

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Catherine Smith 6/18/19
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number EPCRA-DI-2019-0027

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

David Williams
Photofabrication Engineering, Inc.
500 Fortune Boulevard
Milford, MA

Total Dollar Amount of Receivable \$ 7,562 Due Date: 7/18/19

SEP due? Yes No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

- 1st \$ _____ on _____
- 2nd \$ _____ on _____
- 3rd \$ _____ on _____
- 4th \$ _____ on _____
- 5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office Phone Number



U. S. ENVIRONMENTAL PROTECTION AGENCY – NEW ENGLAND
5 POST OFFICE SQUARE, SUITE 100 (OES04-4)
BOSTON, MA 02109-3912

VIA HAND DELIVERY

June 18, 2019

Ms. Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912

RECEIVED

JUN 18 2019

EPA ORC ^{WS}
Office of Regional Hearing Clerk

Re: Photofabrication Engineering, Inc./EPA Docket No. EPCRA-01-2019-0027

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter are an original and one copy of an executed *Consent Agreement and Final Order* ("CAFO") for the above-referenced matter. Also enclosed are an original and one copy of a Certificate of Service.

EPA has sent copies of the CAFO, the Certificate of Service, and this letter to the Respondent by Certified Mail. Thank you for your assistance. Please call me at 617-918-1777 if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Catherine Smith".

Catherine Smith
Senior Enforcement Counsel

cc: David Williams, Photofabrication Engineering
Charles Lehrer, Photofabrication Engineering
Mary Jane O'Donnell, EPA

Enclosures:

1. Original CAFO and copy of CAFO
2. Certificate of Service and copy



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

RECEIVED

JUN 18 2019

EPA ORC
Office of Regional Hearing Clerk

EXPEDITED SETTLEMENT AGREEMENT
DOCKET NO: EPCRA-01-2019-0027

This Expedited Settlement Agreement is issued to:

Photofabrication Engineering, Inc. of Milford, Massachusetts, for alleged violations of Section 312 of the Emergency Planning and Community Right-To-Know Act.

This Expedited Settlement Agreement (“ESA”) is being entered into by the United States Environmental Protection Agency (“EPA”), Region 1, by its duly delegated official, and by Respondent, Photofabrication Engineering, Inc. (“PEI” or “Respondent”), pursuant to Section 325 of the Emergency and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11045, and 40 C.F.R. § 22.13(b).

ALLEGED VIOLATIONS

PEI operates a facility at 500 Fortune Boulevard, Milford, Massachusetts, where the company photo etches precision metal parts (“The Facility”). The company uses several chemicals in its operations, including hydrofluoric acid. PEI stores hydrofluoric acid having a concentration of 49% hydrogen fluoride (“HF 49%”) and uses hydrofluoric acid with a concentration of 7% hydrogen fluoride (“HF 7%”). Hydrofluoric acid is a chemical for which PEI is required to have a Safety Data Sheet pursuant to the Occupational Health and Safety Administration’s Hazard Communication Standard at 29 C.F.R. § 1910.1200(g), and is thus subject to reporting under EPCRA Section 312, 42 U.S.C. § 11022.

EPA learned of a hydrofluoric acid spill that occurred at the Facility on January 14, 2019. On February 14, 2019, EPA issued PEI an information request letter (“Information Request”) to learn more about the spill and the company’s compliance with federal environmental laws, including the chemical inventory reporting requirements of EPCRA. PEI timely responded to the Information Request on March 12, 2019.

PEI is a “person,” as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and the operator of a “facility,” as defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 370.66. Pursuant to the requirements of Section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations set forth at 40 C.F.R. Part 370, PEI is required to submit to the local fire department, the State Emergency Response Commission, and the Local Emergency Planning Committee (the “Relevant Authorities”) an annual emergency and inventory form (“Tier 2 form”) for those chemicals present in amounts that equal or exceed thresholds set out in 40 C.F.R. § 370.10. For extremely hazardous substances, such as hydrogen fluoride, 40 C.F.R. § 370.10(a)(1) specifies that the reporting requirement applies if the chemical is present at the Facility at any one time in an amount equal to or greater than 500 pounds or the Threshold

Planning Quantity (“TPQ”) listed in Appendix A of 40 C.F.R. Part 355, whichever is lower. The TPQ for hydrogen fluoride is 100 pounds.

In at least 2017 through 2019, 477 pounds of hydrogen fluoride in solution have been present at the Facility, exceeding the TPQ. Pursuant to Section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations at 40 C.F.R. Part 370, PEI was required to submit a Tier 2 form for each calendar year on or before March 1 of the subsequent year but failed to do so for hydrofluoric acid for at least reporting years 2017 and 2018. Prior to the Information Request, PEI had reported its inventory of other chemicals to the Relevant Authorities but not the hydrogen fluoride present in hydrofluoric acid. Accordingly, PEI violated Section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations at 40 C.F.R. Part 370. After receiving the Information Request, PEI submitted a revised Tier 2 form to the Relevant Authorities on March 12, 2019, including hydrofluoric acid.

SETTLEMENT

EPA and PEI agree that settlement of this matter for a penalty of **\$7,562** is fair, appropriate and in the public interest, and EPA finds that the penalty is consistent with statutory penalty factors and the applicable penalty policy. In signing this agreement, PEI (1) admits that EPA has jurisdiction over the allegations contained herein; (2) neither admits nor denies the specific factual allegations contained herein; (3) consents to the assessment of this penalty; and (4) waives its rights to have a judicial or administrative hearing on any issue of law or fact set forth in this ESA, contest the allegations, and appeal this ESA and Final Order. Each party to this action agrees to bear its own costs and fees, if any.

By its signature below, PEI certifies that the alleged violation has been corrected and agrees to pay the penalty in accordance with the terms of this ESA. PEI also certifies that it is compliance with Section 302 of EPCRA, 42 U.S.C. § 11002 and implementing regulations found in 40 C.F.R. Part 355, Subpart B.

Within 30 days of receipt of this proposed ESA, PEI shall send a copy of the signed ESA to:

Mary Jane O’Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency
Mail Code OES 05-1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Upon receipt of the ESA signed by PEI, EPA will present the ESA to the Regional Judicial Office for issuance of a Final Order. Then EPA will file the ESA with the EPA Regional Hearing Clerk. PEI agrees to submit payment of the penalty within 30 days of the date on which this ESA is filed with the Regional Hearing Clerk. EPA will forward a copy of the fully executed ESA to PEI as soon as it is filed with the Regional Hearing Clerk. The civil penalty of \$7,652 shall be made in accordance with the attached Payment Instructions.

Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. In the event that any portion of the civil penalty, plus interest thereon is not paid when due without demand, the penalty plus accrued interest shall be payable with additional interest from the original due date of payment at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). In addition, a penalty charge of six percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Should assessment of the penalty charge on the debt be required, it will be assessed on the first day payment is due under 31 C.F.R. § 901.9(d).

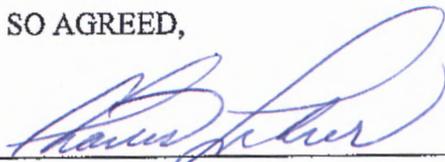
Upon PEI's submission of the original signed ESA and payment of the penalty as set forth in this ESA, EPA will take no further civil action against PEI for the alleged violations of EPCRA identified in this ESA.

Nothing in this ESA shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This ESA shall resolve only the violations alleged herein, and it does not waive, extinguish, or otherwise affect PEI's obligation to comply with EPCRA or any other federal statute or regulation.

The terms of this ESA may not be modified or amended except upon agreement of both parties and approval of the Regional Judicial Officer. This ESA is binding on the parties signing below.

In accordance with 40 CFR 22.31(b), this ESA is effective upon filing with the Region 1 Hearing Clerk.

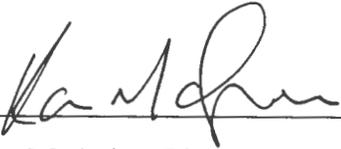
IT IS SO AGREED,

By: 

Date: 4/30/19

Title: President
Photofabrication Engineering, Inc.
500 Fortune Boulevard
Milford, Mass. 01757

APPROVED BY EPA

By:  _____

Date: June 17, 2019

Karen McGuire, Director
Enforcement and Compliance Assurance Division
U.S. EPA Region 1

PAYMENT INSTRUCTIONS

Respondent may pay the penalty by check (mail or overnight delivery), wire transfer, ACH, or online payment. Additional payment instructions are available at:

<http://www2.epa.gov/financial/makepayment>.

Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

If paid by check, the docket number of the ESA must be included on the check. (The docket number is located at the top of this ESA.)

If paid by wire transfer, include the docket number in in Field Tag 6000 and D 68010727 Environmental Protection Agency" in Field Tag 4200. The wire transfer account is:

Federal Reserve Bank of New York
33 Liberty Street
New York, NY 10045
ABA: 021030004
Account: 68010727
SWIFT address: FRNYUS33

Concurrently with payment, Respondent must send photocopies of the check, or proof of other payment method to the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 1, Mail Code ORC 04-6-1
Boston, MA 02109-3912
Santiago.wanda@epa.gov

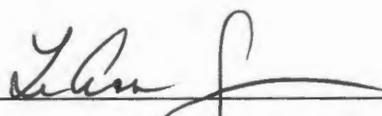
Mary Jane O'Donnell
U.S. Environmental Protection Agency
Region 1, Mail Code OES 05-1
Boston, MA 02109-3912
odonnell.maryjane@epa.gov

FINAL ORDER

Pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)-(c) of EPA's Consolidated Rules of Practice, the foregoing Expedited Settlement Agreement resolving *In the Matter of Photofabrication Engineering, Inc.*, Docket No. EPCRA-01-2019-0027, is incorporated by reference into this Final Order and is hereby ratified.

The Respondent is hereby ordered to pay the civil penalty amount specified in the Expedited Settlement Agreement in the manner indicated in the enclosed Payment Instructions. The terms of the Expedited Settlement Agreement will become effective on the date on which it is filed with the Regional Hearing Clerk.

IT IS SO ORDERED:



LeAnn Jensen
Regional Judicial Officer
EPA Region 1

Date: 6/18/19

CERTIFICATE OF SERVICE

Re: Photofabrication Engineering, Inc./EPA Docket No. EPCRA-01-2019-0027

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date and in the manner noted below:

Original and one copy,
hand-delivered:

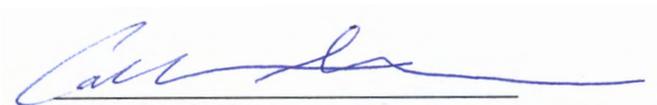
Ms. Wanda Santiago, Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3812

Copy, by Certified Mail:

David Williams, EHS Manager
Photofabrication Engineering, Inc.
500 Fortune Boulevard
Milford, Mass. 01757

Charles Lehrer, President
Photofabrication Engineering, Inc.
500 Fortune Boulevard
Milford, Mass. 01757

Date: 6/18/19



Catherine Smith
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3812
617-918-1777
smith.catherine@epa.gov