



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
December 29, 2021

VIA ELECTRONIC MAIL

Mr. Mark Sheft
Vice President, Litigation
Sanmina Corporation
2700 North First Street
San Jose, CA 95134
mark.sheft@sanmina.com

Consent Agreement and Final Order
In the Matter of Sanmina Corporation
Docket No.: EPCRA-05-2022-0004

Dear Mr. Sheft:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above referenced case. The CAFO was filed with the Regional Hearing Clerk on December 29, 2021.

Under paragraph 39 of the CAFO, you must pay the civil penalty within 30 days of the filing date. Your check or electronic funds transfer must display the case docket number, as provided above.

Please, direct any questions regarding this case to Mr. Thomas Turner at (312) 886-6613 or Turner.Thomas@epa.gov. Thank you for your attention to this matter.

Sincerely,
FREDDIE
AROCHO-
PEREZ

Digitally signed by FREDDIE
AROCHO-PEREZ
Date: 2021.12.08 14:23:20
-06'00'

Freddie Arocho-Perez, Ph.D.
Physical Scientist
Pesticides and Toxics Compliance Section

Enclosure

cc: Ann Coyle, Regional Judicial Officer, coyle.ann@epa.gov
Regional Hearing Clerk, R5hearingclerk@epa.gov
Thomas Turner, turner.thomas@epa.gov
Branch Data Manager, R5LEECAB@epa.gov

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. EPCRA-05-2022-0004
)	
Sanmina Corporation,)	
Pleasant Prairie, Wisconsin,)	Proceeding to Assess a Civil Penalty
)	Under Section 325(c) of the Emergency
)	Planning and Community Right-to-Know
Respondent)	Act of 1986, 42 U.S.C. § 11045(c)
<hr/>)	

Consent Agreement and Final Order

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. Complainant is, by lawful delegation, the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA), Region 5.

3. Respondent is Sanmina Corporation, a corporation doing business in the State of Wisconsin.

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

11. Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.22 provide that the requirements of Section 313 and Part 372 apply to any facility that has 10 or more full-time employees, that falls under a North American Industry Classification System (NAICS) Code (Code of 334418; Printed Circuit Assembly (Electronic Assembly), and that manufactures, imports, processes, or otherwise uses a toxic chemical identified at Section 313(c) and listed at 40 C.F.R. § 372.65 in an amount that exceeds the threshold for reporting, as set forth in Section 313(f) and in 40 C.F.R. §§ 372.25, 372.27, and 372.28.

12. Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 require the owner or operator of a facility subject to the requirements of Section 313 of EPCRA and 40 C.F.R. Part 372 to complete and submit to the Administrator of EPA and to the state in which the facility is located, no later than July 1, 1988 and each July 1 thereafter, a chemical release form

published pursuant to Section 313(g) of EPCRA for each toxic chemical listed under Section 313(c) of EPCRA that was manufactured, processed, or otherwise used at the facility during the preceding calendar year in a quantity exceeding the threshold established by Section 313(f) of EPCRA.

13. EPA published the Toxic Chemical Release Inventory Reporting Form, EPA Form 9350-1 (Form R) at 40 C.F.R § 372.85 pursuant to Section 313(g) of EPCRA, 42 U.S.C. § 11023(g).

14. All persons required to report pursuant to Section 313(b) of EPCRA must use Form R according to Section 313(a) of EPCRA, 42 U.S.C. § 11023(a).

15. The Administrator of EPA may prescribe regulations as may be necessary to carry out EPCRA. See 42 U.S.C. § 11048.

16. As set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28, the reporting threshold amount for Lead (Not contained in Stainless-Steel, Brass, or Bronze Alloys), CAS No. 7439-92-1; manufactured, processed, or otherwise used at a facility is 100 pounds for calendar years including and subsequent to 2001.

17. Section 325(c)(1) and (3) of EPCRA, 42 U.S.C. § 11045(c)(1) and (3), 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, 42 U.S.C. § 11023. 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 \$58,328 per day for each violation of Section 313 of EPCRA that occurred after November 2, 2015, where penalties are assessed on or after January

13, 2020, 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 Alleged Violations

18. Respondent is a “person” as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

19. Respondent is a company doing business in the State of Wisconsin.

20. Respondent was an owner or operator of the facility located at 8701 100th Street, Plant #1520, Pleasant Prairie, Wisconsin 53158-2200, during the calendar years 2016 and 2017.

21. Respondent employed at its facility the equivalent of at least 10 employees with total paid hours equal to or more than 20,000 hours per calendar year, as defined at 40 C.F.R. § 372.3.

22. Respondent’s facility consists of buildings, equipment and structures and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned by the same person, entity, or corporation.

23. The facility has a NAICS code of 334418 – Printed Circuit Assembly (Electronic Assembly) Manufacturing, a covered NAICS code as defined at Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.22.

24. During the calendar years 2016 and 2017, Respondent “processed,” as defined by 40 C.F.R. § 372.3, toxic chemicals identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65, in quantities exceeding the thresholds for reporting set forth at Section 313(f) and at 40 C.F.R. § 372.25.

25. On October 2, 2018, representatives of EPA inspected the Respondent’s facility.

Count 1

26. Complainant incorporates paragraphs 1 through 25 of the CAFO as if set forth in this paragraph.

27. During the calendar year 2017, Respondent's facility processed, as that term is defined at 40 C.F.R. § 372.3, Lead (Not contained in Stainless-Steel, Brass, or Bronze Alloys), CAS No. 7439-92-1, in the amount of 1,394 pounds, which is greater than 100 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.

28. Respondent was required to submit to the Administrator of EPA and to Wisconsin a Form R for Lead (Not contained in Stainless-Steel, Brass, or Bronze Alloys) for the calendar year 2017 by July 1, 2018.

29. Respondent did not submit to the Administrator of EPA and to Wisconsin a Form R for Lead (Not contained in Stainless-Steel, Brass, or Bronze Alloys) for the calendar year 2017 by July 1, 2018.

30. Respondent submitted Form R for Lead (Not contained in Stainless-Steel, Brass, or Bronze Alloys) to the Administrator of EPA and to Wisconsin on May 3, 2021 for the calendar year 2017.

31. Respondent's failure to submit timely a Form R for Lead (Not contained in Stainless-Steel, Brass, or Bronze Alloys) to the Administrator of EPA and to Wisconsin for the calendar year 2017 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count II

32. Complainant incorporates paragraphs 1 through 25 of the CAFO as if set forth in this paragraph.

33. During the calendar year 2016, Respondent's facility processed, as that term is

defined at 40 C.F.R. § 372.3, Lead (Not contained in Stainless-Steel, Brass, or Bronze Alloys), CAS No. 7439-92-1, in an amount greater than 100 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28. Respondent processed the amount of 1,091 pounds of lead in 2016.

34. Respondent was required to submit to the Administrator of EPA and to Wisconsin a Form R for Lead (Not contained in Stainless-Steel, Brass, or Bronze Alloys) for the calendar year 2016 by July 1, 2017.

35. Respondent did not submit to the Administrator of EPA and to Wisconsin a Form R for Lead (Not contained in Stainless-Steel, Brass, or Bronze Alloys) for the calendar year 2016 by July 1, 2017.

36. Respondent submitted Form R for Lead (Not contained in Stainless-Steel, Brass, or Bronze Alloys) to the Administrator of EPA and to Wisconsin on May 14, 2021 for the calendar year 2016.

37. Respondent's failure to submit timely a Form R for Lead (Not contained in Stainless-Steel, Brass, or Bronze Alloys) to the Administrator of EPA and to Wisconsin for the calendar year 2016 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Civil Penalty

38. Complainant has determined the proposed civil penalty to settle this action is \$61,773.60, pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c). In determining the proposed penalty amount, Complainant considered the nature, circumstances, extent, and gravity of the violations, and with respect to the 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). Under the policy, the proposed civil penalty is based on the number of employees at the facility (more than 50) and Respondent's total corporate entity sales (more than \$10 million).

39. Within 30 days after the effective date of this CAFO, Respondent must pay a \$61,773.60 civil penalty for the EPCRA violations by any of the following methods:

- Sending a cashier's or certified check, payable to "Treasurer, United States of America,"

to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

The check must note Sanmina Corporation and the docket number of this CAFO.

- Sending a cashier's or certified check, payable to "Treasurer, United States of America,"

to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must note Sanmina Corporation and the docket number of this CAFO.

- 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, 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 Sanmina Corporation and the docket number of this CAFO.

- Automated Clearinghouse (ACH, also known as REX or remittance express) electronic funds transfer, payable to “Treasurer, United States of America,” and sent to:

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 –checking

In the comment area of the electronic funds transfer, state Sanmina Corporation and the docket number of this CAFO.

- An on-line payment. To pay on-line, go to www.pay.gov. Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields.

40. Respondent must send a notice of payment that states Respondent’s name and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
r5hearingclerk@epa.gov

Freddie Arocho-Perez (ECP-17J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
ArochoPerez.Freddie@epa.gov
r5lecab@epa.gov

Thomas Turner (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
Turner.Thomas@epa.gov

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

42. 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.

43. 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

44. The parties' consent to service of this CAFO by e-mail at the following valid e-mail addresses: Turner.Thomas@epa.gov (for Complainant), and Mark.Sheft@sanmina.com (for Respondent).

45. Respondent's full compliance with this CAFO shall only resolve Respondent's

liability for federal administrative civil penalties under Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), for the violations alleged in this CAFO.

46. Respondent certifies that it is now in compliance with EPCRA § 313 and its implementing regulations.

47. 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.

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

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

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

51. 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.

52. Each party agrees to bear its own costs and attorneys' fees in this action.

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

In the Matter of:
Sanmina Corporation
Docket No. EPCRA-05-2022-0004

Sanmina Corporation, Respondent

Christopher
K. Sadeghian

Digitally signed by
Christopher K.
Sadeghian
Date: 2021.12.07
13:23:44 -08'00'

Date

Christopher
K. Sadeghian

Digitally signed by
Christopher K. Sadeghian
Date: 2021.12.07
13:24:10 -08'00'

Christopher K. Sadeghian
Vice President, Legal and Corporate Secretary
Sanmina Corporation

In the Matter of:
Sanmina Corporation
Docket No. EPCRA-05-2022-0004

United States Environmental Protection Agency, Complainant

MICHAEL
HARRIS

Digitally signed by
MICHAEL HARRIS
Date: 2021.12.28
12:28:13 -06'00'

Michael D. Harris
Director
Enforcement and Compliance Assurance Division

In the Matter of:
Sanmina Corporation
Docket No. EPCRA-05-2022-0004

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.

**ANN
COYLE**

Digitally signed by
ANN COYLE
Date: 2021.12.28
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Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

In the Matter of:
Sanmina Corporation
Docket No. [EPCRA-05-2022-0004](#)

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, which was filed on December 29, 2021, this day in the following manner to the addressees:

Copy by email to Respondent's Representative:
(Delivery Receipt Requested)

Mr. Mark Sheft
Vice President, Litigation
Sanmina Corporation
2700 North First Street
San Jose, CA 95134
mark.sheft@sanmina.com

Copy by email to Attorney for Respondent:

Christopher K. Sadeghian
chris.sadeghian@sanmina.com

Copy by email to Attorney for Complainant:

Thomas Turner
turner.thomas@epa.gov

Copy by email to Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Isidra Martinez
Acting Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 5