



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

JUN 05 2008

4APT-PTSB

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Gali Hagel, Esq
Hoover Group, Inc.
6875 Shiloh Road East, Suite 102
Alpharetta, GA 30005-8372

SUBJ: Hoover Group, Inc.
Consent Agreement and Final Order
Docket Number: TSCA-04-2008-2500(b)

Dear Ms. Hagel:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter that has been filed with the Regional Hearing Clerk and served as required in the Consolidated Rules of Practice, 40 C.F.R. § 22.6. Please make note of the provisions in Section V of the CAFO, with respect to payment of the assessed penalty, which is due within 30 days from the effective date of the CAFO.

Also enclosed, please find 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 (SEC) any environmental enforcement actions taken by EPA.

If you have any questions, please call Mary Summers of the EPA Region 4 staff at (404) 562-8997.

Sincerely,

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

Jeanneane M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures

Internet Address (URL) • <http://www.epa.gov>

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

RECEIVED
EPA REGION IV
2008 JUN -5 PM 2:26
HEARING CLERK

IN THE MATTER OF:)
)
)
HOOVER GROUP, INC.,)
HOOVER INVESTMENTS, INC., and)
HOOVER MATERIALS HANDLING)
GROUP, INC.)
)
)
Respondents.)
_____)

Docket Number: *TSCA-04-2008-2500(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 the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent Hoover Group, Inc., together with its wholly-owned subsidiaries Hoover Investments, Inc. and Hoover Materials Handling Group, Inc., are referred to herein collectively as Respondents.
2. Complainant and Respondents 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 Administrator of EPA promulgated rules in 40 C.F.R. Part 761, pursuant to Section 6(e) of TSCA, 15 U.S.C. §2605, 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 Section 15 of TSCA may be assessed a penalty of up to \$27,500 for each such violation, in accordance with Section 16(a) of TSCA, 15 U.S.C. § 2615(a). For a violation occurring after March 15, 2004, a penalty of up to \$32,500 may be assessed pursuant to 40 C.F.R. Part 19. 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.

III. Factual Allegations

5. Respondent Hoover Investments, Inc. owns a facility located at 690 Keystone Drive, Clanton, Alabama. Each Respondent is a "person" as that term is defined in 40 C.F.R. § 761.3.

6. PCB Item as defined by 40 C.F.R. § 761.3 means any PCB Article, PCB Article Container, PCB Container, PCB Equipment, or anything that deliberately or unintentionally contains or has as a part of it any PCB or PCBs.

7. On August 16, 2006, the State of Alabama Department of Environmental Management (ADEM) conducted a PCB compliance inspection at Respondent Hoover Investment's facility. At the time of the inspection, the facility was inactive and unoccupied. The inspectors observed six 55-gallon PCB drums containing a total of approximately 290 gallons of transformer oil with high concentrations of PCBs, and one 55-gallon drum containing PCB-contaminated debris, improperly stored in a warehouse. The inspectors also observed an out-of-service PCB transformer stored in the warehouse that had leaked PCB oil onto the concrete floor, and observed a second decommissioned PCB transformer stored outside of the warehouse. The areas where the transformers and drums were being stored did not have labels and PCB markings, and were not protected with adequate curbing, as required by the PCB regulations.

Based on these observations and other findings during the inspection, EPA has determined that Respondents violated various requirements of the PCB regulations at 40 C.F.R. Part 761, as described below.

- a. Respondents violated 40 C.F.R. § 761.65(a)(1) by failing to properly dispose of PCB waste within 1 year from the date it was determined to be PCB waste, including 6 drums of PCB oil, 1 drum of PCB debris, 2 PCB transformers containing PCB oil, one PCB capacitor stored on the ground and one PCB pole-mounted capacitor. This PCB Equipment and PCB waste oil were stored in excess of the one year limit, in violation of 40 C.F.R. §761.65(a)(1).
- b. Respondents violated 40 C.F.R. § 761.40(a)(10) by failing to properly mark the area used to store the six PCB drums containing PCB oil and one drum containing PCB debris, PCB transformer, and PCB capacitors with the required PCB label, as illustrated in Figure 1 in 40 C.F.R. § 761.45(a).
- c. Respondents violated 40 C.F.R. § 761.65(c)(8) by failing to place on the PCB Items, including the drums, transformers and capacitors, a notation showing the date that when they were removed from service for disposal, and by failing to manage the Items such that they could be located by the dates.
- d. Respondents violated 40 C.F.R. §§ 761.65(b)(1)(ii) and (iv) by failing to ensure that the areas being used for storage of the PCB Items described above had an adequate floor that has continuous curbing with a minimum 6 inch high curb.
- e. Respondents violated PCB disposal requirements in 40 C.F.R. § 761.50(a) by failing to properly address the discharge of PCBs leaking from pole-mounted high voltage capacitors being stored at the rear of the warehouse. ADEM inspectors collected wipe samples from the surfaces of the capacitors and analytical results showed PCB concentrations of 403,000 ppm in one capacitor, and 142,350 ppm in the other. Pursuant to 40 C.F.R. § 761.50(a)(4), spills and other uncontrolled discharges of PCBs at concentrations greater than or equal to 50 ppm constitute the disposal of PCBs. Respondents violated the rules by failing to properly dispose of the spilled PCBs.
- f. Respondents violated 40 C.F.R. § 761.180(a) by failing to develop and maintain at the facility annual records and a written annual document log showing the disposition of PCBs and PCB Items. During the inspection, ADEM determined that there were no annual records or a written document log being maintained at the facility or at Respondents' headquarters office for at least calendar years 2002, 2003, 2004, and 2005. EPA has exercised its discretion and combined these yearly violations into one count for purposes of entering into this CAFO.

g. Respondents violated 40 C.F.R. §§ 761.35(a) and (b) as a result of storing PCB Articles for reuse for longer than 5 years in a storage area which was not designed, constructed and operated in compliance with § 761.65(b), and failing to comply with all requirements for marking and maintaining records. The PCB transformers were not dated with the date removed from service, and the projected location and future use were not recorded, violating 40 C.F.R. §761.35(a)(1) and/or §761.35(b).

h. Respondents violated 40 C.F.R. § 761.30(a)(1)(vi)(A) by failing to register with EPA by December 28, 1998, PCB transformers owned by Respondents (referenced above).

i. Respondents violated 40 C.F.R. §§ 761.30(a)(1)(ix) and (xii) by failing to perform a visual inspection of each PCB transformer in use or stored for reuse at least once every three months to check for leaks of PCB fluids from the transformer, and by failing to maintain records of those inspections.

j. Respondents violated 40 C.F.R. §§ 761.30(a)(1)(x), 761.50(a)(4) and 761.60(a) by failing to repair or replace the leaking PCB transformer inside the warehouse, and by failing to properly clean up and dispose of PCB oil at concentrations greater than 500 ppm which had spilled onto the concrete floor of the warehouse.

k. Respondents violated 40 C.F.R. § 761.30(a)(1)(viii) by storing combustible materials, including plastics, wood and other types of debris within 5 meters of the PCB transformer in the warehouse.

IV. Consent Agreement

8. For the purposes of this CAFO, Respondents admit the jurisdictional allegations set out above but neither admit nor deny the factual allegations set out above.

9. Respondents waive their right to a hearing on the allegations contained herein.

10. Respondents consent to the assessment of, and agree to pay collectively, the civil penalty as set forth in this CAFO.

11. Respondents certify that to the best of their knowledge, as of the date of their execution of this CAFO, they are in compliance with all relevant requirements of TSCA.

12. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16 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 Respondents' responsibility to comply with said laws and regulations.

13. Complainant and Respondents 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

14. Respondents are collectively and not individually assessed a civil penalty of ONE HUNDRED SEVENTEEN THOUSAND, EIGHT HUNDRED THIRTY-ONE Dollars (\$117,831.00) which shall be paid within thirty (30) days of the effective date of this CAFO.

15. Respondents shall pay the penalty by forwarding a cashiers or certified check, payable to A Treasurer, United States of America, to the following address:

For payment submittal by U.S. Postal Service:

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

For payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc):

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

Wire transfer submittal should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency".

16. The check shall reference on its face the names of the Respondents and the Docket Number.

17. At the time of payment, Respondents shall send a separate copy of the check, and a written statement that payment has been 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;

Mary Summers
PCB & Chemical Products Management Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960; and

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

18. For the purposes of state and federal income taxation, Respondents shall not be entitled, and agree not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondents to deduct any such payments shall constitute a violation of this CAFO.

19. 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 principle amount not paid within 90 days of the due date.

20. Complainant and Respondents shall bear their own costs and attorney fees in this matter.

21. This CAFO shall be binding upon the Respondents, their successors and assigns.

22. Respondents waive any right to contest the allegations and their right to appeal the proposed final order accompanying the Consent Agreement.

23. The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Mary Summers
PCB & Chemical Products Management Section
U.S. EPA - Region 4
61 Forsyth Street S.W.
Atlanta, Georgia 30303
(404) 562-8997.

24. 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 legally bind that party to the CAFO.

VI. Effective Date

25. 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:

DOCKET NUMBER: TSCA-04-2008-2500(b)

RESPONDENT: Hoover Group, Inc.

By: Ernest Mathwa Date: 4/28/08

Name: Ernest Mathwa (Typed or Printed)

Title: CEO & President (Typed or Printed)

RESPONDENT: Hoover Investments, Inc.

By: Ernest Mathia Date: 4/28/08

Name: Ernest Mathia (Typed or Printed)

Title: CEO & President (Typed or Printed)

RESPONDENT: Hoover Materials Handling Group, Inc.

By: Ernest Mathia Date: 4/28/08

Name: Ernest Mathia (Typed or Printed)

Title: CEO & President (Typed or Printed)

COMPLAINANT: U.S. Environmental Protection Agency

By: K. Mitchell for Date: 5/30/08
Beverly H. Banister
Director
Air, Pesticides & Toxics
Management Division
Region 4

DOCKET NUMBER: TSCA-04-2008-2500(b)

APPROVED AND SO ORDERED this 5th day of June, 2008.

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

Patricia A. Bullock, Hoover Group, Inc., Canton, Alabama, Docket No. TSCA-04-2008-2500(b) on the parties listed below in the manner indicated:

Mary Summers (Via EPA's Internal Mail)
US EPA, Region 4
Air Division

Robert Caplan (Via EPA's Internal Mail)
Senior Attorney
US EPA, Region 4
Office of Environmental Accountability

Gali Hagel, Esq. (Certified Mail, Return Receipt requested)
Hoover Group, Inc.
6875 Shiloh Road East, Suite 102
Alpharetta, GA 30005-8372

Ernie Mathia, President (Certified Mail, Return Receipt requested)
Hoover Group, Inc.
Hoover Investments, Inc.
Hoover Materials Handling Group, Inc.
6875 Shiloh Road East, Suite 102
Alpharetta, GA 30005-8372

Date: 6-5-08



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental Protection Agency
Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi J Wilson on 6/4/08
(Name) (Date)

in the OEH at (404) 562-9504
(Office) (Telephone Number)

- | | |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree
USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree
DOJ COLLECTS | <input type="checkbox"/> Oversight Billing - Cost Package required:
Sent with bill |
| <input type="checkbox"/> Other Receivable | <input type="checkbox"/> Not sent with bill |
| <input type="checkbox"/> This is an original debt | <input type="checkbox"/> Oversight Billing - Cost Package not required |
| | <input type="checkbox"/> This is a modification |

PAYEE: Hoover Group Inc
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 117,831
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: TSCA 04-2008-2500(b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Officer: _____

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

- A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:
- | | |
|--|---|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD)
3. Designated Program Office |
|--|---|
- B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:
- | | |
|--|---|
| 1. Originating Office
2. Regional Hearing Clerk | 3. Designated Program Office
4. Regional Counsel (EAD) |
|--|---|