



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

OCT 25 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Karl R. Heisler
Partner
Katten Muchin Rosenman LLP
2900 K Street NW
North Tower, Suite 200
Washington, DC 20007-5118

Re: JCI Jones Chemicals, Inc.
Consent Agreement and Final Order
Docket No. TSCA-04-2011-2538(b)

Dear Mr. Heisler:

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.

As stated in Section V of the CAFO, the assessed penalty of \$21,420 is due within 30 days from the effective date. Please ensure that the face of your client's cashier's or certified check includes the name of the respondent and the docket number of this case. Penalty payment questions should be directed to Mr. Bryson Lehman either by telephone at (513) 487-2123 or by written correspondence to his attention at U.S. Environmental Protection Agency, Cincinnati Accounting Operations at the address identified in the CAFO.

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 EPA. 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 call me at (404) 562-8979 or Mr. Mark Bean of the EPA Region 4 staff at (404) 562-9000.

Sincerely,



Kimberly L. Bingham
Acting Chief
Pesticides and Toxic
Substances Branch

Enclosures

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

RECEIVED
EPA REGION IV

2011 OCT 25 PM 1:52

HEARING CLERK

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

Docket No.: TSCA-04-2011-2538

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 (the EPA). Respondent is JCI Jones Chemicals, Inc. (JCI).
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 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.
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 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 "Show Cause" letter, dated March 25, 2011, sent to the Respondent identifying the potential violations of TSCA and notifying the Respondent of the opportunity to show cause why EPA should not proceed with an enforcement action.
7. Pursuant to 40 C.F.R. § 22.5(c)(4), the following individual is authorized to receive service for EPA in this proceeding:

Mark Bean
Chemical Products and Asbestos Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303
(404) 562-9000.

III. Specific Allegations

8. As defined at 40 C.F.R. § 710.3, Respondent is a "person."
9. As defined at 40 C.F.R. § 710.3, Respondent owns and operates a "site" located at 1433 Talleyrand Avenue, Jacksonville, Florida 32206 (the Facility).
10. Pursuant to 40 C.F.R. § 710.48(a), any person who manufactured for commercial purposes 25,000 lbs. or more of a chemical substance listed in the Master Inventory File described at 40 C.F.R. § 710.45, at a site owned or controlled by that person at any time during calendar year 2005 is subject to Inventory Update Reporting (IUR) requirements as described at 40 C.F.R. § 710.52.

11. Pursuant to 40 C.F.R. § 710.52(c)(3)(iv), the total volume in pounds of each reportable chemical substance manufactured and imported at each site must be reported within ±10 percent of the actual volume.
12. During calendar year 2005, Respondent manufactured [CBI deleted] (hereinafter referred to as "Chemical A") for commercial purposes in excess of 25,000 lbs at its Facility.
13. Chemical A is a substance listed in EPA's TSCA Master Inventory File.
14. Respondent submitted a timely 2006 IUR Form U that indicated [CBI deleted] pounds of Chemical A was manufactured at its Facility during calendar year 2005.
15. On May 20, 2010, an authorized representative of the EPA conducted an inspection at the Facility pursuant to Section 11 of TSCA, 15 U.S.C. § 2610.
16. During the May 20, 2010, inspection, EPA's representative requested and received specific information from Respondent including production records associated with Chemical A and a copy of Respondent's filed 2006 IUR Form U for the Facility.
17. According to the production records submitted to the EPA by the Respondent, during calendar year 2005, Respondent manufactured or processed three specific concentrations of Chemical A at the Facility.
18. On March 25, 2011, EPA issued Respondent a "Show Cause" letter alleging that the company violated Section 15 of TSCA, 15 U.S.C. § 2614, by over reporting Chemical A in its 2006 IUR Form U for the Facility.
19. In an April 21, 2011, response to the Show Cause letter, Respondent informed EPA that two of the three specific concentrations of Chemical A which the company relied upon to calculate the total reported volume for its 2006 IUR Form U were statutorily exempt from TSCA IUR requirements because they were "manufactured, processed or distributed in

commerce for use as a pesticide” pursuant to 15 U.S.C. § 2602(2)(B)(ii) and 40 C.F.R. § 710.3(d). As an attachment to this letter, Respondent provided a copy of the Facility’s EPA Pesticide Report for Pesticide-Producing and Device-Producing Establishments for the 2005 Reporting Year, which had previously been submitted in accordance with 40 C.F.R. Part 167.

20. Also in the April 21, 2011, response to the Show Cause letter, Respondent acknowledged that the company over reported the amount of Chemical A manufactured at the Facility during calendar year 2005 by greater than 10 percent on its 2006 IUR Form U. As a second attachment to this letter, Respondent provided a copy of a 2006 IUR Form U correction submitted to the EPA Office of Pollution Prevention and Toxics on April 21, 2011, which revised downward the manufactured production volume of Chemical A for the Facility by greater than 10 percent.
21. The amount of Chemical A that Respondent reported on the 2006 IUR Form U exceeded the actual manufactured amount at the Facility by greater than 10 percent.
22. Pursuant to 40 C. F. R. § 710.52(c)(3)(iv) and Section 15(3) of TSCA, 15 U.S.C. § 2614(3), it is unlawful for any person to over report by greater than 10 percent the total volume in pounds of each reportable substance manufactured.
23. In 2002, Respondent committed a prior such violation of TSCA (EPA Docket Number TSCA-HQ-2004-0010) in that a previous final order was issued by EPA to Respondent pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The prior final order was issued within five years of the current violation, occurred at different facilities operated by Respondent, and was “closely similar” to the current violation as both involved IUR reporting errors.

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 or legal conclusions 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 EPA and agrees to pay the civil penalty as set forth in this CAFO.
27. Respondent certifies, to the best of its knowledge, that as of the date of its execution of this CAFO, it is in compliance with the TSCA regulations referenced in this CAFO regarding the violations set forth and alleged herein.
28. 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 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.
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 TWENTY-ONE THOUSAND, FOUR HUNDRED TWENTY DOLLARS (\$21,420) 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 following methods to the address identified for the method chosen.

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 mail service (e.g., Federal Express, United Parcel Service (UPS), DHL, etc.):

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

Contact Person: Natalie Pearson (314) 418-4087

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, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA Region 4

61 Forsyth Street
Atlanta, Georgia 30303-8960;

Mark Bean
Chemical Products and Asbestos 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.

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, 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.
35. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
36. This CAFO shall be binding upon the Respondent, 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 legally binds that party to this CAFO.

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: JCI Jones Chemicals, Inc.

Docket No.: TSCA-04-2011-2538(b)

By: Timothy J. Gaffney

Date: 9/30/2011

Name: Timothy J. Gaffney

Title: Executive Vice President

Complainant: U.S. Environmental Protection Agency

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

Date: 10/19/11

APPROVED AND SO ORDERED this 24th day of October, 2011.

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 JCI Jones Chemicals, Inc., Docket Number: TSCA-04-2011-2538(b), to the addressees listed below.

Karl R. Heisler (via Certified Mail, Return Receipt Requested)
Partner
Katten Muchin Rosenman L.L.P.
2900 K Street NW
North Tower, Suite 200
Washington, DC 32206

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

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

By:  _____

Date: 10-25-11

Belinda Johnson
Acting Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth St., S.W.
Atlanta, GA 30303

(404) 562-9686