



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

SEP 20 2016

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. William L. Penny  
Burr & Forman LLP  
511 Union Street  
Suite 2300  
Nashville, Tennessee 37219

Re: Compass Chemical International, LLC  
Consent Agreement and Final Order  
Docket No. TSCA-04-2016-2541(b)

Dear Mr. Penny:

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, please find a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Compass Chemical International, LLC, on notice of its potential liability to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by the U. S. Environmental Protection Agency Region 4.

Should you or your client have any questions regarding the CAFO, please contact EPA's attorney, Mr. Robert Caplan, at (404) 562-9520. For questions concerning Compass Chemical International's compliance status in the future, please contact EPA's Case Development Officer in this matter, Mr. Tony Spann, at (404) 562-8971.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony G. Toney", with a long horizontal flourish extending to the right.

Anthony G. Toney  
Chief  
Chemical Safety and Enforcement Branch

Enclosures

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA, GEORGIA

USEPA, REGION 4  
OFFICE OF REGIONAL  
COUNSEL

2016 SEP 20 AM 6:49

HEARING CLERK

In the Matter of: )  
 )  
Compass Chemical International, LLC )  
 )  
Respondent. )  
\_\_\_\_\_ )

Docket No. TSCA-04-2016-2547(b)

**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 Compass Chemical International, LLC.
2. 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 Regional Administrator by EPA Delegation 12-2-A, dated May 11, 1994. The Region 4 Regional Administrator has redelegated this authority to the Director of the Air, Pesticides and Toxics Management Division by EPA Region 4 Delegation 12-2-A, dated January 14, 2009. Pursuant to that Delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to

commence an enforcement action as the Complainant in this matter and has the authority to sign a Consent Agreement memorializing this settlement between the EPA and Respondent.

3. 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**

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 promulgated or order issued under Sections 4, 5, or 6 of TSCA, 15 U.S.C. § 2603, § 2604, or § 2605, and any requirement prescribed by Section 5 or 6 of TSCA, 15 U.S.C. § 2604 or § 2605; (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 Section 5 or 6 of TSCA, 15 U.S.C. § 2604 or § 2605; (3) fail to maintain records, submit reports or information, or permit access to or allow copying of records including but not limited to records and reports required by Section 8 of TSCA, 15 U.S.C. § 2607, and export notices required by Section 12(b) of TSCA, 15 U.S.C. § 2611(b); 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.

### **III. Specific Allegations**

6. Respondent owns a chemical manufacturing facility located at 5544 Oakdale Road Southeast in Smyrna, Georgia (Facility).
7. Respondent is a person as the term is defined in 40 C.F.R. § 720.3(x).
8. Respondent is a manufacturer as the term is defined in 40 C.F.R. § 720.3(t).
9. Pursuant to Section 5(a) of TSCA, 15 U.S.C. § 2604, and 40 C.F.R. §§ 720.22 and 720.75(a), no person may manufacture a new chemical substance for commercial purposes unless such person submits to EPA, at least 90 days before such manufacturing commences, a notice of intent to manufacture such chemical (Premanufacture Notice or “PMN”). Pursuant to 40 C.F.R. § 720.75(a), the chemical that is the subject of the PMN notice may not be manufactured prior to the expiration of the EPA’s 90-day review period.
10. On August 13, 2013, an authorized agent of EPA Region 4 conducted an inspection at Respondent’s Facility pursuant to Section 11(a) of TSCA, 15 U.S.C. § 2610(a).

11. Upon review of the records and discussions with Respondent, it was revealed that on or about May 2, 2013, Respondent submitted a PMN for chemical # P-13-0687 hereinafter referred to as Chemical A to the EPA. The 90-day review period was set to expire on August 1, 2013.
12. Prior to the expiration of the notice review period, the Respondent manufactured Chemical A on July 7th, 13th, and 26th of 2013 for commercial purposes.
13. Pursuant to 40 C.F.R. § 720.120(b), a person who manufactures or imports a new chemical substance before the notice review period expires is in violation of Section 15 of TSCA, 15 U.S.C. § 2614.
14. By manufacturing Chemical A prior to the end of the 90-day notice review period above-referenced in paragraphs 11 and 12, Respondent failed to comply with Section 5 of TSCA and, therefore, violated Section 15 of TSCA.

#### **IV. Consent Agreement**

15. 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.
16. 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.
17. 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.
18. 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.
19. 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.

20. 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.
21. Pursuant to 40 C.F.R. § 22.5(c)(4), the following individual is authorized to receive service for the EPA in this proceeding:

Tony Spann  
Chemical Management and Emergency Planning Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(404) 562-8971.

#### **V. Final Order**

22. Respondent is assessed a civil penalty of **EIGHTY THOUSAND DOLLARS (\$80,000)** which shall be paid within thirty (30) days of the effective date of this CAFO.
23. 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 (USPS) (excluding USPS overnight mail):

U.S. Environmental Protection Agency  
P.O. Box 979077  
St. Louis, Missouri 63197-9000.

Address for payment submittal using USPS overnight mail or other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.):

U.S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
Contact Phone Number: (513) 487-2091

24. 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, S.W.  
Atlanta, Georgia 30303-8960;

Tony Spann  
Chemical Management and Emergency Planning Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
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.

25. 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.
26. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, 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. In accordance with 40 C.F.R. § 13.11(a),

interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, the EPA will not seek to recover interest on any amount of such 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). 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.

27. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
28. This CAFO shall be binding upon the Respondent and its successors and assigns.
29. 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.

**The remainder of this page is intentionally blank.**



**VI. Effective Date**

30. 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: Compass Chemical International, LLC**

**Docket No.: TSCA-04-2016-2541(b)**

By: [Signature] Date: 8/3/2016

Name: DANIEL Mc CAUL

Title: CEO

**Complainant: U.S. Environmental Protection Agency**

By: [Signature] Date: 8/25/16

Carol L. Kemker  
Acting Director  
Air, Pesticides and Toxics Management Division

**APPROVED AND SO ORDERED** this 15<sup>th</sup> day of September, 2016.

By: [Signature]

Tanya Floyd  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

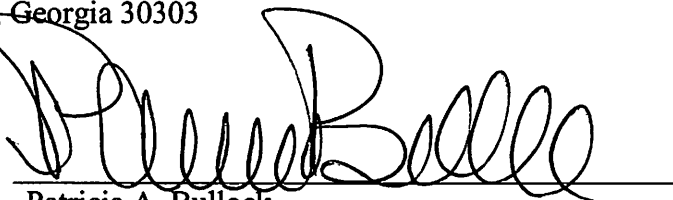
I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of Compass Chemical International, LLC, Docket Number: TSCA-04-2016-2541(b), to the addressees listed below.

William L. Penny (via Certified Mail, Return Receipt Requested)  
Burr & Forman LLP  
511 Union Street  
Suite 2300  
Nashville, Tennessee 37219

Tony Spann (via EPA's internal mail)  
Chemical Management and Emergency  
Planning 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:



Patricia A. Bullock  
Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth St., S.W.  
Atlanta, GA 30303

Date:

9-20-16

(404) 562-9511