

(1) Hydraulic excavators manufactured by or under authority of Caterpillar Inc. for sale and use outside the North America Commercial Division (United States and Canada) which (a) bear one or more of the following U.S. Trademark Reg. Nos. 2,140,605; 2,140,606; 2,421,077; and 2,448,848 and (b) are materially different from hydraulic excavators manufactured by or under authority of Caterpillar Inc. for sale and use in the United States, are excluded from entry for consumption into the United States, entry for consumption from a foreign-trade zone, or withdrawal from warehouse for consumption, except if imported by, under license from, or with the permission of the trademark owner, or as provided by law, until such date as the trademarks are abandoned, canceled, or rendered invalid or unenforceable. This paragraph shall apply to hydraulic excavators exported, shipped, sold, purchased, or imported by any and all persons, including authorized Caterpillar dealers.

(2) Notwithstanding paragraph 1 of this Order, the aforesaid hydraulic excavators excludable under paragraph 1 of this Order are entitled to entry into the United States for consumption, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of 100 percent of entered value pursuant to subsection (j) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337(j)), and the Presidential memorandum for the United States Trade Representative of July 21, 2005 (70 FR 43251) from the day after this Order is received by the United States Trade Representative until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than 60 days after the date of receipt of this Order.

(3) In accordance with 19 U.S.C. 1337(l), the provisions of this Order shall not apply to hydraulic excavators bearing the asserted trademarks that are imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

(4) Complainant Caterpillar Inc. shall file a written statement with the Commission, made under oath, each year on the anniversary of the issuance of this Order stating whether Caterpillar Inc. continues to use each of the aforesaid trademarks in commerce in the United States in connection with hydraulic excavators, whether any of the aforesaid trademarks has been

abandoned, canceled, or rendered invalid or unenforceable, and whether Caterpillar Inc. continues to satisfy the economic requirements of section 337(a)(2).

(5) The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission's Rules of Practice and Procedure (19 CFR 210.76).

(6) The Secretary shall serve copies of this Order upon each party of record in this investigation and upon the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the U.S. Customs and Border Protection.

(7) Notice of this Order shall be published in the **Federal Register**.

(8) At the discretion of U.S. Customs and Border Protection ("CBP") and pursuant to procedures it establishes, persons seeking to import hydraulic excavators that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraphs 1 through 7 of this Order. At its discretion, Customs may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.

By Order of the Commission.

Issued: January 14, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9-1092 Filed 1-21-09; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[USITC SE-09-002]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: January 27, 2009 at 9:30 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205-2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none
2. Minutes
3. Ratification List
4. Inv. No. 731-TA-1140 (Final) (Uncovered Innerspring Units from

China)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before February 11, 2009.)

5. Outstanding action jackets: none

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: January 15, 2009.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E9-1213 Filed 1-21-09; 8:45 am]

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DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Section 122 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9622, the Department of Justice gives notice that, on January 6, 2009, a proposed Consent Decree (the Decree) in *United States v. Beckman Coulter, Inc., et al.*, Civil Action No. 98-CV-4812, and *New Jersey Department of Environmental Protection, et al. v. American Thermoplastics Corp., et al.*, Civil Action No. 98-CV-4781, was lodged with the United States District Court for the District of New Jersey. The Decree addresses recovery of response costs incurred or to be incurred and natural resource damages at the Combe Fill South Landfill Superfund Site (the Site), located in Washington and Chester Townships in Morris County, New Jersey. In these consolidated cases, the United States and the New Jersey Department of Environmental Protection brought civil claims against 31 potentially responsible parties (PRPs) under Section 107 of CERCLA, 42 U.S.C. 9607, for recovery of response costs at the Site. The State Plaintiffs also brought civil claims in connection with the Site under the New Jersey Spill Compensation and Control Act (the Spill Act), N.J.S.A. 58:10-23 *et seq.*, and other authorities, for response costs and natural resource damages. Defendants subsequently filed contribution claims against 382 third-parties.

Under the proposed Decree, Plaintiffs will receive: (1) \$61-\$69 million (depending on how many Municipal Third-Party Defendants enter into the

settlement prior to entry of the Decree by the Court), including \$6.4 million from federal departments and agencies, in reimbursement of past costs, with interest on that entire past costs amount payable from December 8, 2007 through the date of payment; (2) \$3,218,700 for natural resource damage (NRD) restoration projects; and (3) an annuity paying \$27 million over thirty years for cleanup and operation and maintenance (O&M) costs to be incurred at the Site in connection with the remedy. In addition, Plaintiffs will recover the net proceeds of contribution actions against non-settling parties.

There have been two prior settlements in these cases. In 2003, in two *de minimis* consent decrees, Plaintiffs resolved the liability of 58 *de minimis* parties for response costs for \$3.26 million and resolved the liability of a subset of those parties for NRD for \$302,000. Subsequently, in 2005, Plaintiffs entered into an ability-to-pay settlement with former Site owners and transporters for \$13,047,121.50.

This Decree does not select the remedy or determine future uses at the Site. Rather, the settlement provides, in part, continued funding for the remedy selected in the 1986 Site Record of Decision. The Decree also provides settling parties a Covenant Not to Sue by the Plaintiffs pursuant to CERCLA and Section 7003 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 9673, for all costs and remedial activities at the Site. The State Plaintiffs similarly provide a Covenant Not to Sue pursuant to the Spill Act and other authorities. In the event new information or conditions are discovered, the Covenants are subject to a reopener against parties specified in the Decree believed to have sent higher volumes of waste to the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to United States Department of Justice, Post Office Box 7611, Washington, DC 20044-7611, and should refer to *United States v. Beckman Coulter, Inc., et al.*, Civil Action No. 98-CV-4812, and DOJ Reference No. 90-11-2-1134/1. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d). The proposed Decree may be examined at: (1) The Office of the

United States Attorney for the District of New Jersey, 970 Broad Street—Room 700, Newark, New Jersey 07102 (973-645-2700); and (2) the United States Environmental Protection Agency—Region II, 290 Broadway—17th Floor, New York, New York 10007 (contact: William C. Tucker, Assistant Regional Counsel, 212-637-3139).

During the public comment period, the proposed Decree may also be examined at the Department of Justice Web site, http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the proposed Decree may also be obtained by mail from the Consent Decree Library, United States Department of Justice, Post Office Box 7611, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov) (fax 202-514-0097, phone confirmation 202-514-1547). In requesting a copy from the Consent Decree Library, please refer to the referenced case and DOJ Reference Number and enclose a check for \$59.25 for the Decree (237 pages including Appendices, at 25 cents per page reproduction costs), made payable to the United States Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Ronald G. Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9-1147 Filed 1-21-09; 8:45 am]

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DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Notice is hereby given that on January 12, 2009, a proposed Consent Decree (the "Consent Decree") in *United States v. Shell Chemical Yabucoa, Inc.*, Civil Action No. 3:09-cv-1019 was lodged with the United States District Court for the District of Puerto Rico.

In a complaint, filed simultaneously with the Decree, the United States alleges that Shell Chemical Yabucoa, Inc. ("Shell") violated the Clean Water Act, 33 U.S.C. 1251 *et seq.* (the "Act") at its facility in Yabucoa, Puerto Rico ("Facility") by discharging pollutants in excess of effluent limitations contained in its National Pollutant Discharge Elimination System ("NPDES") Permit No. PR0000400, by discharging effluent from unpermitted discharge points as a result of two pipeline ruptures, by discharging unauthorized pollutants from a permitted discharge point, by failing to report violations, and by

failing to provide adequate operation and maintenance at the Facility as required by NPDES Permit No. PR0000400.

The Consent Decree requires Shell to implement injunctive relief to bring the Facility into compliance with the Act, including to install and operate a rain gauge at the Facility, to collect, measure, and maintain records of the rainfall received at the Facility; to conduct maintenance of the Facility's flood control pond to minimize discharges of storm water from the Facility; and to conduct several studies and implement compliance measures to reduce the concentration of pollutants contained in the Facility's storm water discharges. The Facility currently is not conducting any petrochemical production operations, but if the Facility initiates production operations at any time before the Consent Decree terminates, which is estimated to be in approximately 3 years, Shell must design, construct and operate a storm water storage facility that provides for the temporary storage of at least 1.34 million gallons of storm water. The Consent Decree also requires Shell to pay a \$1,025,000 civil penalty to the United States.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, United States Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. Shell Chemical Yabucoa, Inc.*, D.J. Ref. 90-5-1-1-08400.

The Consent Decree may be examined at the Office of the United States Attorney, Torre Chardón, Room 1201, 350 Chardón Street, San Juan, Puerto Rico 00918, and at U.S. EPA Region 2, Office of Regional Counsel, 290 Broadway, New York, New York 10007-1866. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of