnight Delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: (513) 487-2091

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - checking

Physical location of US Treasury Facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: (866)-234-5681

- h. On-Line Payment Option:

<https://www.pay.gov/public/home>

Enter **SFO 1.1** in the search field, open and complete the form.

- i. Additional payment guidance is available at:

<https://www.epa.gov/financial/makepayment>

- j. At the time of payment, Respondent shall simultaneously send a notice of payment, *including a copy of the check or electronic wire transfer, as applicable*, to:

T. Chris Minshall, Esq.
Sr. Assistant Regional Counsel
Waste and Chemical Law Branch (3RC30)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

32. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment as specified herein shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
33. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest 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).

34. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
35. A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
36. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty assessed in this CAFO.

V. OTHER APPLICABLE LAWS

37. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

VI. CERTIFICATIONS

38. Respondent certifies to Complainant to the best of its knowledge and belief, that Respondent's Facility, presently is complying with the provisions of TSCA, and the regulations promulgated thereunder, that are alleged by EPA to have been violated as referenced in this CAFO.

VII. RESERVATION OF RIGHTS

39. This CAFO resolves only EPA's claims for civil penalties for the specific violations which are alleged in this CA. Nothing in this CAFO shall be construed as limiting the authority of EPA to undertake action against any persons, including the Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the *Consolidated Rules of Practice*. Further, EPA reserves any rights and remedies available to it under TSCA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO following its filing with the Regional Hearing Clerk. This CAFO is not intended, and shall not be construed, to

resolve any claim for criminal sanctions now pending or that may be sought in the future, and shall not limit the right of the United States to pursue criminal sanctions for any violation of law.

VIII. FULL AND FINAL SATISFACTION

40. This settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under TSCA Section 6(e), 15 U.S.C. § 2605(e), for the violations alleged in this CA. Compliance with the requirements and provisions of this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and/or regulations administered by EPA.

IX. PARTIES BOUND

41. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of the Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

X. EFFECTIVE DATE

42. The effective date of this CAFO is the date on which the Final Order is filed with the Regional Hearing Clerk after signature by the Regional Administrator of EPA, Region III, or his designee, the Regional Judicial Officer, pursuant to the Consolidated Rules of Practice.

XI. ENTIRE AGREEMENT

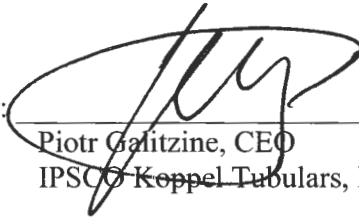
43. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

In Re:
IPSCO Koppel Tubulars, LLC

Consent Agreement
Docket No. TSCA-2017-0047

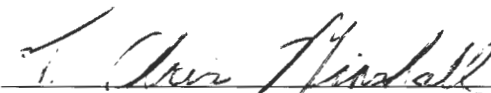
For the Respondent:

Date: 1/5/2017

By: 
Piotr Galitzine, CEO
IPSCO Koppel Tubulars, LLC

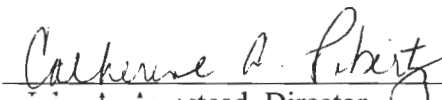
For the Complainant:

Date: 1/19/2017

By: 
T. Chris Minshall, Sr., Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III

After reviewing the EPA Findings of Fact, Conclusions of Law and other pertinent matters, the Land and Chemicals Division of the United States Environmental Protection Agency, Region III, recommends that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 2-16-17

By: 
Acting Director
Land and Chemicals Division
U.S. Environmental Protection Agency, Region III

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**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

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6403 Sixth Avenue	:	
Koppel, PA 16136	:	
	:	
Respondent	:	
	:	
IPSCO Koppel Tubulars, LLC	:	Proceeding under RCRA Section
6403 Sixth Avenue	:	3008(a)(1) and (g), 42 U.S.C.
Koppel, PA 16136	:	§ 6928(a)(1) and (g)
	:	
Facility	:	
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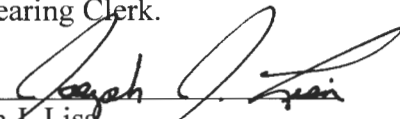
FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, IPSCO Koppel Tubulars, LLC, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

NOW THEREFORE, pursuant to Sections 15 and 16 of TSCA, 15 U.S.C. §§ 2614 and 2615, and the Consolidated Rules of Practice, and upon representations in the Consent Agreement that the penalty agreed to therein is based upon a consideration of the factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), Respondent IPSCO Koppel Tubulars, LLC is hereby ordered to pay a civil penalty of **\$29,541.00** as set forth in Section IV of the Consent Agreement, and to comply with the terms and conditions of the Consent Agreement.

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: Feb. 22, 2017



 Joseph J. Lisa
 Regional Judicial Officer
 U.S. EPA, Region III

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**In the Matter of:
IPSCO Koppel Tubulars, LLC**

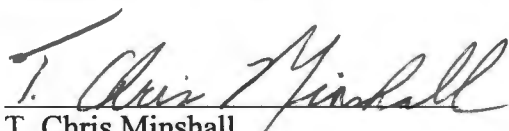
Docket No. TSCA-03-2017-0047

FILED
EPA REGION III, PHILA. PA

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of February 2017, I sent a copy of the foregoing CONSENT AGREEMENT and FINAL ORDER by UPS, to the following person:

Gerald J. Pels, Esq.
Locke Lord LLP
600 Travis Suite 2800
Houston, TX 77002



T. Chris Minshall
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III