



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

SC-6J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mickey's Linen and Towel Supply, Inc.
4601 West Addison Avenue
Chicago, IL 60641

Re: In the Matter of Mickey's Linen and Towel Supply, Inc.
Chicago, Illinois
Docket No: **EPCRA-05-2007-0015**

Dear Sir or Madam:

I have enclosed a Complaint filed against Mickey's Linen and Towel Supply, Inc. under Section 325(c)(1) of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c)(1). The Complaint alleges violations of Section 312 of EPCRA, 42 U.S.C. § 11022.

As provided in the Complaint, if you would like to request a hearing, you must do so in your answer to the Complaint. Please note that if you do not file an answer with the Regional Hearing Clerk within 30 days of your receipt of this Complaint, the Presiding Officer may issue a default order and the proposed civil penalty will become due 30 days later.

In addition, whether or not you request a hearing, you may request an informal settlement conference. If you wish to request a conference, or if you have any questions about this matter, please contact Susan Tennenbaum, Associate Regional Counsel (C-14J), 77 West Jackson Boulevard, Chicago, Illinois 60604, at (312)886-0273.

Sincerely yours,

A handwritten signature in black ink, appearing to be "WJ Bolen".

William J. Bolen, Branch Chief
Emergency Response Branch

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)
) **Docket No. EPCRA-05-2007-0015**
Mickey's Linen and Towel)
Supply, Inc.) **Proceeding to Assess a Civil Penalty**
Chicago, Illinois,) **under Section 325(c)(1) of the**
) **Emergency Planning and Community**
Respondent.) **Right-to-Know Act of 1986.**
)
_____)

Complaint

1. This is an administrative proceeding to assess a civil penalty under Section 325 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045.

2. The Complainant is, by lawful delegation, the Branch Chief, Emergency Response Branch, Superfund Division, United States Environmental Protection Agency (EPA), Region 5.

3. The Respondent is Mickey's Linen and Towel Supply, Inc. (Mickey's), a company doing business in Illinois.

Statutory and Regulatory Background

4. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and its implementing regulations at 40 C.F.R. Part 370 require the owner or operator of a facility, which is required by the Occupational Safety and Health Administration (OSHA), 29 C.F.R. Part 1910, to prepare or have available a material safety data sheet (MSDS) for a hazardous chemical, to prepare and submit to the state emergency response commission (SERC), community emergency coordinator for the local emergency planning committee (LEPC) and fire department with jurisdiction over the facility by March 1,

1988, and annually thereafter on March 1, an emergency and hazardous chemical inventory form (Tier 1 or Tier II as described in 40 C.F.R. Part 370). The form must contain the information required by Section 312(d) of EPCRA, covering all hazardous chemicals present at the facility at any one time during the preceding year in amounts equal to or exceeding 10,000 pounds and all extremely hazardous chemicals present at the facility at any one time in amounts equal to or greater than 500 pounds or the threshold planning quantity designated by U.S. EPA at 40 C.F.R. Part 355, Appendices A and B, whichever is lower.

5. Under 29 C.F.R. § 1910.1200(b)(1), all employers are required to provide information to their employees about the hazardous chemicals to which they are exposed including, but not limited to, an MSDS.

6. Under 29 C.F.R. § 1910.1200(d)(3), chemicals listed in 29 C.F.R. Part 1910, subpart Z, are hazardous.

General Allegations

7. Respondent is a "person" as that term is defined under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

8. At all times relevant to this Complaint, Respondent was an owner or operator of the facility located at 4501 West Addison Avenue, Chicago, IL 60641 (facility).

9. At all times relevant to this Complaint, Respondent was an employer at the facility.

10. Respondent's facility consists of buildings, equipment, structures, and other stationary items which are located on a

single site or on contiguous or adjacent sites, and which are owned or operated by the same person.

11. Respondent's facility is a "facility" as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

12. Sulfuric acid is listed under OSHA regulations at 29 C.F.R. Part 1910, subpart Z, and Section 1910.1000, Table Z-1.

13. Sulfuric acid, CAS #7664-93-9, is an "extremely hazardous substance" according to Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2).

14. Sulfuric acid, CAS #7664-93-9, has a minimum threshold level of 1,000 pounds as provided in 40 C.F.R. Part 370.

15. During at least one period of time in calendar year 2003, sulfuric acid was present at the facility in an amount equal to or greater than the minimum threshold level.

16. During at least one period of time in calendar year 2004, sulfuric acid was present at the facility in an amount equal to or greater than the minimum threshold level.

17. During at least one period of time in calendar year 2005, sulfuric acid was present at the facility in an amount equal to or greater than the minimum threshold level.

18. Respondent was required to submit to the SERC, LEPC, and fire department on or before March 1, 2004, an MSDS for sulfuric acid or a list including sulfuric acid for calendar year 2003.

19. Respondent was required to submit to the SERC, LEPC, and fire department on or before March 1, 2005, an MSDS for sulfuric acid or a list including sulfuric acid for calendar year 2004.

20. Respondent was required to submit to the SERC, LEPC, and fire department on or before March 1, 2006, an MSDS for sulfuric acid or a list including sulfuric acid for calendar year 2005.

21. At all times relevant to this Complaint, the Illinois State Emergency Response Commission was the state emergency response commission (SERC) for Illinois, under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

22. At all times relevant to this Complaint, the Cook County LEPC was the local emergency planning committee (LEPC) for Cook County, under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

23. At all times relevant to this Complaint, the Chicago Fire Department was the fire department with jurisdiction over the facility.

Count 1

24. Complainant incorporates paragraphs 1 through 23 of this Complaint as if set forth in this paragraph.

25. As of May 18, 2006, Respondent had not submitted to the SERC, LEPC, or fire department a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid for calendar year 2003.

26. Each day Respondent failed to submit to the SERC, LEPC, and fire department a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid by March 1, 2004, for calendar year 2003 is a violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

Count 2

27. Complainant incorporates paragraphs 1 through 23 of this Complaint as if set forth in this paragraph.

28. As of May 18, 2006, Respondent had not submitted to the SERC, LEPC, or fire department a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid for calendar year 2004.

29. Each day Respondent failed to submit to the SERC, LEPC, and fire department a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid by March 1, 2005, for calendar year 2004 is a violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

Count 3

30. Complainant incorporates paragraphs 1 through 23 of this Complaint as if set forth in this paragraph.

31. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid on May 18, 2006 for calendar year 2005.

32. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid by March 1, 2006, for calendar year 2005 is a violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

Count 4

33. Complainant incorporates paragraphs 1 through 23 of this Complaint as if set forth in this paragraph.

34. Respondent submitted to the Chicago Fire Department a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid on May 18, 2006 for calendar year 2005.

35. Each day Respondent failed to submit to the Chicago Fire Department a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid by March 1, 2006 for calendar year 2005 is a violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

Proposed EPCRA Penalty

36. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), authorizes U.S. EPA to assess a civil penalty of up to \$25,000 per day of violation for each EPCRA Section 312 violation that occurred before January 31, 1997. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$27,500 per day of violation that occurred from January 31, 1997 through March 15, 2004 and to \$32,500 per day of violation for violations that occurred after March 15, 2004.

37. Based upon an evaluation of the facts alleged in this Complaint, and after considering the nature, circumstances, extent and gravity of the violations, prior history of violations, degree of culpability, economic benefit or savings resulting from the violations, and any other matters that justice requires, Complainant proposes that the Administrator assess a civil penalty against Respondent of \$35,238 for the EPCRA

violations alleged in this Complaint. Complainant allocated this proposed penalty to the various EPCRA counts of this Complaint as follows:

Count 1 EPCRA Section 312(a) Past Year 1:	\$1,500
Count 2 EPCRA Section 312(a) Past Year 2:	\$1,500
Count 3 EPCRA Section 312(a) (SERC):	\$16,119
Count 4 EPCRA Section 312(a) (fire dept.):	\$16,119
TOTAL EPCRA SECTION 325 PENALTY:	\$35,238

38. Complainant calculated the EPCRA penalties by evaluating the facts and circumstances of this case with specific reference to 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)," a copy of which is enclosed with this Complaint.

Rules Governing this Proceeding

39. The "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits" (the Consolidated Rules) at 40 C.F.R. Part 22 govern this proceeding to assess a civil penalty. Enclosed with the Complaint served on Respondent is a copy of the Consolidated Rules.

Terms of Payment

40. Respondent may pay the proposed penalty for the EPCRA violations by sending a certified or cashier's check, payable to the "Treasurer, United States of America," to:

U.S. EPA Region 5
Attn.: Finance
P.O. Box 371531
Pittsburg, PA 15251-7531

41. The check must note the case title of this matter: Mickey's Linen and Towel Supply, Inc., Chicago, Illinois, and the docket number of this Complaint.

42. A transmittal letter, stating the case title, Respondent's complete address, the case docket number and the billing document number must accompany the payment. Respondent must send a copy of the EPCRA check and transmittal letter to:

Regional Hearing Clerk (E-13J)
U.S. EPA Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

Ginger Jager
Chemical Emergency Preparedness
and Prevention Section (SC-6J)
U.S. EPA Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

Susan Tennenbaum
Office of Regional Counsel (C-14J)
U.S. EPA Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

43. Alternatively, Respondent may pay by wire transfer 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 message is:
"D68010727 Environmental Protection Agency."

This civil penalty is not deductible for federal tax purposes.

Notice of Opportunity to Request a Hearing

44. If Respondent contests any material fact alleged in this Complaint or the appropriateness of any penalty amount, Respondent may request a hearing before an Administrative Law Judge. To request a hearing, Respondent must specifically make the request in its Answer, as discussed below.

Answer

45. Respondent must file a written Answer to this Complaint if Respondent contests any material fact of the Complaint; contends that the proposed penalty is inappropriate; or contends that it is entitled to judgment as a matter of law. To file an Answer, Respondent must file the original written Answer and one copy with the Regional Hearing Clerk at the address specified below.

Regional Hearing Clerk (E-13J)
U.S. EPA Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

46. Respondent must send a copy of its Answer and copies of all other documents that Respondent files in this action to:

Susan Tennenbaum
Associate Regional Counsel
Office of Regional Counsel (C-14J)
U.S. EPA Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

47. If Respondent chooses to file a written Answer to the Complaint, it must do so within 30 calendar days after receiving the Complaint. In counting the 30-day period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.

48. Respondent's written Answer must clearly and directly admit, deny, or explain each of the factual allegations in the Complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied. Respondent's failure to admit, deny, or explain any material factual allegation in the Complaint constitutes an admission of the allegation.

49. Respondent's Answer must also state:

- a. the circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. the facts that Respondent disputes;

- c. the basis for opposing the proposed penalty; and
- d. whether Respondent requests a hearing.

50. If Respondent does not file a written Answer within 30 calendar days after receiving this Complaint, the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the Complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order without further proceedings 30 days after the order becomes the final order of the Administrator of U.S. EPA under Section 22.27(c) of the Consolidated Rules.

51. In addition, a default penalty is subject to interest, penalty and handling charges as set forth in the Federal Claims Collection Act, 31 U.S.C. § 3717. Interest will accrue on the default penalty at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. After 30 days, U.S. EPA will impose a late payment handling charge of \$15 for each 30-day period over which an unpaid balance remains. In addition, U.S. EPA will apply a six percent, per year penalty on any principal amount not paid within 90 days of the effective date of the default order.

Settlement Conference

52. Whether or not Respondent requests a hearing, Respondent may request an informal conference to discuss the facts alleged in the Complaint and to discuss settlement. To request an informal settlement conference, Respondent may contact:

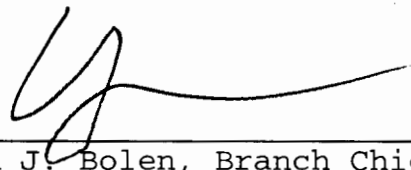
Ginger Jager
Chemical Emergency Preparedness
and Prevention Section (SC-6J)
U.S. EPA Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
312-886-0767

53. Respondent's request for an informal settlement conference will not extend the 30 day period for filing a written Answer to this Complaint. Respondent may simultaneously pursue an informal settlement conference and the adjudicatory hearing process.

54. U.S. EPA encourages all parties against whom it proposes to assess a civil penalty to pursue settlement through informal conference. However, U.S. EPA will not reduce the penalty simply because the parties hold an informal settlement conference.

Date: _____

4/14/07



William J. Bolen, Branch Chief
Emergency Response Branch 1
Superfund Division
U.S. EPA Region 5

In the Matter of: Mickey's Linen and Towel Service, Chicago, IL
Section 312 of EPCRA
Docket No.: **EPCRA-05-2007-0015**

APR 15 2 24
REGIONAL OFFICE
EPCRA

Certificate of Service

I, Ginger Jager certify that I filed the original and one copy of the Administrative Complaint, docket number EPCRA-05-2007-0015 with the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed a copy to the Respondent by first-class, postage prepaid, certified mail, return receipt requested, along with the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22, and the Enforcement Response Policy, by placing them in the custody of the United States Postal Service addressed as follows:

Mickey's Linen and Towel Service
4601 West Addison Avenue
Chicago, IL 60641

on the 18th day of April, 2007.

Ginger Jager
Ginger Jager
U.S. Environmental Protection Agency
Region 5

CERTIFIED MAIL RECEIPT NUMBER: _____

APR 18 2007 10:24 AM
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 5