



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

March 11, 2014

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL 7009 1680 0000 7647 6225
RETURN RECEIPT REQUESTED.

Mr. Douglas McClain
Vice President
6480 Lewis Road
Olmsted Falls, Ohio 44138

Consent Agreement and Final Order, In the Matter of
American Wire and Cable Company, Docket No. EPCRA-05-2012-0035

Dear Mr. McClain:

Enclosed is a copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on March 11, 2014, with the Regional Hearing Clerk.

The civil penalty in the amount of \$7,350 is to be paid in the manner described in paragraphs 9 and 10. In the comment or description field of the electronic funds transfer, please state: American Wire and Cable Company, and the docket number of this CAFO (above). Payment is due by April 10, 2014 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "M. Shaw".

Maynard Shaw

Pesticides and Toxics Compliance Section

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:) Docket No. EPCRA-05-2012-0035
)
American Wire and Cable Company) Proceeding to Assess a Civil Penalty Under
Cleveland, Ohio) Section 325(c) of the Emergency Planning
) and Community Right-to-Know Act of
Respondent.) 1986, 42 U.S.C. § 11045(c)
_____)

Consent Agreement and Final Order

Preliminary Statement

1. Complainant, the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5, brought this administrative action seeking a civil penalty under Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c).

2. On September 28, 2012, EPA filed the Complaint in this action against Respondent American Wire and Cable Company. The Complaint alleges that in 2006 Respondent processed copper at its Cleveland, Ohio facility in quantities exceeding the threshold for reporting under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and that Respondent violated Section 313 of EPCRA and 40 C.F.R. Part 372 by failing to submit Toxic Chemical Release Inventory Reporting Forms (Form R) for copper by July 1, 2007 for calendar year 2006.

Stipulations

3. Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint.

4. Respondent waives any right to contest the allegations in the Complaint and its right to appeal this Consent Agreement and Final Order (CAFO).

5. Respondent certifies that it is complying fully with EPCRA.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

7. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalties

8. In consideration of Respondent's cooperation EPA agrees to mitigate the proposed penalty of \$10,000 to \$7,350.

9. Within 30 days after the effective date of this CAFO, Respondent must pay the \$7350 civil penalty by 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 American Wire & Cable Co. and the docket number of this CAFO.

10. 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

Maynard Shaw (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

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

11. This civil penalty is not deductible for federal tax purposes.
12. 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.
13. 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 by the Secretary of the Treasury. 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

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

15. 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 violation of law.

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

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

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

19. 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.

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

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

American Wire and Cable Company, Respondent

JAN 30, 2014
Date

Douglas McClain V.P.
Douglas McClain
Vice President
American Wire and Cable Company

In the Matter of:

**American Wire and Cable Company
Docket No. EPCRA-05-2012-0035**

United States Environmental Protection Agency, Complainant

2/27/2014

Date



Margaret M. Guerriero
Director
Land and Chemicals Division


**In the Matter of:
American Wire and Cable Company
Docket No. EPCRA-05-2012-0035**



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.

3-6-2014
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

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 American Wire and Cable Company was filed on March 11, 2014, 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 7647 6225, a copy of the original to the Respondent:

Mr. Douglas McClain
Vice President
6480 Lewis Road
Olmsted Falls, Ohio 44138

and forwarded intra-Agency copies to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J
Sherry L. Estes, 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-05-2012-0035

