



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

JAN 30 2013

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Ron Shaw  
Florida Transformer Inc.  
4509 State Highway 83  
Defuniak Springs, Florida 32435

SUBJ: Docket No. TSCA-04-2013-2900(b)  
Florida Transformer

Dear Mr. Shaw:

Enclosed is the proposed Consent Agreement and Final Order (CAFO) resulting from settlement discussions to resolve alleged violations of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2601 *et seq.*, by the subject party. After review of the CAFO and if it is acceptable to you, please sign and date in the places indicated. The original, signed and dated CAFO should be returned to Mr. Raj Aiyar at the above address within 7 calendar days of your receipt. If you have any questions or concerns with the document, please convey them to Mr. Aiyar at (404) 562-8993 within this timeframe.

Upon receipt of the signed CAFO, Mr. Aiyar will forward it to the RCRA Division Director for signature. The signed CAFO will be transmitted to the Regional Judicial Officer for approval and then to the Regional Hearing Clerk for filing. Once filed, the Clerk will send a copy of the CAFO to you.

Please do not forward the penalty payment prior to your receipt of the signed, approved and filed CAFO. Thank you for your cooperation in reaching resolution of this matter.

Sincerely,

A handwritten signature in black ink that reads "CESAR A. ZAPATA".

Cesar A. Zapata  
Chief, RCRA and OPA Enforcement and  
Compliance Branch  
RCRA Division

Enclosure

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

RECEIVED  
EPA REGION IV  
2013 JAN 30 AM 11:40  
HEARING CLERK

In the Matter of: )  
)  
Florida Transformer Incorporated ) Docket No. TSCA-04-2013-2900(b)  
4509 State Highway 83 )  
Defuniak Springs, Florida 32435 )  
)  
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 Resource Conservation and Recovery Act (RCRA) Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Florida Transformer Incorporated.
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 redelegated this authority to the Director of the Resource Conservation and Recovery Act (RCRA) Division by the EPA Region 4 Delegation 12-2-A, dated January 14, 2009. Pursuant to that Delegation, the Director of the RCRA 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 the 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 (CA/FO) will simultaneously commence and conclude this matter.

## **II. Preliminary Statements**

4. Pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e), the Administrator of the EPA promulgated regulations in 40 C.F.R. Part 761 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 a provision of Section 15 of TSCA may be assessed a penalty of up to \$27,500 for each such violation occurring between January 30, 1997, and March 15, 2004, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. For each such violation occurring between March 15, 2004, and January 12, 2009, a penalty of up to \$32,500 may be assessed. For each such violation occurring after January 12, 2009, a penalty of up to \$37,500 may be assessed. Each day a violation continues may constitute a separate violation.
5. Pursuant to 40 C.F.R. § 22.5(c)(4), the following individual is authorized to receive service for the EPA in this proceeding:

Raj Aiyar  
RCRA and OPA Enforcement and Compliance Branch  
U.S. EPA Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960  
(404) 562-8993

## **III. Specific Allegations**

6. Respondent is a TSCA-approved facility under 40 C.F.R. § 761.65 that repairs, services and decommissions oil filled electrical distribution equipment. Respondent is a user of PCB Items operating in the State of Florida and is a “person” as defined in 40 C.F.R. § 761.3.
7. On August 10, 2011, an inspection was conducted by a representative of the EPA at the Respondent’s facility located at 4509 State Highway 83, Defuniak Springs, Florida, to determine compliance with the PCB regulations. At the time of inspection the facility was in operation.
8. Pursuant to 40 C.F.R. § 761.40(a)(2), all PCBs and PCB Items shall be marked with the PCB M<sub>L</sub> label specified in 40 C.F.R. § 761.45(a). At the time of the inspection, 13 PCB transformers were being stored for disposal in the Respondent’s Ancillary Pallet area, but none of them had the PCB M<sub>L</sub> marking. Therefore, the EPA alleges that the Respondent violated 40 C.F.R. § 761.40(a)(2) .
9. Pursuant to 40 C.F.R. § 761.65(c)(8), PCB Items, including PCB transformers, shall be marked with the date when they are removed from service for disposal. None of the thirteen PCB transformers in storage had a removal from service date. Therefore, the EPA alleges that the Respondent violated 40 C.F.R § 761.65(c)(8).
10. Pursuant to 40 C.F.R. § 761.60(a), PCB liquids at concentrations  $\geq 50$  mg/kg must be

disposed of in an incinerator which complies with 40 C.F.R. § 761.70. A Westinghouse PCB transformer, serial number 66B2579, stored in the Respondent's In-Processing area and a 75 KVA General Electric (GE) PCB transformer, serial number 6593332, stored in the Respondent's secondary work station were found to have leaked. Because the Respondent failed to properly dispose of the spilled liquids, the EPA alleges that the Respondent violated 40 C.F.R. § 761.60(a).

11. Pursuant to 40 C.F.R. § 761.65(c)(5), all PCB Items including PCB transformers shall be checked for leaks at least once every 30 days. Any leaked or spilled material must be properly cleaned up and the material and the residue containing PCBs properly disposed. Records of inspection, maintenance, cleanup and disposal must be maintained in accordance with 40 C.F.R. § 761.180(a) and (b). Respondent failed to produce records for the leaking Westinghouse PCB transformer, serial number 66B2579, stored in the Respondent's In-Processing Area and the leaking 75 KVA GE PCB transformer, serial number 6593332, stored in the Respondent's secondary work station. Therefore, the EPA alleges that the Respondent violated 40 C.F.R. § 761.65(c)(5).
12. Pursuant to 40 C.F.R. § 761.40(a)(1), all PCB containers shall be marked with a PCB M<sub>L</sub> label. Respondent conducts PCB analytical testing on all incoming oil-filled equipment at an in-house laboratory. The oil sample is tested using gas chromatography as required in the TSCA-approval issued by the EPA that authorizes the Respondent to commercially store PCB waste at its facility. During the inspection, empty sample vials containing PCBs were observed being stored in an unmarked open container. Because the Respondent failed to mark the container with the PCB M<sub>L</sub> label, the EPA alleges that the Respondent violated 40 C.F.R. § 761.40(a)(1).
13. Pursuant to 40 C.F.R. § 761.180(b), the facility is required to maintain all relevant records including annual records on the disposition of PCBs and PCB items and maintain annual document logs for all PCBs and PCB items that were handled as PCB waste at the facility. The annual records and the annual document logs shall be available for inspection at the facility where they are maintained. Respondent failed to produce three years annual document logs during the inspection. Therefore, the EPA alleges that the Respondent violated 40 C.F.R. § 761.180(b).

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

14. 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.
15. 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.
16. Pursuant to 15 U.S.C. § 2615(a), TSCA Section 16(a), and in consideration of the nature of the alleged violation, the EPA has determined that an appropriate civil penalty to settle this action is in the amount of EIGHT THOUSAND ONE HUNDRED DOLLARS (\$8,100).

17. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in Section V of this CAFO.
18. Respondent certifies that, as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA and the PCB regulations found in 40 C.F.R. Part 761.
19. This CAFO constitutes a settlement by the EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA for the specific violations alleged herein. Except as specifically provided in this CAFO, the 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 the EPA, and it is Respondent's responsibility to comply with said laws and regulations.
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.

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

21. Respondent is assessed a civil penalty of EIGHT THOUSAND ONE HUNDRED DOLLARS (\$8,100), which shall be paid within 30 days from the effective date of this CAFO.
22. Respondent shall remit the civil penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check to the following address by U.S. Postal Service:

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

#### **The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.**

Alternatively, for payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc.), Respondent shall send the check to the following address:

U.S. Bank  
Government Lockbox 979077  
US EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
(314) 418-1028

**The check shall reference on its face the name of the  
Respondent and Docket Number of this CAFO.**

At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment has been made in accordance with this CAFO, to each of the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960

Raj Aiyar  
RCRA and OPA Enforcement and Compliance Branch  
U.S. EPA Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960

and

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

23. 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.
24. 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.
25. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
26. This CAFO shall be binding upon the Respondent, its successors and assigns.
27. 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**

28. 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:** Florida Transformer Incorporated  
**Docket No.:** TSCA-04-2013-2900(b)

By: Ronald T. Shaw (Signature) Date: 1-2-2013

Name: RONALD T. SHAW (Typed or Printed)

Title: PRESIDENT (Typed or Printed)

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

By: G. Alan Farmer (Signature) Date: 1/29/2013  
G. Alan Farmer  
Director  
RCRA Division  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960

**APPROVED AND SO ORDERED** this 29 day of January, 2013.

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 Florida Transformer Inc. Docket Number: TSCA-04-2013-2900(b) to the addressees listed below.

via Certified Mail, Return Receipt Requested

Mr. Ron Shaw  
Florida Transformer, Inc.  
4509 State Highway 83  
P.O. Box 507  
Defuniak Springs, Florida 32435

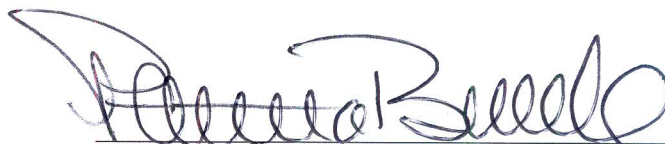
via EPA's internal mail

Robert Caplan  
Senior Attorney  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303

via EPA's internal mail

Raj Aiyar  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. EPA Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

Date: 1-30-13



Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303