

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

R.S.A. Corp.

36 Old Sherman Turnpike

Danbury, CT 06810

Respondent

Docket Number TSCA-HQ-2024-5001

**CIVIL COMPLAINT AND NOTICE OF
OPPORTUNITY FOR HEARING**

COMPLAINT

This Complaint and Notice of Opportunity for Hearing (Complaint) is filed pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, Pub. L. No. 114-182, June 22, 2016, 130 Stat 448 (2016 Act), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules of Practice), 40 C.F.R. Part 22, a copy of which is enclosed with this Complaint. The Complainant is Gregory Sullivan, Director, Waste and Chemical Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, United States Environmental Protection Agency (EPA), who has been duly delegated the authority to institute this action.

The Respondent is R.S.A. Corp. (RSA or Respondent), located at 36 Old Sherman Turnpike Danbury, Connecticut 06810.

As a result of an EPA inspection of the Danbury, CT facility on August 23, 2022, and follow-up actions, Complainant alleges that Respondent has violated Sections 8(b) and 13 of TSCA, 15 U.S.C. §§ 2607(b), § 2612, and the Chemical Imports and Exports requirements as well as the Compilation of the TSCA Chemical Substance Inventory at 40 C.F.R. Parts 707 and 710, respectively, thereby violating Section 15(1) and (3) of TSCA, 15 U.S.C. § 2614(1), and (3) as set forth below.

Respondent's Identity and Operations Generally

1. Respondent is a corporation located at 36 Old Sherman Turnpike, Danbury, Connecticut 06810.
2. Respondent is a “person” as defined in 40 C.F.R. § 710.3 and is subject to TSCA and the regulations promulgated thereunder.
3. Respondent “manufactures” (imports) a “chemical substance,” as defined respectively by Section 3(9) of TSCA, 15 U.S.C. § 2602(9) and Section 3(2)(A) of TSCA, 15 U.S.C. § 2602(2)(A).

PRELIMINARY STATEMENT

4. On September 6, 2022, RSA submitted data exhibits, in the Chemical Data Index (CDX) system that lists the TSCA chemical substances distributed by RSA under review for compliance. On June 14, 2023, the Office of Pollution Prevention and Toxics (OPPT) peer reviewed the list of chemicals submitted by RSA for compliance with TSCA, when it was discovered that one chemical substance was on the “INACTIVE” status list that had been sold on one occasion by RSA, thereby violating Section 8 of TSCA. 15 U.S.C. § 2607.

5. On September 6, 2022, RSA submitted a list of raw materials that contained the manufactured chemical substances imported by the facility that did not have the required import certifications for the substances, thereby violating Section 13 of TSCA.

6. On or about March 1, 2023, EPA issued the facility results and findings from the August 23, 2022, TSCA inspection. RSA responded to those findings and continued to issue responses to EPA from April 25, 2023, through June 14, 2024.

COUNT I

TSCA § 8(b) Violation – FAILURE TO PROVIDE NOTICE OF ACTIVITY FORM B

7. The allegations of Paragraphs 1 through 6 of this complaint are re-alleged with the same force and effect fully set forth within.

8. Section 8(b)(5) of TSCA, 15 U.S.C. § 2607(b), authorizes EPA to promulgate rules for retrospective reporting to designate chemical substances on the TSCA inventory as active or inactive in U.S. commerce, and for forward-looking reporting for the EPA designated inactive substances.

9. EPA promulgated the TSCA Inventory Notification (Active-Inactive) Rule at 40 C.F.R. Part 710 under the authority of Section 8(b) of TSCA, 15 U.S.C. § 2607(b).

10. Pursuant to 40 C.F.R. §§ 710.25(c) and 710.30(b) of the TSCA Inventory Notification (Active-Inactive) Rule, any person who intends to manufacture (including import) or process an inactive substance, with exceptions not relevant here, after the effective date of the Administrator's designation of such chemical substance as an inactive substance, must submit a Notice of Activity Form B that includes the information in §§ 710.29(c) before manufacturing (or importing) or processing the inactive substance, but not more than 90 days prior to the anticipated date of manufacture (or import) or processing.

11. Pursuant to 40 C.F.R. § 710.25(c), except as provided in § 710.27, any person who intends to manufacture (including import) or process an inactive substance must submit a Notice of Activity Form B as specified under §§ 710.29 and 710.30(b), unless the presence of the inactive substance on the confidential portion of the Inventory is not known to or reasonably ascertainable by the person.

12. EPA designated the chemical substance, (2-chloroethoxy) benzene, as an inactive substance on August 5, 2019. On June 14, 2023 EPA discovered Respondent sold the chemical substance on one occasion, November 11, 2021, which is after the date it was designated inactive without submitting a Notice of Activity Form B, pursuant to 40 CFR 710.25(c) and 710.30(b).

13. Respondent's failure to submit a Notice of Activity Form B for the chemical substance described in Paragraph 12 as required by 40 C.F.R. §§ 710.25(c) and 710.30(b) constituted unlawful acts under Section 15 of TSCA, 15 U.S.C. § 2614, for which penalties may be assessed under Section 16(a) of TSCA, 15 U.S.C. § 2615(a).

COUNTS II – VII

TSCA § 13(a)(1)(A) Violations – FAILURE TO CERTIFY IMPORTED SHIPMENTS

14. Paragraphs 1 through 13 are of this complaint are re-alleged with the same force and effect fully set forth within.

15. Section 13(a)(1)(B) of TSCA, 15 U.S.C. § 2612(a)(1)(B), provides that the Treasury shall refuse entry of "any chemical substance or mixture offered for such entry if" it is offered for entry in violation of a rule or order under Section 5, 15 U.S.C. § 2604.

16. Pursuant to 40 C.F.R. § 707.20(b)(2)(i), importers must sign the following statement for each import of a chemical substance subject to TSCA: "I certify that all chemical substances in

this shipment comply with all applicable rules or orders under TSCA and that I am not offering a chemical substance for entry in violation of TSCA or any applicable rule or order under TSCA."

17. Section 13(a) of TSCA, 15 U.S.C. § 2612(a), provides, in relevant part, "The Secretary of the Treasury shall refuse entry into the customs territory of the United States...of any chemical substance, mixture, or article containing a chemical substance or mixture offered for such entry if it fails to comply with any rule in effect under this chapter [Chapter 53, 15 U.S.C. §§ 2601 to 2692]"

18. The regulation codified at 19 C.F.R. § 12.12l(a)(2) provides, "The importer or the authorized agent of such an importer of any TSCA-excluded chemical not clearly identified as such must certify in writing or electronically that the chemical shipment is not subject to TSCA by filing with CBP the following statement": "I certify that all chemicals in this shipment are not subject to TSCA."

19. Each such failure to have truthfully and accurately complied with the certification requirement set forth in 19 C.F.R. § 12.12l(a)(3) regarding Respondent's importations of the Four Chemicals, defined in Paragraph 22 below, constitutes a failure or refusal to comply with said regulation, and thereby constitutes an unlawful act pursuant to, and thus a violation of, Section 15(3)(B) of TSCA, 15 U.S.C. § 2614(3)(B).

20. Complainant repeats and realleges each allegation contained in Paragraphs 1 through 17 with the same force and effect as if fully set forth herein.

21. Based on data exchanges between RSA and EPA, the parties determined that RSA had imported the Four Chemicals, defined in Paragraph 22 below, during a period between June 12, 2019, and January 23, 2023, in violation of Section 13 of TSCA.

22. On or about June 12 , 2019, through January 23, 2023, Respondent imported Four Chemical substances: p-Toluidine, o-Toluidine, Dimethyl sulfate, 4-Hydroxycoumarin (herein after “the Four Chemicals”); in six various shipments.

23. Each of the six (6) shipments RSA imported included at least one of the Four Chemicals. Each shipment was imported into, within the meaning of C.F.R. § 12.121, the "customs territory of the United States."

24. For each of the six (6) imported shipments of the Four Chemical substances described in Paragraph 22, Respondent was, within the meaning of 19 C.F.R. § 12.121, the: (a) "importer"; or (b) "authorized agent of such importer."

25. At no time during the course of the six (6) imported shipments were any of the Four Chemicals "a TSCA-excluded chemical" within the meaning of 19 C.F.R. § 12.121(a)(1).

26. For the six (6) imported shipments of the Four Chemicals between June 12 , 2019 and January 23, 2022, Respondent failed to certify that each such shipment complies with all applicable TSCA provisions (including rules promulgated under TSCA) and, further, that it was "not offering any chemical substance for entry in violation of TSCA or any applicable rule or order thereunder."

27. Each of the six (6) imported shipments of the Four Chemicals constituted Respondent "offering [a] chemical substance for entry in violation of" a rule promulgated under TSCA.

28. For each of the six (6) imported shipments of the Four Chemicals, Respondent failed to comply with the certification requirement set forth in 19 C.F.R. § 12.121(a)(3).

29. Respondent's failure to comply with the required certification requirements of 19 C.F.R. § 12.121, promulgated to implement section 13 of TSCA 15 U.S.C. § 2612, violates section 15(3)(B) of TSCA, U.S.C. § 2614(3)(B).

30. EPA alleges that Respondent's failure to submit proper certifications under section 13 of TSCA prior to importing a shipment containing the Four Chemicals constitutes a failure to comply with section 13 of TSCA, which is a prohibited act under section 15(3)(B) of TSCA, 15 U.S.C. § 2614(3)(B), and may subject an entity to civil penalties pursuant to section 16(a) of TSCA, 15 U.S.C. § 2615(a).

I. CIVIL PENALTY ASSESSMENT

Section 16 of TSCA, 15 U.S.C. § 2615, authorizes the assessment of a civil penalty for violations of Section 15 of TSCA, 15 U.S.C. § 2614, in an amount not to exceed \$48,511 for each day of violation.

For purposes of determining the amount of a civil penalty to be assessed, Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), requires EPA to take into account the nature, circumstances, extent, and gravity of the violations alleged, as well as Respondent's ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require. In developing a proposed penalty, Complainant took into account the particular facts and circumstances of this case; the statutory factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), the EPA's *Enforcement Response Policy, Reporting and Recordkeeping Rules and Requirements, TSCA Sections 8, 12 and 13* (revised March 31, 1999 and effective June 1, 1999) (hereinafter referred to as the "ERP"). The ERP was developed in accordance with the *Guidelines for Assessment of Civil Penalties under Section 16 of the Toxic Substances Control Act; PCB Penalty Policy*, 45

Fed. Reg. 59770 (Sep. 10, 1980), which sets forth a general penalty assessment policy for TSCA violations. The ERP provides a rational, consistent, and equitable calculation methodology for applying the statutory factors to cases.

Based upon the facts alleged in this Complaint, and upon the nature, circumstances, extent, and gravity of the violations alleged, as well as Respondent's ability to pay, effect on ability to continue to do business, any history of prior such violations of TSCA, the degree of culpability, and such other matters as justice may require, the Complainant proposes that Respondent be assessed a penalty of *FIFTEEN THOUSAND THREE HUNDRED AND FORTY-TWO* (\$15,342) for the violations alleged in this Complaint.

II. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

As provided in Section 16(a)(2)(A) of TSCA, 15 U.S.C. § 2615(a)(2)(A), and consistent with 40 C.F.R. § 22.15, Respondent has the right to request a formal hearing to contest any material fact set forth in this Complaint or to contest the appropriateness of the proposed penalty. To request a hearing pursuant to 40 C.F.R. § 22.15, Respondent must file a written Answer to the Complaint with the Headquarters Hearing Clerk, within thirty (30) days of service of this Complaint, at the following address:

Headquarters Hearing Clerk (1900L)
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Any hearing requested will be conducted in accordance with the Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*, and the Consolidated Rules of Practice. Pursuant to 40 C.F.R. § 22.15 of the Consolidated Rules of Practice, Respondent's Answer must clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint of which Respondent has any knowledge. The Answer should further specify any factual allegations that Respondent claims no

knowledge of. The Answer should contain: (1) the circumstances or arguments that are alleged to constitute the grounds of any defense; (2) the facts that Respondent disputes; (3) the basis for opposing any proposed relief; and (4) a statement as to whether a hearing is requested. The denial of any material fact or the raising of any affirmative defense shall be construed as a request for a hearing. All material facts not denied in the Answer will be considered as admitted.

If Respondent fails to file a written Answer within thirty (30) days of service of this Complaint, such failure shall constitute an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing on such factual allegations. Failure to file a written Answer may result in Complainant's filing of a Motion for Default Order imposing the penalties herein without further proceedings.

A copy of Respondent's Answer and all other documents that Respondent files in this action should be sent to the attorney of record assigned to represent EPA in this matter:

Alexander N. DerGarabedian, Esq.
Waste and Chemical Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
William Jefferson Clinton Building South
1200 Pennsylvania Ave., N.W. (Mail Code 2249A)
Washington, D.C. 20460
Telephone: 202-564-3989
E-mail: dergarabedian.alexander@epa.gov

III. INFORMAL SETTLEMENT CONFERENCE

Whether or not Respondent requests a hearing, Respondent may confer informally with EPA to discuss the facts of this case, the amount of the penalty, and the possibility of settlement.

An informal settlement conference does not, however, affect Respondent's obligation to file a timely written Answer to the Complaint.

EPA has the authority, where appropriate, to modify the amount of the penalty, once determined, to reflect any settlement reached with Respondent in an informal conference. The terms of such an agreement would be embodied in a Consent Agreement, signed by EPA and Respondent. The terms and conditions specified in the Consent Agreement are binding upon issuance of a Final Order by the Environmental Appeals Board.

Please be advised that the Consolidated Rules of Practice prohibit any *ex parte* (unilateral) discussion of the merits of this action with the Administrator, the members of the Environmental Appeals Board, the assigned Administrative Law Judge, or any person likely to advise these officials in the decision of the case, after the issuance of this Complaint. *See* 40 C.F.R. § 22.8.

IV. PAYMENT OF PENALTY

Instead of filing an Answer, requesting a hearing, or requesting an informal settlement conference, Respondent may choose to pay the proposed penalty to resolve this matter pursuant to 40 C.F.R. § 22.18(a). Such payment should be made by sending either a cashier's or certified check with a notation of "R.S.A. Corporation." Penalty Docket No. "TSCA-HQ-2024-5001," payable to the order of the "Treasurer, United States of America," to:

U.S. Environmental Protection Agency
Fines and Penalties
Docket No. TSCA-HQ-2024-5020
Cincinnati Finance Center
P.O. Box 979078
St. Louis, MO 63197-9000

or pay by wire transfer with a notation of "R.S.A. Corporation.," Penalty Docket No. "TSCA-HQ-2024-5001" by using the following instructions:

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."

A copy of the wire transfer should also be sent to the Cincinnati Finance Center.

A copy of the check or other instrument of payment must be sent to the attorney of record assigned to represent EPA in this matter.

Consistent with 40 C.F.R. § 22.18(c), full payment of the penalty proposed in this Complaint shall not affect the right of the Agency or the United States to pursue appropriate injunctive relief or other equitable relief or criminal sanctions for any violations of law. Full payment of the penalty proposed in this Complaint shall only resolve Respondent's liability for Federal civil penalties for the violations and facts alleged in this Complaint.

U.S. ENVIRONMENTAL PROTECTION AGENCY

TSCA-HQ-2024-5001

In the Matter of: R.S.A. Corp.

By:

_____ Date: _____

Gregory Sullivan,
Director
Waste and Chemical Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency

ATTACHMENT

Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules of Practice), 40 C.F.R. Part 22.

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