



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

SEP 11 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Kenny Atkins
Axiall Corporation
715 Highway 25 South
Aberdeen, Mississippi 39730

Re: Axiall Corporation
Ratified Consent Agreement and Final Order
Docket No. TSCA-04-2018-2518(b)

Dear Mr. Atkins:

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.

Should you have any questions concerning the compliance status in the future, please contact Mr. Om Devkota of the U.S. Environmental Protection Agency Region 4 staff at (404) 562-8963. Thank you for your cooperation in reaching resolution of this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony G. Toney".

Anthony G. Toney
Chief
Chemical Safety and Enforcement Branch

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA

In the Matter of:)
)
Axiall Corporation) Docket No. TSCA-04-2018-2518(b)
)
Respondent.)
_____)

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 Axiall Corporation.
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 the EPA Delegation 12-2-A, dated May 11, 1994. The Region 4 Regional Administrator has re-delegated this authority to the Director of the Air, Pesticides and Toxics Management Division by the EPA's 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 Consent Agreements memorializing settlements between the EPA and Respondents.

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 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.
5. Any person who violates a provision of Section 15 of TSCA shall be liable for a civil penalty for each such violation in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19. 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 substances referenced in this CAFO or the CBI that was deleted (CBI deleted), Complainant and/or Respondent should refer to the show cause letter dated December 7, 2018, 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 owns and operates chemical importing, exporting, manufacturing and distribution businesses thorough out the United States.
8. Respondent is a manufacturer and an importer as those terms are defined in 40 C.F.R. §§ 710.3 and 711.3.
9. On March 23, 2017, an authorized agent of the EPA Region 4 conducted an inspection at the Respondent's Headquarters office located at 1000 Abernathy Road, Suite 1200 in Atlanta, Georgia pursuant to Section 11(a) TSCA, 15 U.S.C. § 2610(a). During the inspection, the inspectors reviewed certain records and documents provided by the Respondent.

Failure to Submit Chemical Data Reporting Information for 2016

10. Pursuant to 40 C.F.R. § 711.8(a)(2), any person who manufactured (including imported) for commercial purposes 25,000 pounds (11,340-kilogram (kg)) or more of a chemical substance described in 40 C.F.R. § 711.5 at any single site owned or controlled by that person, in any of the calendar years 2012, 2013, 2014 or 2015, is subject to the Chemical Data Reporting (CDR) requirements in 40 C.F.R. Part 711 for the 2016 submission period. Pursuant to 40 C.F.R. § 711.20, the 2016 submission period ran from June 1, 2016, until October 31, 2016, and CDR reports were required to have been submitted to the EPA during that period of time.
11. Pursuant to 40 C.F.R. § 711.5, any chemical substance that is in the TSCA Master Inventory File at the beginning of a submission period described in 40 C.F.R. § 711.20 must be reported pursuant to the CDR requirements unless the chemical substance is specifically exempted by 40 C.F.R. § 711.6.

12. Respondent's 2015 production records indicate that in 2015 Respondent imported for commercial purposes a reportable quantity (> 25,000 pounds) of Chemical A.
13. Chemical A was listed in the TSCA Master Inventory File at the beginning of the 2016 CDR submission period (June 1, 2016, through October 31, 2016) identified at 40 C.F.R. § 711.20 and is not specifically exempted from some or all of the CDR reporting requirements by 40 C.F.R. § 711.6.
14. Respondent failed to submit to the EPA a CDR Report, as required by 40 C.F.R. § 711.20, for the Respondent's import of Chemical A for commercial purposes in an amount of 25,000 pounds (11,340 kg) or more in calendar year 2015 by no later than the end of the 2016 CDR submission period, October 31, 2016.
15. Pursuant to 40 C.F.R. § 711.1(c) and Section 15(3) of TSCA, it is unlawful for any person to fail or refuse to submit information required under 40 C.F.R. Part 711.
16. Section 16 of TSCA provides that any person who violates a provision of Section 15 of TSCA is liable to the United States for a civil penalty.

Over-Reporting an Imported Chemical in 2016 CDR Report

17. Respondent's 2015 production records indicate that in 2015 Respondent imported for commercial purposes a reportable quantity (> 25,000 pounds) of Chemical B.
18. Chemical B was listed in the TSCA Master Inventory File at the beginning of the 2016 CDR submission period (June 1, 2016, through October 31, 2016) identified at 40 C.F.R. § 711.20 and is not specifically excluded from some or all of the CDR reporting requirements by 40 C.F.R. § 711.6.
19. Pursuant to 40 C.F.R. § 711.15(b)(3)(iii), the total annual domestic manufactured volume (not including imported volume) and the total annual imported volume of each reportable

chemical substance must be reported separately. These amounts must be reported to two significant figures of accuracy.

20. During the 2016 submission period, Respondent submitted to the EPA a 2016 CDR for Chemical B.
21. A comparison between Respondent's 2015 production records and Respondent's 2016 CDR report revealed that Chemical B was over reported (not reported to two significant figures of accuracy).
22. Pursuant to 40 C.F.R. § 711.1(c) and Section 15(3) of TSCA, it is unlawful for any person to fail or refuse to submit information required under 40 C.F.R. Part 711. By overreporting Chemical B in its 2016 CDR report, Respondent failed to comply with TSCA's requirements pertaining to submission of information as required by 40 C.F.R. Part 711. Therefore, the EPA alleges that the Respondent has violated TSCA.
23. Section 16 of TSCA provides that any person who violates a provision of Section 15 of TSCA is liable to the United States for a civil penalty.

IV. Consent Agreement

24. 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.
25. 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.
26. 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.
27. 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.

28. In accordance with 40 C.F.R. § 22.18(c), compliance with this CAFO only resolves Respondent's liability for federal civil penalties for the allegations in Section III of this CAFO and does not affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. This CAFO does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of TSCA or other applicable laws and regulations.
29. 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

30. Respondent is assessed a civil penalty of **THIRTY-NINE THOUSAND SIX HUNDRED AND SEVENTY (\$39,670)** which shall be paid within thirty (30) days of the effective date.
31. 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 standard delivery:

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

Address for signed receipt confirmation (FedEx, DHL, UPS, USPS certified, registered, etc.):

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza

SL-MO-C2-GL
St. Louis, Missouri 63101
Delivery Contact Phone Number: (314) 425-1819

Electronic Payment:

Any electronic payment method as indicated in the EPA's
electronic payment options web site found at:
<https://www.epa.gov/financial/makepayment#electronic>

32. 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 or send proof of electronic payment, 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; and

Om P. Devkota
Chemical Management and Emergency Planning Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

33. 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.
34. 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.

35. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
36. This CAFO shall be binding upon the Respondent and its successors and assigns.
37. 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 left blank.

VI. Effective Date

38. 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: Axiall Corporation
Docket No.: TSCA-04-2018-2518(b)

By: 

Date: 8/15/18

Name: Andrew F. Kenner

Title: Vice President Sr. - Chemical Manufacturing

Complainant: U.S. Environmental Protection Agency

By: 

Date: 8/30/18

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

APPROVED AND SO ORDERED this 11th day of September, 2018

By: 

Tanya Floyd
Regional Judicial Officer

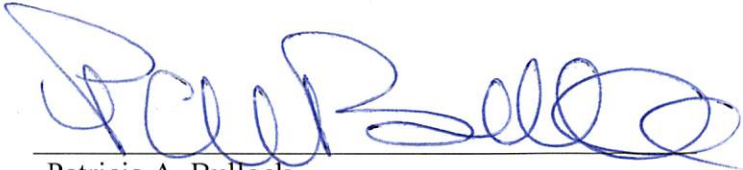
CERTIFICATE OF SERVICE

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 Axiall Corporation Docket Number: TSCA-04-2018-2518(b), to the addressees listed below.

Kenny Atkins (via Certified Mail, Return Receipt Requested)
Axiall Corporation
715 Highway 25 South
Aberdeen, Mississippi, 39730

Om P. Devkota (via EPA's internal mail)
Chemical Management and Emergency
Planning Section
U.S. EPA Region 4

Robert Caplan (via EPA's internal mail)
Senior Attorney
Office of Regional Counsel
U.S. EPA Region 4

By:  Date: 9-11-18
Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth St., S.W.
Atlanta, GA 30303
(404) 562-9511