



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

SEP 30 2008

REPLY TO THE ATTENTION OF:

SC-6J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Gary Lazaroff, Co-President
Clean the Uniform Company Highland
1316 South 7th Street
St. Louis, MO 63104

Re: Clean the Uniform Company Highland, Highland, Illinois, Consent Agreement and Final Order, Docket No. EPCRA-05-2008-0027

Dear Mr. Lazaroff:

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 SEP 30 2008.

Please pay the EPCRA civil penalty in the amount of \$44,652.00 in the manner prescribed in paragraph 49, and reference you check with the billing document number 2750844E021 and the docket number EPCRA-05-2008-0027.

Your payments are due on OCT 30 2008 [within 30 days of filing date].

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 Joanna Glowacki, Associate Regional Counsel, at (312) 353-3757. Thank you for your assistance in resolving this matter.

Sincerely yours,

Mark J. Horwitz, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

**cc: Regional Hearing Clerk
U.S. EPA Region 5**

Joanna Glowacki (w/ enclosure)

**Jon England, Legal Counsel (w/ enclosure)
Kathy Allen (w/ enclosure)
IL SERC**

**Marcy Toney (w/ enclosure)
Regional Judicial Officer**

**Dale E. Hermeling (w/ enclosure)
The Stolar Partnership LLP
911 Washington Avenue
St. Louis, MO 63101-1290 (certified)**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)
)
Clean the Uniform Company Highland)
Highland, Illinois)
)
Respondent.)
_____)

Docket No. EPCRA-05-2008-0027
Proceeding to Assess a Civil Penalty Under
Section 325(c)(1) and (c)(2) of the Emergency
Planning and Community Right-to-Know Act
of 1986

RECEIVED
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 5
2008 SEP 10 AM 10:51

Consent Agreement and Final Order
Preliminary Statement

1. This is an administrative action commenced and concluded under Sections 325(c)(1) and (c)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. §§ 11045(c)(1) and (c)(2), 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, by lawful delegation, the Chief of the Emergency Response Branch 2, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent is Clean the Uniform Company Highland, 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 the terms of the 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.

Statutory and Regulatory Background

9. Section 311 of EPCRA, 42 U.S.C. § 11021, 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 Act (OSHA) to prepare or have available a Material Safety Data Sheet (MSDS) for a hazardous chemical, to submit to the state emergency response commission (SERC), community emergency coordinator for the local emergency planning committee (LEPC), and the fire department with jurisdiction over the facility an MSDS for each such hazardous chemical present at the facility at any one time in an amount equal to or greater than 10,000 pounds, and for each extremely hazardous chemical present at the facility in an amount equal to or greater than 500 pounds, or the threshold planning quantity (TPQ), whichever is lower, or to submit a list of such chemicals. The owner or operator must submit the required MSDS or list within three months after the owner or operator is first required to have the MSDS available or after the hazardous chemical requiring an MSDS first becomes present at the facility in an amount exceeding the threshold level.

10. 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 OSHA

to prepare or have available an MSDS for a hazardous chemical, to submit to the SERC, community coordinator for the LEPC, and fire department with jurisdiction over the facility by March 1, 1988, and annually thereafter, 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 EPA at 40 C.F.R. Part 355, Appendices A and B, whichever is lower.

11. Section 311 of EPCRA, 42 U.S.C. § 11021 and Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), assist state and local committees in planning for emergencies and make information on chemical presence and hazards available to the public. A delay in reporting could result in harm to human health and the environment.

12. 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.

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

14. Section 325(c)(2) of EPCRA, 42 U.S.C. § 11045(c)(2), authorizes EPA to assess a civil penalty of up to \$10,000 for each EPCRA Section 311 violation. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19 increased the statutory maximum penalty to \$11,000 per day of violation for EPCRA 311 violations that occur on or after January 31, 1997.

15. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), authorizes EPA to assess a civil penalty of up to \$25,000 for each EPCRA Section 312 violation. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19 increased the statutory maximum penalty 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.

Factual Allegations and Alleged Violations

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

17. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 601 5th Street, Highland, Illinois (the Facility).

18. At all times relevant to this CAFO, Respondent was an employer at the Facility.

19. 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.

20. Respondent’s Facility is a “facility” as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

21. Sulfuric acid (CAS #7664-93-9) is listed as a toxic and hazardous substance under OSHA regulations at 29 C.F.R. Part 1910, Subpart Z, and 29 C.F.R. § 1910.1000, Table Z-1.

22. Sulfuric acid (CAS #7664-93-9) is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

23. 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).

24. Sulfuric acid (CAS #7664-93-9) has a minimum threshold level of 500 pounds, as provided in 40 C.F.R. Part 370.

25. During calendar year 2005, sulfuric acid first became present at the facility at any one time in an amount equal to or greater than the minimum threshold level.

26. 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.

27. During at least one period of time in calendar year 2006, sulfuric acid was present at the facility in an amount equal to or greater than the minimum threshold level.

28. OSHA requires Respondent to prepare, or have available, a MSDS for sulfuric acid.

29. Respondent was required to submit to the SERC, the LEPC, and the fire department on or before December 31, 2005, an MSDS for sulfuric acid or a list including sulfuric acid.

30. Respondent was required to submit to the SERC, the LEPC, and the fire department a completed emergency and hazardous chemical inventory form including sulfuric acid on or before March 1, 2006 for calendar year 2005.

31. Respondent was required to submit to the SERC, the LEPC, and the fire department a completed emergency and hazardous chemical inventory form including sulfuric acid on or before March 1, 2007 for calendar year 2006.

32. At all times relevant to this CAFO, the Illinois State Emergency Response Commission was the SERC for Illinois under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

33. At all times relevant to this CAFO, the Madison County Local Emergency Planning Committee was the LEPC for Madison County, Illinois, under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

34. At all times relevant to this CAFO, the Highland Fire Department was the fire department with jurisdiction over the facility.

35. Respondent submitted to the SERC an MSDS for sulfuric acid or a list showing sulfuric acid on April 26, 2006.

36. Respondent submitted to the LEPC and Highland Fire Department an MSDS for sulfuric acid or a list showing sulfuric acid on July 14, 2006.

37. Respondent's failure to submit to the SERC an MSDS or a list for sulfuric acid by December 31, 2005 is a violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

38. Respondent's failure to submit to the LEPC an MSDS or a list for sulfuric acid by December 31, 2005 is a violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

39. Respondent's failure to submit to the Highland Fire Department an MSDS or a list for sulfuric acid by December 31, 2005 is a violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

40. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid on April 26, 2006, for calendar year 2005.

41. Respondent submitted to the LEPC and the Highland Fire Department a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid on July 14, 2006, for calendar year 2005.

42. Respondent's failure 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).

43. Respondent's failure to submit to the LEPC 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).

44. Respondent's failure to submit to the Highland 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).

45. Respondent submitted to the LEPC and the Highland Fire Department a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid on August 10, 2007, for calendar year 2006.

46. Respondent's failure to submit to the LEPC a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid by March 1, 2007, for calendar year 2006 is a violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

47. Respondent's failure to submit to the Highland Fire Department a completed Emergency and Hazardous Chemical Inventory Form including sulfuric acid by March 1, 2007, for calendar year 2006 is a violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

Civil Penalty

48. In consideration of Respondent's cooperation, return to compliance and other matters as justice may require, EPA has determined that an appropriate civil penalty to settle this action is \$44,652.00.

49. Within 30 days after the effective date of this CAFO, Respondent must pay a \$44,652.00 civil penalty for the EPCRA violations. Respondent must pay the penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

[for checks sent by regular U.S. postal service]

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

[for checks sent by express mail]

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

The check must note the following: Clean the Uniform Company Highland, the docket number of this CAFO and the billing document number 2750844E021

[for electronic funds transfer] Respondent must pay the penalty 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: Clean the Uniform Company Highland, the docket number of this CAFO and the billing document number 2750844E021.

[for online payments using debit or credit card] Respondent must pay online using ACH debit or credit card. For payments online using ACH debit or credit card please visit www.pay.gov.

Using the Search Public Forms option on the tool bar (left side of page), enter SFO 1.1 in the search field. Open the form and complete the information requested.

50. A transmittal letter, stating Respondent's name, 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 check and transmittal letter to:

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

James Entzminger
Chemical Emergency Preparedness
and Prevention Section (SC-6J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Joanna Glowacki
Office of Regional Counsel (C-14J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

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

52. If Respondent does not timely pay 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.

53. 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, EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

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

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

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

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

58. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for Sections 311 and 312 of EPCRA.

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

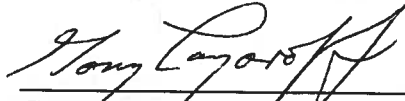
60. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

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


Clean the Uniform Company Highland, Respondent

9/18/08
Date


Gary Lazaroff, Co-President
Clean the Uniform Company Highland

U.S. Environmental Protection Agency, Complainant

9-26-08
Date


Linda M. Nachowicz, Chief
Emergency Response Branch 2
Superfund Division

9/26/08
Date

 for Rk.
Richard C. Karl, Director
Superfund Division

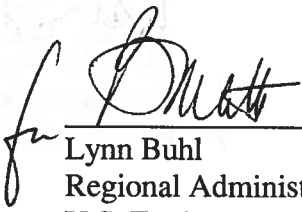
In the Matter of:
Clean the Uniform Company Highland, Highland, Illinois
Docket No. EPCRA-05-2008-0027

In the Matter of:
Clean the Uniform Company Highland, Highland, Illinois
Docket No. EPCRA-05-2008-0027

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.

9-30-08
Date



Lynn Buhl
Regional Administrator
U.S. Environmental Protection Agency
Region 5

In the Matter of:
Clean the Uniform Company Highland, Highland, Illinois
Docket No. EPCRA-05-2008-0027

Certificate of Service

I, James Entzminger, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number EPCRA-05-2008-0027 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, personally served a copy on the Regional Judicial Officer, and mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Clean the Uniform Company Highland and Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Gary Lazaroff, Co-President
Clean the Uniform Company Highland
1316 South 7th Street
St. Louis, MO 63104

Dale E. Hermeling
The Stolar Partnership LLP
911 Washington Avenue
St. Louis, MO 63101-1290

on the 30 day of September, 2008


James Entzminger
U.S. Environmental Protection Agency
Region 5

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