



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER
81 FORSYTH STREET
ATLANTA, GEORGIA 30303-8980

FEB 14 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. William Dyle
General Manager
Highside Chemicals, Inc.
11114 Reichhold Road
Gulfport, Mississippi 39503

Re: Highside Chemicals, Inc.
Consent Agreement and Final Order
Docket No.: TSCA-04-2605(b)

Dear Mr. Dyle:

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 C.F.R. Part 22.

Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the Respondent's name and Docket Number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

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 the U. S. Environmental Protection Agency. Where used in the document "SEC" refers to the Securities and Exchange Commission.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Jeannette M. Gettle".

Jeannette M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA

In the Matter of:)
Highside Chemicals, Inc.)
Respondent.)
_____)

Docket No.: TSCA-04-2012-205(b)

RECEIVED
EPA REGION IV
2012 FEB 14 PM 1:05
HEARING CLERK

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, U.S. Environmental Protection Agency, Region 4. Respondent is Highside Chemicals, 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. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under TSCA to the EPA Region 4 by EPA Delegation 12-2-A, dated May 11, 1994.
4. 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.
5. Any person who violates a provision of Section 15 of TSCA shall be liable for a civil penalty in an amount not to exceed \$25,000 for each such violation, in accordance with Section 16(a) of TSCA. The Debt Collection Improvement Act of 1996 requires the EPA to review and adjust penalties, as necessary, for inflation at least once every four years. As such, pursuant to the Adjustment of Civil Monetary Penalties for Inflation Rule, 40 C.F.R. Part 19, the revised maximum penalty for each violation occurring after January 30, 1997, through March 15, 2004, is \$27,500; for each violation occurring after March 15, 2004, through January 12, 2009, the maximum penalty for each violation is \$32,500; and for each violation occurring after January 12, 2009, the maximum penalty

for each violation is \$37,500. Each day a violation continues may constitute a separate violation.

6. All Confidential Business Information (CBI) in this CAFO has been redacted. To determine the identity of the chemical substance referenced in this CAFO or the CBI that was deleted [CBI deleted], Complainant and/or Respondent should refer to the letter, dated August 12, 2011, sent to the Respondent identifying the potential violations of TSCA and notifying the Respondent of the opportunity to show cause why the EPA should not proceed with an enforcement action.

III. Specific Allegations

7. Respondent operates a chemical blending facility located at 11114 Reichhold Road, Gulfport, Mississippi.
8. Respondent is an exporter as the term is defined in 40 C.F.R. § 707.63(b).
9. On May 26, 2011, an authorized agent of the EPA Region 4 conducted an inspection at Respondent's place of business pursuant to Section 11(a) of TSCA, 15 U.S.C. § 2610(a).
10. Based on the records that were provided to the inspector and later reviewed by the EPA, it was determined that Respondent exported a shipment of [CBI deleted] to [CBI deleted] on February 25, 2008.
11. [CBI deleted] contained greater than one percent [CBI deleted] hereinafter referred to as Chemical A.
12. As of [CBI deleted], Chemical A was subject to a test rule promulgated pursuant to Section 4 of TSCA 15 U.S.C. § 2603 and referenced at 40 C.F.R. § 799 [CBI deleted].

13. The regulation set forth at 40 C.F.R. § 799 [CBI deleted] requires any person who export or intends to export a chemical substance listed in [CBI deleted] to comply with 40 C.F.R. § 707, Subpart D.
14. Chemical A was listed in [CBI deleted] when it was exported, therefore, Respondent was subject to the export notification requirements promulgated at 40 C.F.R. § 707, Subpart D.
15. Respondent failed to submit an export notice to EPA when Chemical A was exported to [CBI deleted].
16. Respondent violated Section 15 of TSCA, 15 U.S.C. § 2614, by failing to comply with Section 12(b) of TSCA, 15 U.S.C. §§ 2611(b) and the regulations promulgated at 40 C.F.R. § 707, Subpart D.
17. Pursuant to 40 C.F.R. § 707.60(f), failure to comply with TSCA Section 12(b), 15 U.S.C. § 2611(b) is considered a violation of TSCA Section 15(3), 15 U.S.C. § 2614, and will subject exporter to the penalty provisions of TSCA Sections 16 and 17, 15 U.S.C. §§ 2615 and 2616.

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 the EPA and agrees to pay the civil penalty as set forth in this CAFO.

21. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with the TSCA regulations referenced in this CAFO.
22. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither the EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.
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.
24. Pursuant to 40 C.F.R. § 22.5(c)(4), the following individual is authorized to receive service for the EPA in this proceeding:

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

V. Final Order

25. Respondent is assessed a civil penalty of **SIX THOUSAND, FIVE HUNDRED FORTY FIVE DOLLARS (\$6,545)**. Four payments will be made to complete payment of the entire civil penalty including interest. The first installment is due within 30 days of the effective date of this CAFO. The subsequent three payments shall be due in 90 day intervals thereafter. Including the civil penalty and interest, the total amount that will be paid upon the completion of all payments will be **SIX THOUSAND, FIVE HUNDRED**

SIXTY NINE DOLLARS and FIFTY SIX CENTS (\$6,569.56). Respondent shall make payments in accordance with the following schedule:

<u>Payment Number</u>	<u>Payment Due Date</u>	<u>Payment Due</u>
1	within 30 days of filing of CAFO	\$1,636.25
2	within 120 days of filing of CAFO	\$1,644.44
3	within 210 days of filing of CAFO	\$1,644.44
4	within 300 days of filing of CAFO	\$1,644.43

26. Respondent shall remit the penalty payment by either a cashier's or certified check made payable to the "Treasurer, United States of America." **The Respondent shall note on the face of the check the Respondent's name and the Docket Number associated with this CAFO.** The penalty payment shall be sent by one of the methods below.

Address for payment submittal using the United States Postal Service:

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

Address for payment submittal using other delivery service (e.g., Federal Express, United Parcel Service DHI., etc.):

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

Contact Person: Natalie Pearson - (314) 418-4087

27. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to 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 J. Wilson
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960.

28. If Respondent fails to make one of the installment payments in accordance with the schedule set forth above, and if such payment is not made within 30 days after the due date, that payment plus all subsequent payments (the entire unpaid balance) **and all accrued interest** shall become immediately due and payable on the 31st day from such due date. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described below in the event of any such failure or default.
29. Further, if Respondent fails to pay the installment payments in accordance with the schedule set forth above, the EPA may refer the debt to a collection agency, a credit reporting agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
30. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth above, Respondent may pay the entire civil penalty of **SIX THOUSAND, FIVE HUNDRED FORTY FIVE DOLLARS (\$6,545)** within

thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a). In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance remaining, together with interest accrued up to the date of such full payment.

31. 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.
32. Pursuant to 31 U.S.C. § 3717, the 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.
33. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
34. This CAFO shall be binding upon the Respondent and its successors and assigns.
35. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and hereby legally binds that party to this CAFO.

VI. Effective Date

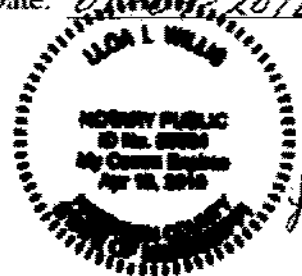
36. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Respondent: Highside Chemicals, Inc.
Docket No.: TSCA-04-2012-2605(b)

By: *William Dyle*
Name: William Dyle
Title: GM

Date: 01-09-2012



Lisa L. Willis
1-9-2012

Complainant: U.S. Environmental Protection Agency

By: *Beverly H. Banister*
Beverly H. Banister, Director
Air, Pesticides and Toxics
Management Division

Date: 2-8-2012

APPROVED AND SO ORDERED this 13th day of February, 2014

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

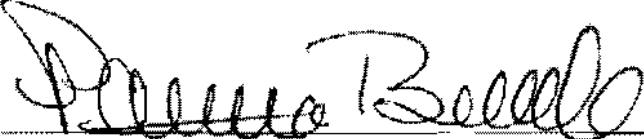
CERTIFICATE OF SERVICE

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 Highside Chemicals, Inc., Docket Number: TSCA-04-2012-2605(b), to the addressees listed below.

William Dyle (via Certified Mail, Return Receipt Requested)
General Manager
Highside Chemicals, Inc.
11114 Reichhold Road
Gulfport, Mississippi 39503

Verne George (via EPA's internal mail)
Chemical Products and Asbestos Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Robert Caplan (via EPA's internal mail)
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

By:  Date: 2-14-12
Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth St., S.W.
Atlanta, GA 30303

(404) 562-9511