



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

MAR - 5 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

Mitchell J. Klein
Polsinelli Shugart PC
CityScape
One E. Washington St., Ste. 1200
Phoenix, AZ 85004

Re: Concrete Supply of Illinois, LLC, East St. Louis, Illinois, Consent Agreement and Final Order, Docket No. **EPCRA-05-2013-0011**

Dear Mr. Klein:

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 March 5, 2013.

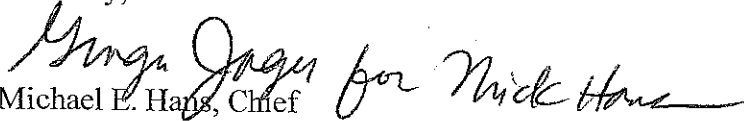
Please pay the EPCRA civil penalty in the amount of \$25,500 in the manner prescribed in paragraphs 183 and 184, and reference your check with the docket number:

EPCRA-05-2013-0011

Your payments are due on April 4, 2013.

Please feel free to contact Ginger Jager at (312) 886-0767 if you have any questions regarding the enclosed documents. Please direct any legal questions to Monesh Chabria, Associate Regional Counsel, at (312) 886-6842. Thank you for your assistance in resolving this matter.

Sincerely,


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

Enclosure

cc: Kathy Allen, IL SERC (w/ enclosure)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

RECEIVED
MAR 05 2013

REGIONAL HEARING CLERK
USEPA
REGION 5

In the Matter of:) Docket No. EPCRA-05-2013-0011
)
Concrete Supply of Illinois, LLC)
East St. Louis, Illinois) Proceeding to Assess a Civil Penalty Under
) Section 325 (c)(1) of the Emergency Planning
Respondent.) and Community Right-to-Know Act of 1986
)
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)
)
)
)
_____)

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, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. Respondent is Concrete Supply, LLC, a limited liability company 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 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 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

U.S. EPA at 40 C.F.R. Part 355, Appendices A and B, whichever is lower.

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, MSDS.

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

13. According to 29 C.F.R. § 1910.1200(c), a “hazardous chemical” is defined as “any chemical which is a physical hazard or a health hazard.”

14. Section 325(c)(1) of EPCRA, 42 U.S.C. § (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 \$37,500 per day of violation for violations that occurred after January 12, 2009.

Factual Allegations and Alleged Violations

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

16. Calcium chloride is a chemical which irritates eyes and skin on contact, lungs upon inhalation, and digestive tracts upon ingestion.

17. Calcium chloride 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).

18. Calcium chloride has a minimum threshold level of ten thousand pounds, as provided in 40 C.F.R. Part 370.

19. Canola oil is a chemical which irritates respiratory tracts upon inhalation of vapors or mists and eyes on contact.

20. Canola oil 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. Canola oil has a minimum threshold level of ten thousand pounds, as provided in 40 C.F.R. Part 370.

22. Portland cement (CAS #65997-15-1) 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.

23. Portland cement (CAS #65997-15-1) 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. Portland cement (CAS #65997-15-1) has a minimum threshold level of ten thousand pounds, as provided in 40 C.F.R. Part 370.

25. Daracem 65 is a chemical which irritates lungs upon inhalation, eyes upon contact, and digestive tracts upon ingestion.

26. Daracem 65 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. Daracem 65 has a minimum threshold level of ten thousand pounds, as provided in 40 C.F.R. Part 370.

28. Diesel fuel is a chemical which severely irritates skin on contact and mildly

irritates eyes upon contact.

29. Diesel fuel is a chemical that is flammable.

30. Diesel fuel 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).

31. Diesel fuel has a minimum threshold level of ten thousand pounds, as provided in 40 C.F.R. Part 370.

32. Fly ash is a chemical which irritates eyes and skin upon contact, and respiratory tracts upon inhalation. Chronic exposure to dust from fly ash and its component crystalline silica can cause inflammation of nasal tissue and cornea, allergic dermatitis, silicosis, and possibly cancer.

33. Fly ash 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).

34. Fly ash has a minimum threshold level of ten thousand pounds, as provided in 40 C.F.R. Part 370.

35. Limestone (CAS#1317-65-3) 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.

36. Limestone (CAS #1317-65-3) 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).

37. Limestone (CAS #1317-65-3) has a minimum threshold level of ten thousand pounds, as provided in 40 C.F.R. Part 370.

38. Crystalline silica (CAS #14808-60-7), also known as natural sand, 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.

39. Crystalline silica (CAS #14808-60-7) 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).

40. Crystalline silica (CAS #14808-60-7) has a minimum threshold level of ten thousand pounds, as provided in 40 C.F.R. Part 370.

41. Propane (CAS #74-98-6) 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.

42. Propane (CAS #74-98-6) 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).

43. Propane (CAS #74-98-6) has a minimum threshold level of ten thousand pounds, as provided in 40 C.F.R. Part 370.

East St. Louis Facility

44. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 6451 Harness Lane, East St. Louis, St. Clair County, Illinois (East St. Louis Facility).

45. At all times relevant to this CAFO, Respondent was an employer at the East St. Louis Facility.

46. Respondent’s East St. Louis 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.

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

48. During at least one period of time in calendar year 2008, calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand) were

present at the East St. Louis Facility in an amount equal to or greater than the minimum threshold level.

49. During at least one period of time in calendar year 2009, calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand) were present at the East St. Louis Facility in an amount equal to or greater than the minimum threshold level.

50. At all times relevant to this CAFO, OSHA required Respondent to prepare, or have available, MSDSs for calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand).

Edwardsville Facility

51. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 5010 Old Alton Edwardsville Rd, Edwardsville, Madison County, Illinois (Edwardsville Facility).

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

53. Respondent's Edwardsville 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.

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

55. During at least one period of time in calendar year 2008, calcium chloride, Portland cement, Daracem 65, diesel fuel, fly ash, limestone, and crystalline silica (natural

sand) were present at the Edwardsville Facility in an amount equal to or greater than the minimum threshold level.

56. During at least one period of time in calendar year 2009, calcium chloride, canola oil, Portland cement, Daracem 65, diesel fuel, fly ash, limestone, and crystalline silica (natural sand) were present at the Edwardsville Facility in an amount equal to or greater than the minimum threshold level.

57. At all times relevant to this CAFO, OSHA required Respondent to prepare, or have available at the Edwardsville Facility, MSDSs for calcium chloride, canola oil, Portland cement, Daracem 65, diesel fuel, fly ash, limestone, and crystalline silica (natural sand).

Godfrey Facility

58. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 7115 Montclair Avenue, Godfrey, Madison County, Illinois (Godfrey Facility).

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

60. Respondent's Godfrey 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.

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

62. During at least one period of time in calendar year 2008, calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand) were present at the Godfrey Facility in an amount equal to or greater than the minimum threshold

level.

63. During at least one period of time in calendar year 2009, calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand) were present at the Godfrey Facility in an amount equal to or greater than the minimum threshold level.

64. At all times relevant to this CAFO, OSHA required Respondent to prepare, or have available at the Godfrey Facility, an MSDS for calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand).

Madison Facility

65. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 1032 Eagle Park Road, Madison, Madison County, Illinois (Madison Facility).

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

67. Respondent's Madison 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.

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

69. During at least one period of time in calendar year 2008, calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand) were present at the Madison Facility in an amount equal to or greater than the minimum threshold level.

70. During at least one period of time in calendar year 2009, calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand) were present at the Madison Facility in an amount equal to or greater than the minimum threshold level.

71. At all times relevant to this CAFO, OSHA required Respondent to prepare, or have available at the Madison Facility, MSDSs for calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand).

Roxana Facility

72. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 4553 Wagon Wheel Road, Roxana, Madison County, Illinois (Roxana Facility).

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

74. Respondent's Roxana 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.

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

76. During at least one period of time in calendar year 2008, calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand) were present at the Roxana Facility in an amount equal to or greater than the minimum threshold level.

77. During at least one period of time in calendar year 2009, calcium chloride,

Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand) were present at the Roxana Facility in an amount equal to or greater than the minimum threshold level.

78. At all times relevant to this CAFO, OSHA required Respondent to prepare, or have available at the Roxana Facility, MSDSs for calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand).

Troy Facility

79. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 1474 Alarth Drive, Troy, Madison County, Illinois (Troy Facility).

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

81. Respondent's Troy 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.

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

83. During at least one period of time in calendar year 2008, calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand) were present at the Troy Facility in an amount equal to or greater than the minimum threshold level.

84. During at least one period of time in calendar year 2009, calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand) were present at the Troy Facility in an amount equal to or greater than the minimum threshold

level.

85. At all times relevant to this CAFO, OSHA required Respondent to prepare, or have available at the Troy Facility, MSDSs for calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand).

Waterloo Facility

86. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 4984 Old Red Bud Road, Waterloo, Monroe County, Illinois (Waterloo Facility).

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

88. Respondent's Waterloo 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.

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

90. During at least one period of time in calendar year 2008, calcium chloride, Portland cement, diesel fuel, fly ash, limestone, crystalline silica (natural sand), and propane were present at the Waterloo Facility in an amount equal to or greater than the minimum threshold level.

91. During at least one period of time in calendar year 2009, calcium chloride, Portland cement, diesel fuel, fly ash, limestone, crystalline silica (natural sand), and propane were present at the Waterloo Facility in an amount equal to or greater than the minimum threshold level.

92. At all times relevant to this CAFO, OSHA required Respondent to prepare, or have available at the Waterloo Facility, MSDSs for calcium chloride, Portland cement, diesel fuel, fly ash, limestone, crystalline silica (natural sand), and propane.

Additional General Allegations

93. For each of the facilities referenced in this CAFO, 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 each hazardous chemical present at the facility on or before March 1, for the preceding calendar year.

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

95. 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).

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

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

98. At all times relevant to this CAFO, the Alorton Fire Department was the fire department with jurisdiction over the East St. Louis Facility.

99. At all times relevant to this CAFO, the Roxana Fire Department was the fire

department with jurisdiction over the Edwardsville Facility.

100. At all times relevant to this CAFO, the Godfrey Fire Department was the fire department with jurisdiction over the Godfrey Facility.

101. At all times relevant to this CAFO, the Madison Fire Department was the fire department with jurisdiction over the Madison Facility.

102. At all times relevant to this CAFO, the Roxana Fire Department was the fire department with jurisdiction over the Roxana Facility.

103. At all times relevant to this CAFO, the Troy Fire Department was the fire department with jurisdiction over the Troy Facility.

104. At all times relevant to this CAFO, the Waterloo Fire Department was the fire department with jurisdiction over the Waterloo Facility.

105. Respondent did not submit to the SERC, LEPC, and local fire department a completed Emergency and Hazardous Chemical Inventory Form for the East St. Louis Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand for calendar year 2008.

106. Each day Respondent failed to submit to the SERC, LEPC and local fire department a completed Emergency and Hazardous Chemical Inventory Form for the East St. Louis Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2009, for calendar year 2008 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

107. Respondent submitted to the SERC an Emergency and Hazardous Chemical Inventory Form for the East St. Louis Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on November 8, 2010, for calendar year 2009.

108. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the East St. Louis Facility including limestone and natural sand on August 5, 2011, for calendar year 2009.

109. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the East St. Louis Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand, by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

110. Respondent submitted to the St. Clair County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the East St. Louis Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on November 10, 2010 for calendar year 2009.

111. Respondent submitted to the St. Clair County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the East St. Louis Facility including limestone and natural sand on August 5, 2011, for calendar year 2009.

112. Each day Respondent failed to submit to the St. Clair County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the East St. Louis Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand, by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

113. Respondent submitted to the Alorton Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the East St. Louis Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on November 10, 2010, for calendar year

2009.

114. Respondent submitted to the Alorton Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the East St. Louis Facility, including limestone and natural sand on August 5, 2011, for calendar year 2009.

115. Each day Respondent failed to submit to the Alorton Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the East St. Louis Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand, by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

116. Respondent did not submit to the SERC, LEPC, and local fire department a completed Emergency and Hazardous Chemical Inventory Form for the Edwardsville Facility including calcium chloride, Portland cement, Daracem 65, diesel fuel, fly ash, limestone, and natural sand for calendar year 2008.

117. Each day Respondent failed to submit to the SERC, LEPC, and local fire department a completed Emergency and Hazardous Chemical Inventory Form for the Edwardsville Facility including calcium chloride, Portland cement, Daracem 65, diesel fuel, fly ash, limestone, and natural sand by March 1, 2009, for calendar year 2008 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

118. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Edwardsville Facility including calcium chloride, canola oil, Portland cement, diesel fuel, fly ash, and Daracem 65 on November 8, 2010, for calendar year 2009.

119. Respondent submitted to the SERC a completed Emergency and Hazardous

Chemical Inventory Form for the Edwardsville Facility including limestone and natural sand on August 5, 2011, for calendar year 2009.

120. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Edwardsville Facility including calcium chloride, canola oil, Portland cement, diesel fuel, fly ash, Daracem 65, limestone, and natural sand, by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

121. Respondent submitted to the Madison County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Edwardsville Facility including calcium chloride, canola oil, Portland cement, diesel fuel, fly ash, and Daracem 65 on November 10, 2010, for calendar year 2009.

122. Respondent submitted to the Madison County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Edwardsville Facility including limestone and natural sand on August 5, 2011, for calendar year 2009.

123. Each day Respondent failed to submit to the Madison County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Edwardsville Facility including calcium chloride, canola oil, Portland cement, diesel fuel, fly ash, Daracem 65, limestone and natural sand, by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

124. Respondent submitted to the Roxana Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Edwardsville Facility including calcium chloride, canola oil, Portland cement, diesel fuel, fly ash, and Daracem 65 on November 10, 2010, for calendar year 2009.

125. Respondent submitted to the Roxana Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Edwardsville Facility including limestone and natural sand on August 5, 2011, for calendar year 2009.

126. Each day Respondent failed to submit to the Roxana Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Edwardsville Facility including calcium chloride, canola oil, Portland cement, diesel fuel, fly ash, Daracem 65, limestone, and natural sand, by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

127. Respondent did not submit to the SERC, LEPC, and local fire department a completed Emergency and Hazardous Chemical Inventory Form for the Godfrey Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand for calendar year 2008.

128. Each day Respondent failed to submit to the SERC, LEPC, and local fire department a completed Emergency and Hazardous Chemical Inventory Form for the Godfrey Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2009, for calendar year 2008 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

129. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Godfrey Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on November 10, 2010, for calendar year 2009.

130. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Godfrey Facility including limestone and natural sand on August 5, 2011, for calendar year 2009.

131. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Godfrey Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

132. Respondent submitted to the Madison County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Godfrey Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on November 10, 2010, for calendar year 2009.

133. Respondent submitted to the Madison County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Godfrey Facility including limestone and natural sand on August 5, 2011, for calendar year 2009.

134. Each day Respondent failed to submit to the Madison County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Godfrey Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

135. Respondent submitted to the Godfrey Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Godfrey Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on November 10, 2010, for calendar year 2009.

136. Respondent submitted to the Godfrey Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Godfrey Facility including limestone and

natural sand on August 5, 2011, for calendar year 2009.

137. Each day Respondent failed to submit to the Godfrey Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Godfrey Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

138. Respondent did not submit to the SERC, LEPC, and local fire department a completed Emergency and Hazardous Chemical Inventory Form for the Madison Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand for calendar year 2008.

139. Each day Respondent failed to submit to the SERC, LEPC, and local fire department a completed Emergency and Hazardous Chemical Inventory Form for the Madison Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2009, for calendar year 2008 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

140. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Madison Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on November 8, 2010, for calendar year 2009.

141. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Madison Facility including limestone and natural sand on August 5, 2011, for calendar year 2009.

142. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Madison Facility including calcium chloride,

Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

143. Respondent submitted to the Madison County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Madison Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on November 10, 2010, for calendar year 2009.

144. Respondent submitted to the Madison County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Madison Facility including limestone and natural sand on August 5, 2011, for calendar year 2009.

145. Each day Respondent failed to submit to the Madison County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Madison Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

146. Respondent submitted to the Madison Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Madison Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on November 10, 2010, for calendar year 2009.

147. Respondent submitted to the Madison Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Madison Facility including limestone and natural sand on August 5, 2011, for calendar year 2009.

148. Each day Respondent failed to submit to the Madison Fire Department a

completed Emergency and Hazardous Chemical Inventory Form for the Madison Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

149. Respondent did not submit to the SERC, LEPC, and local fire department a completed Emergency and Hazardous Chemical Inventory Form for the Roxana Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand for calendar year 2008.

150. Each day Respondent failed to submit to the SERC, LEPC, and local fire department a completed Emergency and Hazardous Chemical Inventory Form for the Roxana Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2009, for calendar year 2008 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

151. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Roxana Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on November 8, 2010, for calendar year 2009.

152. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Roxana Facility including limestone and natural sand on August 5, 2011, for calendar year 2009.

153. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Roxana Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C.

§ 11022(a).

154. Respondent submitted to the Madison County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Roxana Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on November 10, 2010, for calendar year 2009.

155. Respondent submitted to the Madison County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Roxana Facility including limestone and natural sand on August 5, 2011, for calendar year 2009.

156. Each day Respondent failed to submit to the Madison County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Roxana Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

157. Respondent submitted to the Roxana Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Roxana Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on November 10, 2010, for calendar year 2009.

158. Respondent submitted to the Roxana Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Roxana Facility including limestone and natural sand by August 5, 2011, for calendar year 2009.

159. Each day Respondent failed to submit to the Roxana Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Roxana Facility including calcium chloride, Portland cement, diesel fuel, and fly ash by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

160. Respondent did not submit to the SERC, LEPC, and local fire department a completed Emergency and Hazardous Chemical Inventory Form for the Troy Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand for calendar year 2008.

161. Each day Respondent failed to submit to the SERC, LEPC, and local fire department a completed Emergency and Hazardous Chemical Inventory Form for the Troy Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2009, for calendar year 2008 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

162. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Troy Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on November 8, 2010, for calendar year 2009.

163. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Troy Facility including limestone and natural sand on August 5, 2011, for calendar year 2009.

164. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Troy Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

165. Respondent submitted to the Madison County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Troy Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on November 10, 2010, for calendar year 2009.

166. Respondent submitted to the Madison County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Troy Facility including limestone and natural sand on August 5, 2011, for calendar year 2009.

167. Each day Respondent failed to submit to the Madison County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Troy Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

168. Respondent submitted to the Troy Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Troy Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on November 10, 2010, for calendar year 2009.

169. Respondent submitted to the Troy Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Troy Facility including limestone and natural sand on August 5, 2011, for calendar year 2009.

170. Each day Respondent failed to submit to the Troy Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Troy Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

171. Respondent did not submit to the SERC, LEPC, and local fire department a completed Emergency and Hazardous Chemical Inventory Form for the Waterloo Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, natural sand, and propane for calendar year 2008.

172. Each day Respondent failed to submit to the SERC, LEPC, and local fire department a completed Emergency and Hazardous Chemical Inventory Form for the Waterloo Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, natural sand, and propane by March 1, 2009, for calendar year 2008 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

173. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Waterloo Facility including calcium chloride, Portland cement, diesel fuel, fly ash, and propane on November 8, 2010, for calendar year 2009.

174. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Waterloo Facility including limestone and natural sand on August 5, 2011, for calendar year 2009.

175. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Waterloo Facility including calcium chloride, Portland cement, diesel fuel, fly ash, propane, limestone, and sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

176. Respondent submitted to the Monroe County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Waterloo Facility including calcium chloride, Portland cement, diesel fuel, fly ash, and propane on November 10, 2010, for calendar year 2009.

177. Respondent submitted to the Monroe County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Waterloo Facility including limestone and natural sand on August 5, 2011, for calendar year 2009.

178. Each day Respondent failed to submit to the Monroe County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Waterloo Facility including calcium chloride, Portland cement, diesel fuel, fly ash, propane, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

179. Respondent submitted to the Waterloo Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Waterloo Facility including calcium chloride, Portland cement, diesel fuel, fly ash, and propane on November 10, 2010, for calendar year 2009.

180. Respondent submitted to the Waterloo Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Waterloo Facility including limestone and natural sand on August 5, 2011, for calendar year 2009.

181. Each day Respondent failed to submit to the Waterloo Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Waterloo Facility including calcium chloride, Portland cement, diesel fuel, fly ash, propane, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

Civil Penalty

182. Complainant has determined that an appropriate civil penalty to settle this action is \$25,000. 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, 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).

183. Within 30 days after the effective date of this CAFO, Respondent must pay a \$25,000 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

The check must note the following: "In the Matter of: Concrete Supply of Illinois" and the docket number of this CAFO EPCRA 05-2013-0011²².

184. 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 60604-3511

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

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

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

186. If Respondent does not timely pay the civil penalty, 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.

187. 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

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

189. 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.

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

191. This CAFO does not affect Respondent's responsibility to comply with EPCRA

and other applicable federal, state and local laws and regulations.

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

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


194. 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.

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

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

Concrete Supply of Illinois, LLC, Respondent

January 31, 2013
Date



Name: Frank Beelman III
Title: Manager
Concrete Supply of Illinois, LLC

U.S. Environmental Protection Agency, Complainant

2/21/13
Date


Sharon Jaffess, Chief
Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency
Region 5

2-22-13
Date


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


In the Matter of: Concrete Supply of Illinois, LLC
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MAR 05 2013
REGIONAL HEARING CLERK
USEPA
REGION 5

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.

2-26-13
Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

In the Matter of: Concrete Supply of Illinois, LLC
Docket No. [] EPCRA-05-2013-0011

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MAR 05 2013

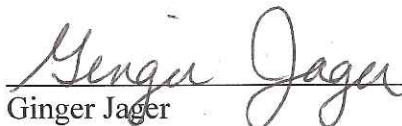
REGIONAL HEARING CLERK
USEPA
REGION 5

Certificate of Service

I, Ginger Jager, certify that I filed the original and a copy of the Consent Agreement and Final Order (CAFO) with the Regional Hearing Clerk, U. S. Environmental Protection Agency, Region 5, delivered a copy of the CAFO by intra-office mail to the Regional Judicial Officer, U.S. Environmental Protection Agency, Region 5, and mailed the second original CAFO by first-class, postage prepaid, certified mail, return receipt requested, to Respondent by placing it in the custody of the United States Postal Service addressed as follows:

Mitchell J. Klein
Polsinelli Shugart PC
CityScape
One E. Washington St., Ste. 1200
Phoenix, AZ 85004

on the 5th day of March, 2013


Ginger Jager
U.S. Environmental Protection Agency
Region 5