



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
September 26, 2012

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL

Receipt No.7009 1680 0000 7668 0707

Mr. Brian Foley
Unified Wire and Cable, Inc.
338 Wurlitzer Dr.
DeKalb, Illinois 60115

Consent Agreement and Final Order, In The Matter of
Unified Wire and Cable, Inc. Docket No. EPCRA-05-2012-0034

Dear Mr. Foley:

Enclosed is a copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on September 26, 2012, with the Regional Hearing Clerk.

The civil penalty in the amount of \$27,722, is to be paid in the manner described in paragraph 3. Please be certain that the number **BD 2751244E029** and the docket number are written on both the transmittal letter and on the check. Payment is due by October 25, 2012 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Terence Bonace".

Terence Bonace
Pesticides and Toxics Compliance Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:) Docket No. EPCRA-05-2012-0034
)
United Wire and Cable Company) Proceeding to Assess a Civil Penalty
Dekalb, Illinois,) Under Section 325(c) of the Emergency
Respondent.) Planning and Community Right-to-Know
) Act of 1986, 42 U.S.C. § 11045(c)
)

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SEP 26 2012

Consent Agreement and Final Order

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

1. This is an administrative action commenced and concluded under Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency (EPA), Region 5.
3. Respondent is Unified Wire and Cable Company, a corporation doing business in the State of Illinois.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.
6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

9. Respondent certifies that it is complying with Section 313 of EPCRA, 42 U.S.C. § 11023.

Statutory and Regulatory Background

10. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 372.30 require the owner or operator of a facility that has 10 or more full-time employees; is covered by certain Standard Industrial Classification (SIC) codes; meets one of the criteria set forth in 40 C.F.R. § 372.22(b)(1)-(3); and manufactured, processed, or otherwise used a toxic chemical in an amount exceeding an applicable threshold quantity of that chemical listed under Section 313(f) of EPCRA and 40 C.F.R. § 372.25, 372.27 and 372.28, during the calendar year, to complete and submit a toxic chemical release inventory form (Form R) to the Administrator of EPA and to the state in which the subject facility is located by July 1 for each toxic chemical manufactured, processed, or otherwise used in quantities exceeding the established threshold during the preceding calendar year.

11. As set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, except as provided in 40 C.F.R. §§ 372.27 and 372.28, the reporting threshold amount for a toxic chemical manufactured or processed at a facility is 25,000 pounds for calendar years including and subsequent to 1989. The reporting threshold for a toxic chemical otherwise used at a facility is 10,000 pounds for calendar years including and subsequent to 1987.

12. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), authorizes the Administrator of EPA to assess a civil penalty of up to \$25,000 per day for each violation of Section 313 of EPCRA. The Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note (1990), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note (1996), required federal agencies to issue regulations adjusting for inflation the maximum civil penalties that may be assessed pursuant to each agency's statutes. EPA may assess a civil penalty of up to \$37,500 per day for each violation of Section 313 of EPCRA that occurred after January 12, 2009, pursuant to Section 325(c)(1) and (3) of EPCRA, 42 U.S.C. § 11045(c)(1) and (3), and 40 C.F.R. Part 19.

Factual Allegations and Conclusions of Law

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

14. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 38 Wurlitzer Drive, DeKalb, Illinois.

15. At all times relevant to this CAFO, Respondent had "10 or more full-time employees," as defined at 40 C.F.R. § 372.3, and was an employer at the facility.

16. 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.

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

18. The facility has a SIC code of 3357.

19. The facility is a covered facility as defined at Section 313 of EPCRA, 42 U.S.C.

§ 11023, and 40 C.F.R. § 372.22, to which Section 313 of EPCRA applies.

20. Complainant reviewed Respondent's toxic chemical release reporting forms for calendar years 2007 through 2010.

Alleged Violations

Count 1

21. During calendar year 2009 Respondent's facility processed, as that term is defined at 40 C.F.R. § 372.3, copper, CAS No. 7440-50-8, a chemical listed under 40 C.F.R. § 372.65, in the amount of 3,119,993 pounds, an amount greater than the threshold for reporting from 372.25, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

22. Respondent was required to submit to the Administrator of EPA and to the state of Illinois, a Form R for copper for calendar year 2009 by July 1, 2010.

23. Respondent did not submit to the Administrator of EPA and to the state of Illinois a Form R for copper for calendar year 2009 by July 1, 2010.

24. Respondent submitted Form R for copper to the Administrator of EPA and to the state of Illinois on May 21, 2012 for calendar year 2009.

25. Respondent's failure to submit timely a Form R for copper to the Administrator of EPA and to the state of Illinois for calendar year 2009 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count 2

26. During calendar year 2010 Respondent's facility processed, as that term is defined at 40 C.F.R. § 372.3, copper, CAS No. 7440-50-8, a chemical listed under 40 C.F.R. § 372.65, in the amount of 1, 771,538 pounds, an amount greater than the threshold for reporting from

372.25, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

27. Respondent was required to submit to the Administrator of EPA and to the state of Illinois, a Form R for copper for calendar year 2010 by July 1, 2011.

28. Respondent did not submit to the Administrator of EPA and to the state of Illinois a Form R for copper for calendar year 2009 by July 1, 2011.

29. Respondent submitted Form R for copper to the Administrator of EPA and to the state of Illinois on May 21, 2012 for calendar year 2010.

30. Respondent's failure to submit timely a Form R for copper to the Administrator of EPA and to the state of Illinois for calendar year 2010 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Civil Penalty

31. Pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, Complainant determined that an appropriate civil penalty to settle this action is \$27,722. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violations, and any other matters as justice may require. Complainant also considered EPA's Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990) (amended) (April 12, 2001).

32. Within 30 days after the effective date of this CAFO, Respondent must pay a \$27,722 civil penalty for the EPCRA violations by electronic fund 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, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state "Unified Wire and Cable Company, the docket number of this CAFO, and the billing document number.

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

34. If Respondent does not pay timely the civil penalty, 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, and any amount required by paragraph 32 above, shall become due and owing, upon written notice by EPA to Respondent of the delinquency.

35. 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, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due..

General Provisions

36. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

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

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

39. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for Section 313 of EPCRA.

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

41. Each person signing this 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.

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

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

Unified Wire and Cable Company, Respondent

9-6-12
Date

Brian Foley
Brian Foley
President
Unified Wire and Cable Company

United States Environmental Protection Agency, Complainant

September 24, 2012
Date

Margaret M. Guerriero
Margaret M. Guerriero
Director
Land and Chemicals Division

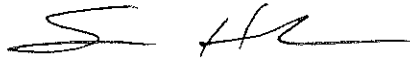
In the Matter of:
Unified Wire and Cable Company
Docket No. EPCRA-05-2012-0034

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.

9-24-12

Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

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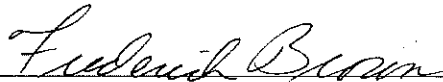
CERTIFICATE OF SERVICE

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving United Wire and Cable Company, was filed on September 26, 2012 with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that I mailed by Certified Mail, Receipt No. 7009 1680 0000 7668 0707, a copy of the original to the Respondent:

Mr. Brian Foley
Unified Wire and Cable, Inc.
338 Wurlitzer Dr.
DeKalb, Illinois 60115

and forwarded intra-Agency copies to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J
Timothy Thurlow, Counsel for Complainant ORC/C-14J
Eric Volck, Cincinnati Finance/MWD



Frederick Brown, PTCS (LC-8J)
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. EPCRA-05-2012-0034

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