



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590  
June 29, 2022

**VIA ELECTRONIC MAIL**

Ms. Merna Jones  
Jones Trucking Company  
326 North Spruce Street  
Stewardson, Illinois 62462

Re: Jones Trucking Inc., Stewardson, Illinois, Consent Agreement and Final Order, Docket  
Nos. **MM-05-2022-0008; CERCLA-05-2022-0009; EPCRA-05-2022-0011**

Dear Mrs. Jones:

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 June 29, 2022.

Please pay the Comprehensive Environmental Response, Compensation and Liability Act civil penalty in the amount of \$14,821 in the manner prescribed in paragraphs 46 and 47 and reference your check with the billing document number 2752230B010 and the docket number(s) MM-05-2022-0008; CERCLA-05-2022-0009; EPCRA-05-2022-0011.

Please pay the Emergency Planning and Community Right-to-Know Act civil penalty in the amount of \$14,821 in the manner prescribed in paragraphs 49 and 50 and reference your check with the docket number(s) MM-05-2022-0008; CERCLA-05-2022-0009; EPCRA-05-2022-0011.

Your payments are due on July 29, 2022.

Please feel free to contact Ginger Jager at (312) 886-0767, or [jager.ginger@epa.gov](mailto:jager.ginger@epa.gov) if you have any questions regarding the enclosed documents. Please direct any legal questions to Kris P. Vezner, Associate Regional Counsel, at (312) 886-6827, or [vezner.kris@epa.gov](mailto:vezner.kris@epa.gov). Thank you for your assistance in resolving this matter.

Sincerely,

MICHAEL  
HANS

Digitally signed by  
MICHAEL HANS  
Date: 2022.06.23 07:53:08  
-05'00'

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

Enclosure

cc: Jon England, IL SERC (w/ enclosure)  
Kris Vezner, ORC

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

<b>In the Matter of:</b>	)	<b>Docket Nos.</b> MM-05-2022-0008; CERCLA-05-2022-0009; EPCRA-05-2022-0011
	)	
<b>Jones Trucking Service, Inc.</b>	)	
<b>Stewardson, Illinois</b>	)	
	)	
<b>Respondent.</b>	)	<b>Proceeding to Assess a Civil Penalty Under</b>
	)	<b>Section 109(b) of the Comprehensive</b>
	)	<b>Environmental Response, Compensation and</b>
	)	<b>Liability Act, and Section 325(b)(2) of the</b>
	)	<b>Emergency Planning and Community Right-</b>
	)	<b>to-Know Act of 1986</b>
	)	

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**Consent Agreement and Final Order**  
**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 109(b) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609(b), Section 325(b)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(b)(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 Emergency Response Branch 1, Superfund & Emergency Management Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is Jones Trucking Service, Inc. 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 Respondent consents to the entry and terms of this CAFO.

#### **Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO, neither admits nor denies the factual allegations in this CAFO and neither admits nor denies the violations 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 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires any person in charge of a facility to immediately notify the National Response Center (NRC) as soon as that person has knowledge of any release of a hazardous substance from the facility in an amount equal to or greater than the reportable quantity of the hazardous substance.

10. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and Section 304 of EPCRA, 42 U.S.C. § 11004, provide a mechanism to alert federal, state and local agencies that a response action may be necessary to prevent deaths or injuries to emergency responders, facility personnel and the local community.

11. Section 304(a)(1) of EPCRA, 42 U.S.C. § 11004(a)(1), requires that the owner or operator of a facility must immediately provide notice, as described in Section 304(b) of

EPCRA, 42 U.S.C. § 11004(b), if a release of an extremely hazardous substance in quantities equal to or greater than a reportable quantity occurs from a facility at which hazardous chemicals are produced, used or stored and such release requires notice under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

12. Under Section 304(b) of EPCRA, 42 U.S.C. § 11004(b), notice required under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), must be given immediately after the release by the owner or operator of a facility to the community emergency coordinator for the local emergency planning committee (LEPC) for any area likely to be affected by the release and to the state emergency response commission (SERC) of any state likely to be affected by a release.

13. 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.

14. Section 109(b) of CERCLA, 42 U.S.C. § 9609(b), and Section 325(b)(2) of EPCRA, 42 U.S.C. § 11045(b)(2) authorize U.S. EPA to assess a civil penalty of up to \$25,000 per day of violation of CERCLA Section 103 and EPCRA Section 304. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. No. 114-74, § 701, 129 Stat. 584, 599 (2015), amending 28 U.S.C. § 2461 note, and the implementing regulations at 40 C.F.R. Part 19 increased the statutory maximum penalty to \$62,689 per day of violation for each day that occurred after November 2, 2015, and for which penalties are assessed on or after January 12, 2022.

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

15. Respondent is a “person” as that term is defined under Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

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 a J650 tractor and tanker (facility).

18. At all times relevant to this CAFO, Respondent was in charge of the facility.

19. Respondent's facility consists of a motor vehicle, or any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located.

20. Respondent's facility is a "facility" as that term is defined under Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

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

22. Anhydrous ammonia CAS #7664-41-7 is a "hazardous substance" as that term is defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

23. Anhydrous ammonia CAS #7664-41-7 has a reportable quantity of 100 pounds, as indicated at 40 C.F.R. Part 302, Table 302.4.

24. Anhydrous ammonia is classified as a physical or health hazard, a simple asphyxiant, combustible dust, pyrophoric gas, or hazard not otherwise classified.

25. Anhydrous ammonia CAS #7664-41-7 is an "extremely hazardous substance" according to Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2).

26. Anhydrous ammonia CAS #7664-41-7 has a reportable quantity of 100 pounds, as indicated at 40 C.F.R. Part 355, Appendix A.

27. At all times relevant to this Complaint, Respondent used or stored anhydrous

ammonia at the facility.

28. On April 5, 2016, at or about 5:30 a.m., a release occurred from Respondent's facility of approximately 40,379 pounds of anhydrous ammonia (the release).

29. In a 24-hour time period, the release of anhydrous ammonia exceeded 100 pounds.

30. During the release, approximately 40,379 pounds spilled, leaked, pumped, poured, emitted, emptied, discharged, injected, escaped, leached, dumped, or disposed into the air.

31. The release is a "release" as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

32. The release is a "release" as that term is defined under Section 329(8) of EPCRA, 42 U.S.C. § 11049(8).

33. Respondent had knowledge of the release on April 5, 2016, at approximately 5:30 a.m. The release ended at approximately 6:30 a.m.

34. The release was one for which notice was required under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

35. The release required notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

36. The release was likely to affect Illinois.

37. 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).

38. Respondent notified the NRC of the release on April 5, 2016, at 6:58 a.m.

39. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the release.

40. Respondent's failure to immediately notify the NRC of the release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

41. Respondent notified the Illinois SERC of release on April 5, 2016, at 7:28 a.m.

42. Respondent did not immediately notify the SERC after Respondent had knowledge of the release.

43. Respondent's failure to immediately notify the SERC of the release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

44. On or about September 4, 2019, U.S. EPA issued to Respondent a Notice of Intent to File Civil Administrative Complaint. That Notice alleged three violations: (1) failure to immediately report a release of anhydrous ammonia to the NRC, (2) failure to immediately report a release of anhydrous ammonia to the SERC, and (3) failure to send a written follow-up report to the LEPC within 30 days of the release.

**Civil Penalty**

45. Complainant has determined that an appropriate civil penalty to settle this action is \$14,821 for the CERCLA violation. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violation, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violation 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).

46. Respondent must pay the \$14,821 CERCLA penalty in three installments, with interest, as follows:

<u>Installment</u>	<u>Due by</u>	<u>Payment</u>	<u>Principal</u>	<u>Interest</u>
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Payment #1	Within 30 days of effective date of CAFO	\$4,940.33	\$4,940.33	\$0
Payment #2	Within 395 days of effective date of CAFO	\$4,950.32	\$4,940.33	\$9.99
Payment #3	Within 760 days of effective date of CAFO	\$4,945.35	\$4,940.34	\$5.01

47. If Respondent wishes to pay the CERCLA installments by checks sent by regular U.S. postal service, then it must send a cashier's or certified check payable to "EPA Hazardous Substance Superfund," to:

U.S. Environmental Protection Agency  
 Superfund Payments  
 Cincinnati Finance Center  
 P.O. Box 979076  
 St. Louis, MO 63197-9000

If Respondent wishes to pay the CERCLA installments by checks sent by express mail, then it must send a cashier's or certified check, payable to "EPA Hazardous Substance Superfund," to:

U.S. Bank  
 Government Lockbox 979076 U.S. EPA Superfund Payments  
 1005 Convention Plaza  
 Mail Station SL-MO-C2-GL  
 St. Louis, MO 63101

Each check must state the following: In re: Jones Trucking Service, Inc., the CERCLA docket number of this CAFO CERCLA-05-2022-0009 and the billing document number 2752230B010.

48. Complainant has determined that an appropriate civil penalty to settle this action is \$14,821 for the EPCRA violation. 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, effect on ability to continue to do business, prior history of violations,

economic benefit or savings resulting from the violation and any other matters as justice may require. Complainant also considered U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

49. Respondent must pay the \$14,821 EPCRA penalty in three installments, with interest, as follows:

<u>Installment</u>	<u>Due by</u>	<u>Payment</u>	<u>Principal</u>	<u>Interest</u>
Payment #1	Within 30 days of effective date of CAFO	\$4,940.33	\$4,940.33	\$0
Payment #2	Within 395 days of effective date of CAFO	\$5,048.75	\$4,940.33	\$108.42
Payment #3	Within 760 days of effective date of CAFO	\$4,990.43	\$4,940.34	\$50.09

50. If Respondent wishes to pay the EPCRA installments by checks sent by regular U.S. postal service, then it must send 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

If Respondent wishes to pay the EPCRA installments by checks sent by express mail, then it must send 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

Each check must note the following: In re: Jones Trucking Service, Inc. and the EPCRA docket

number of this CAFO EPCRA-05-2022-0011.

51. A transmittal letter must accompany each payment, stating

Respondent's name (Jones Trucking Service, Inc.);

case name (In re: Jones Trucking Service, Inc.);

Respondent's complete address;

the case CERCLA or EPCRA docket number, depending on which penalty the payment is for; and

for CERCLA penalty payments, the billing document number.

Respondent must send a copy of each check and transmittal letter to:

Regional Hearing Clerk, (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604-3511

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

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

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

53. If Respondent does not timely pay any installment payment as set forth in paragraphs 46-47 and 49-51, above, then the entire unpaid balance of the civil penalties and any amount required by paragraph 54, below, shall become due and owing upon written notice by U.S. EPA to Respondent of the delinquency. 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.

54. 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.

#### **General Provisions**

55. The parties consent to service of this CAFO by email at the following valid email addresses: vezner.kris@epa.gov (for Complainant) and muellerf@jbltd.com and boehmg@jbltd.com (for Respondent).

56. Full payment of the penalty and compliance with this CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

57. 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.

58. Respondent certifies that it is complying with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and Section 304 of EPCRA, 42 U.S.C. § 11004.

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

60. This CAFO is a "final order" for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

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

62. 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.

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

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

**In the Matter of: Jones Trucking Service, Inc.**

**Docket Nos. [ ] and [ ]** MM-05-2022-0008; CERCLA-05-2022-0009; EPCRA-05-2022-0011

**Jones Trucking Service, Inc., Respondent**

6/8/22  
\_\_\_\_\_  
Date

Merna Jones  
\_\_\_\_\_  
Merna Jones  
President  
Jones Trucking Service, Inc.

**U.S. Environmental Protection Agency, Complainant**

June 23, 2022

Date

**Jason El-Zein**

Digitally signed by Jason  
El-Zein  
Date: 2022.06.23 12:29:27  
-04'00'

Jason El-Zein  
Chief, Emergency Response Branch 1  
Superfund & Emergency Management Division  
U.S. Environmental Protection Agency  
Region 5

June 24, 2022

Date

**DOUGLAS  
BALLOTTI**

Digitally signed by  
DOUGLAS BALLOTTI  
Date: 2022.06.24  
09:41:30 -05'00'

Douglas Ballotti  
Director  
Superfund & Emergency Management Division  
U.S. Environmental Protection Agency  
Region 5

**In the Matter of: Jones Trucking Service, Inc.**

**Docket Nos. [ ] and [ ]** MM-05-2022-0008; CERCLA-05-2022-0009; EPCRA-05-2022-0011

**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: 2022.06.27 13:53:38 -05'00'

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ann L. Coyle  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
Region 5

**In the Matter of: Jones Trucking Service, Inc.**

**Docket Nos. [ ] and [ ]** MM-05-2022-0008; CERCLA-05-2022-0009; EPCRA-05-2022-0011

**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 June 29, 2022 in the following manner to the addressees:

Copy by Certified Mail

Return Receipt Requested: Merna Jones  
Jones Trucking Service, Inc.  
326 N. Spruce St.  
Stewardson IL 62462

Copy by E-mail to

Attorneys for Respondent: Frederick Mueller  
muellerf@jbltd.com

Garrett Boehm  
boehmg@jbltd.com

Copy by E-mail to

Attorney for Complainant: Kris P. Vezner  
Vezner.kris@epa.gov

Copy by E-mail to

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

Dated: \_\_\_\_\_

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

CERTIFIED MAIL RECEIPT NUMBER(S): \_\_\_\_\_