



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

JUN 01 2011.

Mr. Douglas H. Green
Venable LLP
575 Seventh Street NW
Washington, D.C. 20004

RE: Consent Agreement and Final Order (CAFO), Docket Number TSCA-04-2009-9100

Dear Mr. Green:

Attached please find a copy of the CAFO that was filed with the Regional Hearing Clerk. Please call Michi Kono at (404) 526-9558 if you have questions. Thank you for your assistance regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Lamberth".

Larry Lamberth, Acting Chief
RCRA and OPA Enforcement and
Compliance Branch

Enclosures

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

In the Matter of:)
)
SCANA Corporation)
100 SCANA Parkway)
Cayce, South Carolina 29033)
)
Respondent)
_____)

Docket No. TSCA-04-2009-9100(b)

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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 Resource Conservation and Recovery Act (RCRA) Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is SCANA Corporation.
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 6(e) of TSCA, 15 U.S.C. § 2605, the Administrator of EPA promulgated rules in 40 C.F.R. Part 761 pertaining to Polychlorinated Biphenyls (PCBs). Failure to comply with any such rule constitutes a violation of Section 15 of TSCA, 15 U.S.C. § 2614. 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 occurring between January 30, 1997, and March 15, 2004, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. For each such violation occurring between March 15, 2004, and January 12, 2009, a penalty of up to \$32,500 may be assessed. For each such violation occurring after January 12, 2009, a penalty of up to \$37,500 may be assessed. 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. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for EPA in this proceeding:

Raj Aiyar
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
(404) 562-8993

III. Specific Allegations

6. Respondent is a generator of PCB waste operating in the State of South Carolina and is a "person" as defined in 40 C.F.R. § 761.3.
7. In a letter to EPA, dated October 1, 2008, Respondent self-disclosed violations of TSCA.

8. Respondent violated 40 C.F.R. § 761.65 when it did not store PCB-contaminated oil and PCB Articles in accordance with the applicable storage for disposal rules contained in 40 C.F.R. § 761.65. Respondent had mischaracterized the oil as containing a PCB concentration of less than 50 ppm.
9. Respondent violated 40 C.F.R. § 761.1(b)(5) when it diluted PCB-contaminated oil to less than 50 ppm. Respondent has asserted that the dilution occurred inadvertently as a result of Respondent having mistakenly determined that the oil removed from its PCB equipment contained less than 50 ppm PCBs when in fact it contained more than 50 ppm.
10. Respondent violated 40 C.F.R. § 761.60(a)(1) when it improperly disposed of PCB-contaminated oil. Respondent had mischaracterized the oil as containing a PCB concentration of less than 50 ppm.
11. Respondent violated 40 C.F.R. § 761.60(b)(6)(ii) when it improperly disposed of drained PCB-contaminated electrical equipment. The oil in the electrical equipment had been mischaracterized as containing a PCB concentration of less than 50 ppm.
12. Respondent violated 40 C.F.R. § 761.60(b)(1) when it did not dispose of drained PCB Transformers in a qualified incinerator or PCB chemical landfill.
13. Respondent violated 40 C.F.R. § 761.207 when it did not prepare a manifest for PCB wastes. Respondent had mischaracterized the oil in the PCB wastes as containing a concentration of less than 50 ppm of PCBs.
14. Respondent violated 40 C.F.R. § 761.180 when it did not maintain records of manifests for PCB wastes, which had been mischaracterized as containing a PCB concentration of less than 50 ppm.
15. The violations referenced above were self-disclosed by Respondent under EPA's Policy

“Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations,” 65 Fed. Reg. 19618 (April 11, 2000) (“Audit Policy”).

16. As provided under the Audit Policy, EPA finds that Respondent met the conditions of the Policy, and therefore, gravity-based penalties are waived.
17. In accordance with the Policy, EPA is collecting the economic benefit component of the penalty.

IV. Consent Agreement

18. 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.
19. 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.
20. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
21. Respondent certifies that, to the best of its knowledge, information, and belief, as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA.
22. 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 the Respondent’s responsibility to comply with said laws and regulations.

23. 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

24. Respondent is assessed a civil penalty of TWENTY-EIGHT THOUSAND FIVE HUNDRED NINETY-SIX DOLLARS (\$28,596), which shall be paid within 30 days from the effective date of this CAFO.
25. 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, Missouri 63197-9000

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

For payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc.), please use the following address:

U. S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

Contact: Natalie Pearson (314) 418-4087

26. 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, SW
Atlanta, Georgia 30303-8960

Raj Aiyar
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

and

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

27. 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.
28. 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.
29. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
30. This CAFO shall be binding upon the Respondent, its successors and assigns.
31. The undersigned representative of each party to this CAFO certifies that he or she is fully

authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

VI. Effective Date

32. 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: SCANA Corporation
Docket No.: TSCA-04-2009-9100(b)

By: James M. Landroth (Signature) Date: April 25, 2011
Name: James M. Landroth (Typed or Printed)
Title: Vice President (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By: G. Alan Farmer (Signature) Date: 5/26/11
G. Alan Farmer
Director
RCRA Division
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 31st day of May, 2011.

By: Susan B. Schub
Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of: SCANA Corporation, Docket No. TSCA-04-2009-9100(b), and served same on the date shown below, to the parties listed in the manner indicated:

Michiko Kono
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

(via EPA's internal mail)

Quantindra Smith
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

(via EPA's internal mail)

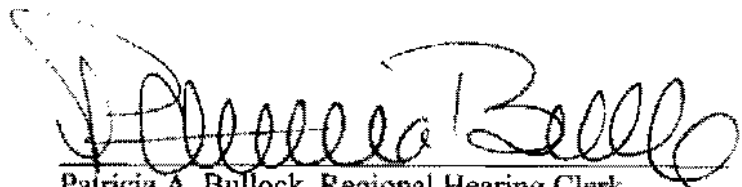
Raj Aiyar
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

(via EPA's internal mail)

Douglas H. Green
Venable LLP
575 Seventh Street NW
Washington, D. C. 20004

(via Certified Mail
Return Receipt requested)

Date: 6-1-11



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