



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

OCT 22 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

Koppers, Inc.
c/o Scott R. Thistle, Esq.
Cohen & Grigsby
625 Liberty Avenue
Pittsburgh, PA 15222-3152

Re: Koppers Inc., Galesburg, Illinois, Consent Agreement and Final Order,
Docket No. **CERCLA-05-2014-0001**

Dear Mr. Duff:

Enclosed please find a copy of the fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the original CAFO with the Regional Hearing Clerk on October 22, 2013

Please pay the CERCLA civil penalty in the amount of \$9,740 in the manner prescribed in paragraphs 24 and 25, and reference your check with the billing document number 2751430B001 and the docket number CERCLA-05-2014-0001.

Your payments are due on November 22, 2013.

Please feel free to contact Ginger Jager at (312) 886-0767 if you have any questions regarding the enclosed documents. Please direct any legal questions to Tom Turner, Associate Regional Counsel, at (312) 886-6613. Thank you for your assistance in resolving this matter.

Sincerely,


Michael E. Mans, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

cc: IEMA (w/ enclosure)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No CERCLA-05-2014-0001
)	CERCLA
Koppers Inc.,)	
Galesburg, Illinois)	Proceeding to Assess a Civil Penalty Under
)	Section 109(b) of the Comprehensive
Respondent.)	Environmental Response, Compensation and
)	Liability Act
)	
)	
)	
)	
)	



Consent Agreement and Final Order
Preliminary Statement

1. This is an administrative action commenced and concluded under Section 109(b) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609(b) and Sections 22.13(b) and 22.18(b)(2) and (3) 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.

2. The Complainant is, by lawful delegation, the Chief of the Enforcement and Compliance Assurance Branch, Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is Koppers Inc., a corporation doing business in the State of Illinois.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. 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.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

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

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(e), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires any person in charge of a facility to immediately notify the National Response Center (NRC) as soon as that person has knowledge of any release of a hazardous substance from the facility in an amount equal to or greater than the reportable quantity of the hazardous substance.

10. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), provides a mechanism to alert federal agencies that a response action may be necessary to prevent deaths or injuries to emergency responders, facility personnel and the local community. A delay or failure to notify could seriously hamper the governments' response to an emergency and pose serious threats to human health and the environment.

Factual Allegations and Alleged Violations

11. Respondent is a "person" as that term is defined under Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

12. At all time relevant to this CAFO, Respondent was in charge of the facility located

at 1291 Route 41 South, Galesburg, Illinois (facility).

13. Respondent's facility consists of a building, structure, installation, equipment storage container, or any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located.

14. Respondent's facility is a "facility" as that term is defined under Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

15. Creosote-Petroleum Solution (CPS), CAS #8001-58-9, is a "hazardous substance" as that term is defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

16. CPS, CAS #8001-58-9, has a reportable quantity of 1 pound, as indicated at 40 C.F.R. Part 302, Table 302.4.

17. On June 12, 2012, at or about 5:15 a.m., a release occurred from Respondent's facility of approximately 15 pounds of creosote (the release).

18. In a 24 hour time period, the release of creosote exceeded 1 pound.

19. During the release, approximately 15 pounds of CPS leaked onto the land surface.

20. The release is a "release" as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

21. Respondent had knowledge of the release on June 12, 2012 at approximately 7:00 a.m.

22. Respondent notified the NRC of the release on June 12, 2012, at 8:05 a.m.

23. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the release.

24. Respondent's failure to immediately notify the NRC of the release is a violation of

Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

Civil Penalty

25. Complainant has determined that an appropriate civil penalty to settle this action is \$9,740 for the CERCLA violation. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violation, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violation and any other matters as justice may require. Complainant also considered U.S. EPA's Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response Compensation and Liability Act, dated September 30, 1999 (EPCRA/CERCLA Enforcement Response Policy). Within 30 days after the effective date of this CAFO, Respondent must pay a \$9,740 civil penalty for the CERCLA violation. Respondent must pay the penalty by sending a cashier's or certified check, payable to "EPA Hazardous Substance Superfund," to:

U.S. Bank
Government Lockbox 979076 U.S. EPA Superfund Payments
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The check must note the following: Koppers, Inc. , the docket number of this CAFO and the billing document number 2751430B001.

26. A transmittal letter, stating Respondent's name, the case name, Respondent's complete address, the case docket number and the billing document number, if any, must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk, (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604-3511

Ms. Ginger Jager, (SC-5J)
Chemical Emergency Preparedness
and Prevention Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Mr. Tom Turner, (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

27. This civil penalty is not deductible for federal tax purposes.

28. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

29. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

30. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

31. This CAFO does not affect the rights of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

32. Respondent certifies that it is complying with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

33. This CAFO does not affect Respondent's responsibility to comply with CERCLA, EPCRA and other applicable federal, state and local laws and regulations.

34. This CAFO is a "final order" for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

35. The terms of this CAFO bind Respondent and its successors and assigns.

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

37. Each party agrees to bear its own costs and attorney's fees in this action.

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

In the Matter of: Koppers Inc.
Docket No.

Koppers Inc., Respondent

9-12-13
Date

Thomas D. Loadman
Thomas D. Loadman
Vice President & General Manager, Railroad & Utility
Products and Services,
Koppers Inc.

U.S. Environmental Protection Agency, Complainant

9-25-13
Date

for Jaffess
Sharon Jaffess, Chief
Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency
Region 5

9/25/2013
Date

for
Richard E. Karl, Director
Superfund Division
U.S. Environmental Protection Agency
Region 5

In the Matter of: Koppers Inc.
Docket No. CERCLA-05-2014-0001



Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9-26-13

Date

A handwritten signature in blue ink, appearing to read "S. Hedman", written over a horizontal line.

Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

In the Matter of: Koppers Inc.
Docket No. CERCLA-05-2014-0001

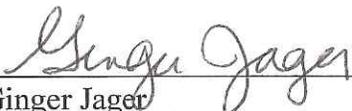
Certificate of Service

I, Ginger Jager, certify that I filed the original and a copy of the Consent Agreement and Final Order (CAFO) with the Regional Hearing Clerk, U. S. Environmental Protection Agency, Region 5, delivered a copy of the CAFO by intra-office mail to the Regional Judicial Officer, U.S. Environmental Protection Agency, Region 5, and mailed the second original CAFO by first-class, postage prepaid, certified mail, return receipt requested, to Respondent by placing it in the custody of the United States Postal Service addressed as follows:

Koppers, Inc.
c/o Scott R. Thistle, Esq.
Cohen & Grigsby
625 Liberty Avenue
Pittsburgh, PA 15222-3152



on the 22nd day of October, 2013



Ginger Jager
U.S. Environmental Protection Agency
Region 5