



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

AUG 26 2011

REPLY TO THE ATTENTION OF:

SC-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert Christian
Chief Operating Officer
Columbian Distribution Services, Inc.
900 Hall Street, S.W.
Wyoming, Michigan 49503

Re: Columbian Distribution Services, Inc., Wyoming, Michigan
Consent Agreement and Final Order – Docket No: EPCRA-05-2011-0012

Dear Mr. Christian:

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the other original CAFO with the Regional Hearing Clerk on August 26, 2011.

Please pay the civil penalty in the amount of \$47,000 in the manner prescribed in paragraph 9, and reference your check with the number BD 2751144E026 and docket number EPCRA-05-2011-0012.

Your payment is due on September 25, 2011.

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. Please direct any legal questions to Richard J. Clarizio, Associate Regional Counsel, at (312) 886-0559. Thank you for your assistance in resolving this matter.

Sincerely,

Bob Mayhugh, Acting Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

REGIONAL HEARING CLERK
U.S. EPA REGION 5
2011 AUG 25 AM 10:52

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:) **Docket No. EPCRA-05-2011-0012**
)
Columbian Distribution Services, Inc.) **Proceeding to Assess a Civil Penalty Under**
Wyoming, Michigan) **Sections 325 (c)(1) and (c)(2) of the Emergency**
) **Planning and Community Right-to-Know Act**
Respondent.)
)

Consent Agreement and Final Order

1. The Complainant is, by lawful delegation, the Director of the Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

2. On February 24, 2011, U.S. EPA filed the Complaint in this action against Respondent Columbian Distribution Services, Inc. The Complaint alleges that Respondent violated Section 311 of EPCRA, 42 U.S.C. § 11021, by failing to submit to the Michigan State Emergency Response Commission (SERC), the Kent County Local Emergency Planning Committee (LEPC), and Wyoming Fire Department a Material Safety Data Sheet or a list for lead-acid batteries and diesel fuel; and violated Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), by failing to submit to the Michigan SERC, Kent County LEPC, and Wyoming Fire Department a completed Emergency and Hazardous Chemical Inventory Form for calendar years 2006-2009, by the March 1 reporting deadline.

3. On March 29, 2011, Respondent filed an Answer and requested a hearing under Section 325(b)(1)(B) of EPCRA, 42 U.S.C. § 11045(b)(1)(B).

Stipulations

4. Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint, other than those it admitted in its Answer.

5. Respondent waives any right to contest the allegations in the Complaint and its right to appeal this Consent Agreement and Final Order (CAFO).

6. The parties consent to the terms of this CAFO.

7. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

8. In consideration of Respondent's cooperation, return to compliance, willingness to quickly resolve this matter, and other matters as justice may require, Complainant has determined that an appropriate civil penalty to settle this action is \$47,000 for the alleged EPCRA violations.

9. Within 30 days after the effective date of this CAFO, Respondent must pay a \$47,000 civil penalty for the alleged EPCRA violations by electronic funds transfer, payable to "Treasurer, United States of America" and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire should read:
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state the following:

Columbian Distribution Services, Inc., the docket number of this CAFO (EPCRA-05-2011-0012), and the billing document number 2751144E026

10. Respondent must send a copy of the payment method to:

James Entzminger, (SC-5J)
Chemical Emergency Preparedness and
Prevention Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Richard J. Clarizio, (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

11. This civil penalty is not deductible for federal tax purposes.

12. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States' enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

13. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

14. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Complaint.

15. This CAFO does not affect the rights of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

16. Respondent certifies that it is complying with Sections 311 and 312(a) of EPCRA, 42 U.S.C. §§ 11021 and 11022(a).

17. This CAFO does not affect Respondent's responsibility to comply with EPCRA and other applicable federal, state and local laws, and regulations.

18. This CAFO is a "final order" for purposes of U.S. EPA's Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act, dated September 30, 1999.

19. The terms of this CAFO bind Respondent and its successors and assigns.

20. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

21. Each party agrees to bear its own costs and attorney's fees, in this action.

22. This CAFO constitutes the entire agreement between the parties.

2011 AUG 26 AM 10:52

In the Matter of: Columbian Distribution Services, Inc., Wyoming, Michigan
Docket No. EPCRA-05-2011-0012

Columbian Distribution Services, Inc., Respondent

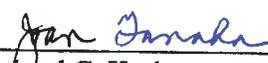
7/13/2011
Date



John P. Zevalkink
CEO and President
Columbian Distribution Services, Inc.

U.S. Environmental Protection Agency, Complainant

8/17/11
Date



Richard C. Karl
Director
Superfund Division
U.S. Environmental Protection Agency
Region 5

In the Matter of: Columbian Distribution Services, Inc., Wyoming, Michigan
Docket No. EPCRA-05-2011-0012

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Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

8-22-11

Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

In the Matter of: **Columbian Distribution Services, Inc., Wyoming, Michigan**
Docket No. **EPCRA-05-2011-0012**

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Certificate of Service

I, James Entzminger, certify that I filed the original and a copy of the Consent Agreement and Final Order (CAFO) with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 5, and mailed a second original CAFO by first-class, postage prepaid, certified mail, return receipt requested, to Respondent by placing it in the custody of the United States Postal Service addressed as follows:

Mr. Robert Christian
Chief Operating Officer
Columbian Distribution Services, Inc.
900 Hall Street, S.W.
Wyoming, Michigan 49503

Scott D. Hubbard, Attorney
Warner Norcross & Judd
900 Fifth Third Center
111 Lyon Street, NW
Grand Rapids, Michigan 49503-2487

I also certify that I mailed a copy of the CAFO by first-class mail, addressed as follows:

Honorable Barbara A. Gunning
Administrative Law Judge
U.S. Environmental Protection Agency
Ariel Rios Building/Mail Code 1900L
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

on the 26th day of August, 2011

Kristin Beuce
for James Entzminger
U.S. Environmental Protection Agency
Region 5