

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

FILED

Aug 05, 2024

4:43 pm

U.S. EPA REGION 1
HEARING CLERK

)
In the matter of)
)
E. & J. PARTS CLEANING, INC.)
)
Respondent.)
)
Proceeding under Section 325(c) of the)
Emergency Planning and Community)
Right-to-Know Act, 42 U.S.C. § 11045(c))
_____)

Docket No: EPCRA-01-2024-0046

**CONSENT AGREEMENT
AND FINAL ORDER**

CONSENT AGREEMENT

The United States Environmental Protection Agency, Region 1 (“EPA” or “Complainant”), alleges that E. & J. Parts Cleaning, Inc. (“Respondent”) violated the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. §§ 11001 - 11050, and the federal regulations promulgated thereunder.

Complainant and Respondent (together, the “Parties”) agree that settlement of this matter is in the public interest and that entry of this Consent Agreement and Final Order (“CAFO”) without further litigation is the most appropriate means of resolving this matter. Pursuant to 40 C.F.R. § 22.13(b) of EPA’s Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), set out at 40 C.F.R. Part 22, Complainant and Respondent agree to simultaneously commence and settle this action by the issuance of this CAFO.

Therefore, before any hearing, and without adjudication of any issue of fact or law, the Parties agree to comply with the terms of this CAFO as follows:

I. STATUTORY AND REGULATORY AUTHORITY

1. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048, EPA promulgated Toxic Chemical Release Reporting: Community Right-to-Know regulations at 40 C.F.R. Part 372.

2. Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), requires owners or operators of a facility subject to the requirements of Section 313(b) of EPCRA to submit annually, no later than July 1 of each year, a Toxic Chemical Release Inventory Reporting Form, EPA Form 9350-1 (hereinafter, “Form R”) for each toxic chemical listed under 40 C.F.R. § 372.65 that was manufactured, processed, or otherwise used during the preceding calendar year in quantities exceeding the toxic chemical thresholds established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. §§ 372.25 and 372.28. If the owner or operator determines that the alternative reporting threshold specified in 40 C.F.R. § 372.27 applies, the owner or operator may submit an alternative threshold certification statement that contains the information required under 40 C.F.R. § 372.95 (the alternative threshold certification statement is also known as “Form A”). Each Form R or Form A (hereinafter, referred to together as “TRI Forms”) must be submitted to EPA and a designated state authority.

3. Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. §§ 372.22 and 372.30 provide that owners or operators of facilities that have 10 or more full-time employees; that are in a Standard Industrial Classification (“SIC”) code or North American Industry Classification System (“NAICS”) code set forth in 40 C.F.R. § 372.23; and that manufactured, processed, or otherwise used a toxic chemical listed under 40 C.F.R. § 372.65 in a quantity exceeding the established threshold during a calendar year, must submit TRI Forms to EPA and the state authority for each of these substances for that year.

4. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended through 2016 (“FCPIAA”), and the FCPIAA’s implementing regulations as promulgated and updated by EPA at 40 C.F.R. Part 19 (most recently at 88 Fed. Reg. 89309, 89312 (Dec. 27, 2023)), together authorize the assessment of civil administrative penalties of up to \$69,733 for each violation of Section 313 of EPCRA that occurs after November 2, 2015. Pursuant to Section 325(c)(3) of EPCRA, 42 U.S.C. § 11045(c)(3), each day that an EPCRA Section 313 violation continues constitutes a separate violation.

II. GENERAL ALLEGATIONS

5. Respondent is a corporation organized under the laws of the Connecticut.
6. Respondent operates a facility at 1669 Thomaston Ave., Waterbury, Connecticut (the “Facility”), where Respondent cleans metallic parts. The facility’s operations include vapor degreasing, which specifically uses trichloroethylene (“TCE”).
7. Respondent is a “person” as defined by 42 U.S.C. § 11049(7).
8. Respondent operates a “facility,” as defined by 42 U.S.C. § 11049(4) and 40 C.F.R. § 372.3.
9. The Facility has more than 10 “full-time employees,” as defined by 40 C.F.R. § 372.3.
10. The Facility is classified in a NAICS code set forth in 40 C.F.R. § 372.23.
11. Accordingly, the requirements of 42 U.S.C. § 11023 apply to the Facility.

III. VIOLATIONS

Count 1: Failure to Timely Submit TRI Form For TCE for Calendar Year 2019

12. During calendar year 2019, Respondent otherwise used TCE, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities greater than the 10,000-pound threshold amount established for EPCRA TRI reporting by 40 CFR § 372.25.

13. Respondent was therefore required to submit to EPA a TRI Form for TCE for calendar year 2019 on or before July 1, 2020. *See* Section 313(a) of EPCRA and 40 C.F.R. §§ 372.30 (a) and (d).

14. After being contacted by EPA on April 10, 2023, Respondent submitted a TRI Form for TCE for calendar year 2019 on April 11, 2023.

15. Accordingly, Respondent failed to submit a TRI Form for TCE for calendar year 2019 to EPA on or before July 1, 2020.

16. Respondent's failure to timely submit a TRI Form for TCE violated Section 313 of EPCRA and 40 C.F.R. Part 372.

Count 2: Failure to Timely Submit TRI Form For TCE for Calendar Year 2020

17. During calendar year 2020, Respondent otherwise used TCE, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities greater than the 10,000-pound threshold amount established for EPCRA TRI reporting by 40 CFR § 372.25.

18. Respondent was therefore required to submit to EPA a TRI Form for TCE for calendar year 2020 on or before July 1, 2021. *See* Section 313(a) of EPCRA and 40 C.F.R. §§ 372.30 (a) and (d).

19. After being contacted by EPA on April 10, 2023, Respondent submitted a TRI Form for TCE for calendar year 2020 on April 11, 2023.

20. Accordingly, Respondent failed to submit a TRI Form for TCE for calendar year 2020 to EPA on or before July 1, 2021.

21. Respondent's failure to timely submit a TRI Form for TCE violated Section 313 of EPCRA and 40 C.F.R. Part 372.

Count 3: Failure to Timely Submit TRI Form For TCE for Calendar Year 2021

22. During calendar year 2021, Respondent otherwise used TCE, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities greater than the 10,000-pound threshold amount established for EPCRA TRI reporting by 40 CFR § 372.25.

23. Respondent was therefore required to submit to EPA a TRI Form for TCE for calendar year 2021 on or before July 1, 2022. *See* Section 313(a) of EPCRA and 40 C.F.R. §§ 372.30 (a) and (d).

24. After being contacted by EPA on April 10, 2023, Respondent submitted a TRI Form for TCE for calendar year 2021 on April 11, 2023.

25. Accordingly, Respondent failed to submit a TRI Form for TCE for calendar year 2021 to EPA on or before July 1, 2022.

26. Respondent's failure to timely submit a TRI Form for TCE violated Section 313 of EPCRA and 40 C.F.R. Part 372.

IV. TERMS OF SETTLEMENT

27. Respondent certifies that it has corrected the alleged violations cited in this CAFO and will operate its Facility in compliance with Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated thereunder at 40 C.F.R. Part 372.

28. Respondent admits, for the purposes of this proceeding, that Complainant has jurisdiction over the subject matter alleged in this CAFO and that this CAFO states claims upon

which relief may be granted against Respondent. Respondent waives any defenses it might have as to jurisdiction and venue.

29. Respondent waives any right (i) to contest the allegations, (ii) to request a judicial or administrative hearing on any issue of law or fact set forth in this CAFO, and (iii) to appeal the Final Order.

30. Without admitting or denying the facts and violations alleged in Section III of this CAFO, Respondent consents to the terms and issuance of this CAFO and agrees to the payment of the civil penalty set forth herein. The provisions of this CAFO shall be binding on Respondent and Respondent's officers, directors, agents, employees, successors, and assigns.

31. Pursuant to the relevant factors for penalties issued pursuant to Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), and taking into account any such matters as justice may require, Complainant has determined that it is fair and proper that Respondent pay a total civil penalty in the amount of \$15,587 to resolve the violations alleged in Section III of this CAFO.

32. Respondent agrees to pay a civil penalty in the amount of \$15,587 ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

33. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

34. When making a payment, Respondent shall:
- a. Identify every payment with Respondent's name and the docket number of this Agreement, EPCRA-01-2024-0046,

- b. Concurrently with any payment or within 24 hours of any payment,

Respondent shall serve proof of such payment to the following person(s):

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
santiago.wanda@epa.gov
and
R1_Hearing_Clerk_Filings@epa.gov

Uzma Bishop-Burney
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
BishopBurney.Uzma@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

35. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will

continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States, the rate of interest is set at the IRS standard underpayment rate; any lower rate would fail to provide Respondent adequate incentive for timely payment.

- b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.
- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Filing Date.

36. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following:

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.

- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
- c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

37. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

38. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

39. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 325(c) of EPCRA for the violations specifically alleged in Section III of this CAFO. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations. This CAFO in no way relieves Respondent or its employees of any criminal liability. Nothing in this CAFO shall be construed to limit the authority of the United States to undertake any action against Respondent

in response to conditions which may present an imminent and substantial endangerment to the public.

40. Nothing in this CAFO shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions if Respondent is in violation of this CAFO or continues to be in violation of the statutes and regulations upon which the allegations in this CAFO are based, or if Respondent violates any other applicable provision of federal, state, or local law.

41. Each of the undersigned representatives of the Parties certifies that he or she is fully authorized by the party responsible to enter into the terms and conditions of this CAFO and to execute and legally bind that Party to it.

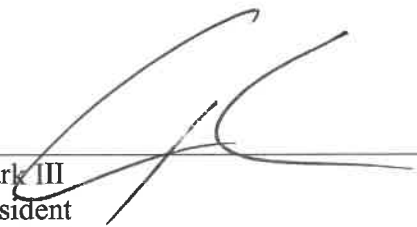
42. Complainant and Respondent, by entering into this CAFO, each give their respective consent to accept digital signatures hereupon. Respondent further consents to accept electronic service of the full executed CAFO, by electronic mail, to the following address: jclark@ejpartscleaning.com. Respondent understands that this e-mail address may be made public when the CAFO and Certificate of Service are filed and uploaded to a searchable database. Complainant has provided Respondent with a copy of the EPA Region 1 Regional Judicial Officer's Authorization of EPA Region 1 Part 22 Electronic Filing System for Electronic Filing and Service of Documents Standing Order, dated June 19, 2020. Electronic signatures shall comply with and be maintained in accordance with that Order.

43. Each Party shall bear its own costs and attorneys' fees in this proceeding and specifically waives any right to recover such costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable laws.

44. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of the Parties and approval of the Regional Judicial Officer.

45. In accordance with 40 C.F.R. § 22.31(b), the effective date of this CAFO is the date on which this CAFO is filed, either in person or electronically via email, with the Regional Hearing Clerk.

FOR RESPONDENT:



John Clark III
Vice President
E. & J. Parts Cleaning, Inc.

7/26/24
Date

FOR COMPLAINANT:

James Chow, Director
Enforcement and Compliance Assurance Division
EPA Region 1

Date

FINAL ORDER

Pursuant to 40 C.F.R. §§ 22.18(b) and (c) of the Consolidated Rules, the foregoing Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. Respondent Company is ordered to pay the civil penalty amount specified in the Consent Agreement in the manner indicated therein. The terms of the Consent Agreement shall become effective on the date that the CAFO is filed, either in person or electronically via email, with the Regional Hearing Clerk.

LeAnn Jensen
Regional Judicial Officer
EPA Region 1

Date