



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

DEC 08 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Hidetaka Yatagai
President
NA Industries, Inc.
2651 Riverport Road
Chattanooga, Tennessee 37406

Re: NA Industries, Inc.
Consent Agreement and Final Order
Docket No. TSCA-04-2012-2607(b)

Dear Mr. Yatagai:

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 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 U. S. Environmental Protection Agency. 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 contact Mr. Tony Spann of the EPA Region 4 staff at (404) 562-8971.

Sincerely,

A handwritten signature in black ink, appearing to read "Kimberly L. Bingham".

Kimberly L. Bingham
Acting Chief
Pesticides and Toxic
Substances Branch

Enclosures

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA

In the Matter of:)
)
NA Industries, Inc.)
)
Respondent.)
_____)

Docket No. TSCA-04-2012-26078

HEARING CLERK

2011 DEC - 8 AM 9:57

RECEIVED
EPA REGION IV

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 NA Industries, Inc.
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 the EPA. The Administrator of the EPA has delegated this authority under TSCA to the 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 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.

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 letter, dated September 19, 2011, 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 a chemical importing and manufacturing business located at 2651 Riverport Road, Chattanooga, Tennessee.
8. Respondent is an importer as the term is defined in 40 C.F.R. § 704.3.
9. On June 8, 2011, an authorized agent of EPA Region 4 conducted an audit at Respondent's office pursuant to Section 11(a) of TSCA, 15 U.S.C. § 2610(a).
10. Respondent imported a reportable quantity of (CBI deleted) hereinafter referred to as Chemical A in 2005.
11. Respondent imported a reportable quantity of (CBI deleted) hereinafter referred to as Chemical B in 2005.
12. Chemicals A and B were subject to the 2006 Inventory Update Reporting (IUR) as described in 40 C.F.R. § 710, Subpart C.
13. As described in 40 C.F.R. § 710.53, the 2006 IUR reporting period for Chemicals A and B was August 23, 2006, through March 23, 2007.

14. Respondent failed to submit the 2006 IUR Report to the EPA for Chemicals A and B during the reporting period described in 40 C.F.R. § 710.53.
15. Pursuant to 40 C.F.R. § 710.1(c) and Section 15(3) of TSCA, it is unlawful for any person to fail or refuse to submit information required under the IUR Regulations.

IV. Consent Agreement

16. 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.
17. 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.
18. 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.
19. 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.
20. 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.
21. 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.

22. 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 Products and Asbestos Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-8971.

V. Final Order

23. Respondent is assessed a civil penalty of **THIRTY SEVEN THOUSAND TWO HUNDRED THIRTY DOLLARS (\$37,230)** which shall be paid within thirty (30) days of the effective date.
24. 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 indentified 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.

25. 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 Products and Asbestos 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.

26. 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.
27. Pursuant to 31 U.S.C. § 3717, 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. 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.

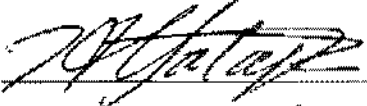
28. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
29. This CAFO shall be binding upon the Respondent and its successors and assigns.
30. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and hereby legally binds that party to this CAFO.

VI. Effective Date


31. 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: NA Industries, Inc.
Docket No.: TSCA-04-2012-2607(b)

By:  Date: Nov. 21, 2011
Name: HIDEOAKA YATAIGAE
Title: PRESIDENT

Complainant: U.S. Environmental Protection Agency

By:  Date: 12-1-11
Beverly H. Banister, Director
Air, Pesticides and Toxics
Management Division

APPROVED AND SO ORDERED this 8th day of December, 2011

By: 
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 NA Industries, Inc., Docket Number: TSCA-04-2012-2607(b), to the addressees listed below.

Hidetaka Yatagai (via Certified Mail, Return Receipt Requested)
President
NA Industries, Inc.
2651 Riverport Road
Chattanooga, Tennessee 37406

Tony Spann (via EPA's internal mail)
Chemical Products and Asbestos 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:

12-8-11

(404) 562-9511