



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590  
**MAR 22 2016**

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

REPLY TO THE ATTENTION OF:

Mr. Robert J. Squiers  
General Counsel  
PGP Corporation d/b/a Voss Taylor  
7925 Beech Daly Road  
Taylor, Michigan 48180

Re: PGP Corporation d/b/a Voss Taylor, Taylor, Michigan, Consent Agreement and Final Order, Docket No. **EPCRA-05-2016-0012**

Dear Mr. Squiers:

Enclosed please find a copy of the fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the original CAFO with the Regional Hearing Clerk on **MAR 22 2016**.

Please pay the Emergency Planning and Community Right-to-Know Act civil penalty in the amount of \$12,948 in the manner prescribed in paragraph 43, and reference your check with the docket number **EPCRA-05-2016-0012**.

Your payment is due on **APR 22 2016**.

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 John P. Steketee, Associate Regional Counsel, at (312) 886-0558. Thank you for your assistance in resolving this matter.

Sincerely,

Michael E. Hans, Chief  
Chemical Emergency Preparedness  
and Prevention Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5



In the Matter of: ) Docket No. EPCRA-05-2016-0012  
)  
PGP Corporation d/b/a Voss Taylor ) Proceeding to Assess a Civil Penalty Under  
Taylor, Michigan, ) Section 325(c)(1) of the Emergency Planning  
) and Community Right-to-Know Act of 1986  
Respondent. )

Consent Agreement and Final Order  
Preliminary Statement

1. This is an administrative action commenced and concluded 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) 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 Enforcement and Compliance Assurance Branch, Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is PGP Corporation d/b/a Voss Taylor, a Michigan corporation doing business in the State of Michigan.

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 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 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 coordinator for the local emergency planning committee (LEPC) and fire department with jurisdiction over the facility by March 1, 1988, and annually thereafter, an emergency and hazardous chemical inventory form (Tier I 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.

10. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), assists state and local committees in planning for emergencies and makes information on chemical presence and

hazards available to the public. A delay in reporting could result in harm to human health and the environment.

11. 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.

12. Under 29 C.F.R. § 1910.1200(c), a hazardous chemical is any chemical which is classified as a physical or health hazard, a simple asphyxiant, combustible dust, pyrophoric gas, or hazard not otherwise classified.

13. 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 of EPCRA Section 312. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and its implementing regulations at 40 C.F.R. Part 19 increased these statutory maximum penalties to \$32,500 per day of violation that occurred after March 15, 2004 through January 12, 2009 and to \$37,500 per day of violation for violations that occurred after January 12, 2009.

#### **Factual Allegations and Alleged Violations**

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

15. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 7925 Beech Daly Road, Taylor, Michigan (facility).

16. At all times relevant to this CAFO, Respondent was an employer at the facility.

17. 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.

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

19. Ferrous chloride is classified as a physical or health hazard.

20. Ferrous chloride (CAS #7758-94-3) 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).

21. Ferrous chloride (CAS #7758-94-3) has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

22. Hydrochloric acid is classified as a physical or health hazard.

23. Hydrochloric acid (CAS #7647-01-0) 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).

24. Hydrochloric acid (CAS #7647-01-0) has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

25. Sodium carbonate is classified as a physical or health hazard.

26. Sodium carbonate (CAS #497-19-8) 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).

27. Sodium carbonate (CAS #497-19-8) has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

28. During at least one period of time in calendar year 2012, ferrous chloride was present at the facility in an amount equal to or greater than the minimum threshold level.

29. During at least one period of time in calendar year 2012, hydrochloric acid was present at the facility in an amount equal to or greater than the minimum threshold level.

30. During at least one period of time in calendar year 2012, sodium carbonate was present at the facility in an amount equal to or greater than the minimum threshold level.

31. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility, a completed emergency and hazardous chemical inventory form including ferrous chloride, hydrochloric acid, and sodium carbonate on or before March 1, 2013, for calendar year 2012.

32. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility, a completed emergency and hazardous chemical inventory form including ferrous chloride, hydrochloric acid, and sodium carbonate on or before March 1, 2014, for calendar year 2013.

33. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility, a completed emergency and hazardous chemical inventory form including ferrous chloride, hydrochloric acid, and sodium carbonate on or before March 1, 2015, for calendar year 2014.

34. At all times relevant to this CAFO, the Michigan Citizen-Community Emergency Response Coordinating Council was the SERC for Michigan under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

35. At all times relevant to this CAFO, the Wayne County LEPC was the LEPC for Wayne County, Michigan under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

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

37. Respondent submitted to the SERC, LEPC and Taylor Fire Department a completed Emergency and Hazardous Chemical Inventory Form including ferrous chloride, hydrochloric acid, and sodium carbonate on July 22, 2015, for calendar year 2012; on July 22, 2015 for calendar year 2014; and on May 14, 2015 for calendar year 2014.

38. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including ferrous chloride, hydrochloric acid, and sodium carbonate by March 1, 2013, for calendar year 2012 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

39. Each day Respondent failed to submit to the LEPC a completed emergency and hazardous chemical inventory form including ferrous chloride, hydrochloric acid, and sodium carbonate by March 1, 2013, for calendar year 2012 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

40. Each day Respondent failed to submit to the Taylor Fire Department a completed emergency and hazardous chemical inventory form including ferrous chloride, hydrochloric acid, and sodium carbonate by March 1, 2013, for calendar year 2012 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

41. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including ferrous chloride, hydrochloric acid, and sodium carbonate by March 1, 2014, for calendar year 2013 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

42. Each day Respondent failed to submit to the LEPC a completed emergency and hazardous chemical inventory form including ferrous chloride, hydrochloric acid, and sodium carbonate by March 1, 2014, for calendar year 2013 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

43. Each day Respondent failed to submit to the Taylor Fire Department a completed emergency and hazardous chemical inventory form including ferrous chloride, hydrochloric

acid, and sodium carbonate by March 1, 2014, for calendar year 2013 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

44. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including ferrous chloride, hydrochloric acid, and sodium carbonate by March 1, 2015, for calendar year 2014 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

45. Each day Respondent failed to submit to the LEPC a completed emergency and hazardous chemical inventory form including ferrous chloride, hydrochloric acid, and sodium carbonate by March 1, 2015, for calendar year 2014 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

46. Each day Respondent failed to submit to the Taylor Fire Department a completed emergency and hazardous chemical inventory form including ferrous chloride, hydrochloric acid, and sodium carbonate by March 1, 2015, for calendar year 2014 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

#### **Civil Penalty**

47. Complainant has determined that an appropriate civil penalty to settle this action is \$12,948 for the EPCRA violations. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, Respondent's agreement to perform a supplemental environmental project, 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 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  
(EPCRA/CERCLA Enforcement Response Policy).

48. Within 30 days after the effective date of this CAFO, Respondent must pay a \$12,948 civil penalty for the EPCRA violations. Respondent must pay the penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

or for checks sent by express mail by 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, MO 63101

49. The check must note the following: PGP Corporation d/b/a Voss Taylor and the docket number of this CAFO **EPCRA-05-2016-0012**.

50. A transmittal letter, stating Respondent's name, the case name, Respondent's complete address, and the case docket number, must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

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

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

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

52. If Respondent does not timely pay the civil penalty or any stipulated penalties due under paragraph 65, below, 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.

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

#### **Supplemental Environmental Project**

54. Respondent must complete a supplemental environmental project (SEP) designed to protect the environment or public health by installing a backup fan on the scrubber system.

55. At its Taylor, Michigan facility, Respondent must complete the SEP as follows:

- i. By December 31, 2016, Respondent must install a second fan on the scrubber system with gates to switch between fans in the event of the failure of one of the fans.
56. Respondent must spend at least \$78,860 to install the equipment.
57. Respondent certifies as follows:
  - i. I certify that PGP Corporation d/b/a Voss Taylor is not required to perform or develop the SEP by any law, regulation, order, or agreement or as injunctive relief as of the date that I am signing this CAFO. I further certify that PGP Corporation d/b/a Voss Taylor has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.
  - ii. I certify that PGP Corporation d/b/a Voss Taylor is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. I further certify that, to the best of my knowledge and belief after reasonable inquiry, there is no such open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to U.S. EPA within two years of the date that I am signing this CAFO (unless the project was barred from funding as statutorily ineligible). For purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not expired.
58. U.S. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.
59. Respondent must maintain copies of the underlying data for all reports submitted to U.S. EPA according to this CAFO. Respondent must provide the documentation of any underlying data to U.S. EPA within seven days of U.S. EPA's request for the information.
60. Respondent must submit a SEP completion report to U.S. EPA by January 31, 2017. This report must contain the following information:
  - a. Detailed description of the SEP as completed;

- b. Description of any operating problems and the actions taken to correct the problems;
  - c. Itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders or canceled checks that specifically identify and itemize the individual costs of the goods and services;
  - d. Certification that Respondent has completed the SEP in compliance with this CAFO; and
  - e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).
61. Respondent must submit all notices and reports required by this CAFO by first class mail to James Entzminger of the Chemical Emergency Preparedness and Prevention Section at the address specified in paragraph 50, above.
62. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:
- i. I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.
63. Following receipt of the SEP completion report described in paragraph 54, above, U.S. EPA must notify Respondent in writing that:
- a. It has satisfactorily completed the SEP and the SEP report;
  - b. There are deficiencies in the SEP as completed or in the SEP report and U.S. EPA will give Respondent 30 days to correct the deficiencies; or
  - c. It has not satisfactorily completed the SEP or the SEP report and U.S. EPA will seek stipulated penalties under paragraph 65.

64. If U.S. EPA exercises option b, above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Respondent a written decision on its objection. Respondent will comply with any requirements that U.S. EPA imposes in its decision. If Respondent does not complete the SEP as required by U.S. EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 65, below.

65. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent did not complete the SEP satisfactorily according to the requirements of this CAFO, including the schedule in paragraph 55, Respondent must pay a penalty of \$78,860.
- b. If Respondent did not complete the SEP satisfactorily, but U.S. EPA determines that Respondent made good faith and timely efforts to complete the SEP and certified, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 56, Respondent will not be liable for any stipulated penalty under subparagraph a, above.
- c. If Respondent completed the SEP satisfactorily, but spent less than 90 percent of the amount set forth in paragraph 56, Respondent must pay a penalty of \$7,886.
- d. If Respondent did not submit timely the SEP completion report, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

<u>i. Penalty Per Violation Per Day</u>	<u>Period of Violation</u>
ii. \$ 500	1st through 14th day
iii. \$1,000	15th through 30th day
iv. \$1,500	31st day and beyond

66. U.S. EPA's determinations of whether Respondent completed the SEP satisfactorily and whether Respondent made good faith and timely efforts to complete the SEP will bind Respondent.

67. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraph 48, above, and will pay interest, handling charges and nonpayment penalties on any overdue amounts.

68. Any public statement that Respondent makes referring to the SEP must include the following language, "Respondent undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Respondent for violations of EPCRA Section 312."

69. Nothing in this CAFO is intended to nor will be construed to constitute U.S. EPA approval of the equipment or technology installed by Respondent in connection with the SEP under the terms of this CAFO.

70. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

#### **General Provisions**

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

72. 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.


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

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

- 75. This CAFO is a “final order” for purposes of U.S. EPA’s EPCRA/CERCLA Enforcement Response Policy.
- 76. The terms of this CAFO bind Respondent and its successors and assigns.
- 77. 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.
- 78. Each party agrees to bear its own costs and attorney’s fees in this action.
- 79. This CAFO constitutes the entire agreement between the parties.

**PGP Corporation d/b/a Voss Taylor, Respondent**

March 2, 2016  
Date

  
\_\_\_\_\_  
Robert J. Squiers  
General Counsel  
PGP Corporation d/b/a Voss Taylor

U.S. Environmental Protection Agency, Complainant

3/16/16  
Date

*Lawrence Schmitt*  
for M. Cecilia Moore, Chief  
Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency  
Region 5

3-17-16  
Date

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




In the Matter of: PGP Corporation d/b/a Voss Taylor, Taylor, Michigan  
Docket No. EPCRA-05-2016-0012



**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.

3-18-16  
Date

  
Robert A. Kaplan  
Acting Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

In the Matter of: PGP Corporation d/b/a Voss Taylor, Taylor, Michigan  
Docket No. EPCRA-05-2016-0012



Certificate of Service

I certify that I sent a true and correct copy of the foregoing Consent Agreement and Final Order, which was filed on MAR 22 2016 in the following manner to the addressees:

Copy by Certified Mail

Return Receipt Requested: Robert J. Squiers  
General Counsel  
PGP Corporation d/b/a Voss Taylor  
7925 Beech Daly Road  
Taylor, Michigan 48180

Copy by E-mail to

Attorney for Complainant: John P. Steketee  
Steketee.john@epa.gov

Copy by E-mail to

Regional Judicial Officer: Ann Coyle  
Coyle.ann@epa.gov

Dated: MAR 22 2016

LaDawn Whitehead  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2640 6660