

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Chris Jendras 4/25/13
Name of Case Attorney Date

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

Case Docket Number EPCRA-01-2013-0016

Site-specific Superfund (SF) Acct. Number EPCRA-01-2013-0016

This is an original debt This is a modification

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

V & S Taunton Galvanizing, LLC
585 John Hancock Road
Taunton, MA 02780

Total Dollar Amount of Receivable \$ 14,900 Due Date: 5/25/13

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 _____



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

April 25, 2013

VIA HAND DELIVERY

Ms. Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region I
5 Post Office Square, Suite 100 (RAA)
Boston, MA 02109



Re: In the Matter of V & S Taunton Galvanizing, LLC, 585 John Hancock Road,
Taunton, Mass.
Docket Number EPCRA-01-2013-0016

Dear Ms. Santiago:

Enclosed for filing please find the original and one copy of the Consent Agreement and Final Order and Certificate of Service resolving the above referenced matter.

Sincerely,

A handwritten signature in blue ink that reads "Chris Jendras".

Chris Jendras
Environmental Protection Specialist
U.S. Environmental Protection Agency
Region I
RCRA, EPCRA and Federal Facility Programs

cc: Eamonn McCarthy, Operations Manager
V & S Taunton Galvanizing, LLC

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

RECEIVED
APR 25 2013
EPA ORC WS
Office of Regional Hearing Clerk

In the Matter of:)
)
V & S Taunton Galvanizing, LLC)
585 John Hancock Road)
Taunton, Massachusetts 02780)
)
Respondent.)
)
Proceeding under Section 325(c) of the Emergency)
Planning and Community Right-to-Know Act,)
42 U.S.C. § 11045(c))
)

**CONSENT AGREEMENT
AND FINAL ORDER**

Docket No.
EPCRA-01-2013-0016

Complainant, the United States Environmental Protection Agency, Region 1 (“EPA”), alleges that Respondent, V & S Taunton Galvanizing, LLC, has violated Section 313 of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 11023 (also known as the Emergency Planning and Community Right-to-Know Act or “EPCRA”), and the federal regulations promulgated thereunder.

EPA and Respondent agree that settlement of this matter is in the public interest and that entry of this Consent Agreement and Final Order (“CAFO”) without further litigation is the most appropriate means of resolving this matter. Pursuant to 40 C.F.R. § 22.13(b) of EPA’s “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits; Final Rule,” 40 C.F.R. Part 22, EPA and Respondent agree to simultaneously commence and settle this action by the issuance of this CAFO.

Therefore, before any hearing, without adjudication of any issue of fact or law, upon the record, and upon consent and agreement of EPA and Respondent, it is hereby ordered and adjudged as follows:

I. EPCRA STATUTORY AND REGULATORY AUTHORITY

1. Section 313(a) of EPCRA, 42 U.S.C. §11023(a), requires owners or operators of a facility subject to the requirements of Section 313(b) to submit annually, no later than July 1 of each year, a Toxic Chemical Release Inventory Reporting Form, EPA Form 9350-1 (hereinafter, "Form R"), for each toxic chemical listed under 40 C.F.R. § 372.65 that was manufactured, processed, or otherwise used during the preceding calendar year in quantities exceeding the toxic chemical thresholds established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. §§ 372.25 and 372.28. If the owner or operator determines that the alternative reporting threshold specified in 40 C.F.R. § 372.27 applies, the owner or operator may submit an alternative threshold certification statement that contains the information required under 40 C.F.R. §3 72.95 (the alternative threshold certification statement is also known as "Form A"). Each Form R or Form A is required to be submitted to the Administrator of EPA and to the state in which the subject facility is located. Form Rs and Form As are hereinafter referred to as "TRI Forms."

2. Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.22 provide that owners or operators of facilities that have 10 or more full-time employees; that are in a Standard Industrial Classification ("SIC") code or North American Industry Classification System ("NAICS") code set forth in 40 C.F.R. §§ 372.23; and that manufactured, processed, or otherwise used a toxic chemical listed under 40 C.F.R. §

372.65 in a quantity exceeding the established threshold during a calendar year are required to submit a Form R or Form A for each of these substances for that year.

3. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c) (as amended by the Federal Civil Penalties Inflation Adjustment Act, 28 U.S.C. § 2461, and the Debt Collection Improvement Act, 31 U.S.C. § 3701), and EPA's Civil Monetary Penalty Inflation Adjustment Rule, promulgated thereunder at 40 C.F.R. Part 19, authorizes the assessment of civil administrative penalties of up to \$32,500 per day for each violation of Section 313 of EPCRA that occurred after March 15, 2004 through January 12, 2009, and \$37,500 per day for each violation that occurred after January 12, 2009.

II. GENERAL ALLEGATIONS

4. Respondent V & S Taunton Galvanizing, LLC is a corporation incorporated under the laws of the Commonwealth of Massachusetts with a usual place of business at 585 John Hancock Road, Taunton, Massachusetts.

5. Respondent galvanizes ferrous metal bridge parts, rebar, decorative metals, and transportation and structural components its facility ("the facility") located at 585 John Hancock Road, Taunton, Massachusetts.

6. On or about June 15, 2012, an authorized employee of the EPA inspected the facility for the purpose of determining Respondent's compliance with EPCRA Section 313 reporting requirements.

7. Respondent is a "person," as that term is defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

8. Respondent is an owner or operator of a "facility," as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3.

9. The facility has 10 or more "full-time employees," as that term is defined by 40 C.F.R. §372.3.

10. The facility is classified in a SIC code or NAICS code set forth in 40 C.F.R. § 372.23.

11. During the calendar years 2008, 2009, and 2010, Respondent manufactured, processed, or otherwise used toxic chemicals listed under 40 C.F.R. § 372.65 at the facility in quantities exceeding the established thresholds.

12. The requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, therefore apply to Respondent's facility.

III. EPCRA VIOLATIONS

Count 1: Failure to File Form R for Zinc Compounds for Reporting Year 2008

13. The foregoing paragraphs 1 through 12 are incorporated by reference as if fully set forth herein.

14. During the calendar year 2008, Respondent manufactured, processed, or otherwise used zinc compounds, a chemical listed under 40 C.F.R. § 372.65(c), at the facility in a quantity exceeding the established threshold. Respondent was therefore required to submit to the Administrator of EPA a TRI Form for this chemical on or before July 1, 2009.

15. Respondent failed to submit this form to the Administrator of EPA on or before July 1, 2009.

16. Respondent's failure to submit this form was in violation of Section 313 of EPCRA and 40 C.F.R. Part 372.

Count 2: Failure to File Form R for Zinc Compounds for Reporting Year 2009

17. The foregoing paragraphs 1 through 16 are incorporated by reference as if fully set forth herein.

18. During the calendar year 2009, Respondent manufactured, processed, or otherwise used zinc compounds, a chemical listed under 40 C.F.R. § 372.65(c), at the facility in a quantity exceeding the established threshold. Respondent was therefore required to submit to the Administrator of EPA a TRI Form for this chemical on or before July 1, 2010.

19. Respondent failed to submit this form to the Administrator of EPA on or before July 1, 2010.

20. Respondent's failure to submit this form was in violation of Section 313 of EPCRA and 40 C.F.R. Part 372.

Count 3: Failure to File Form R for Zinc Compounds for Reporting Year 2010

21. The foregoing paragraphs 1 through 20 are incorporated by reference as if fully set forth herein.

22. During the calendar year 2010, Respondent manufactured, processed, or otherwise used zinc compounds, a chemical listed under 40 C.F.R. § 372.65(c), at the facility in a quantity exceeding the established threshold. Respondent was therefore required to submit to the Administrator of EPA a TRI Form for this chemical on or before July 1, 2011.

23. Respondent failed to submit this form to the Administrator of EPA on or before July 1, 2011.

24. Respondent's failure to submit this form was in violation of Section 313 of EPCRA and 40 C.F.R. Part 372.

IV. TERMS OF SETTLEMENT

25. Respondent certifies that it has corrected the alleged violations cited in this CAFO and will operate the facility in compliance with Section 313 of EPCRA and the regulations promulgated thereunder.

26. Respondent hereby certifies that the facility is presently in compliance with the requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 370.

27. Respondent agrees that EPA has jurisdiction over the subject matter alleged in this CAFO and hereby waives any defenses it might have as to jurisdiction and venue.

28. Respondent acknowledges that it has been informed of its right to request a hearing in this proceeding and hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in this CAFO.

29. Without admitting or denying the facts and violations alleged in this CAFO, Respondent consents to the terms and issuance of this CAFO and agrees to the payment of the civil penalty set forth herein.

30. Pursuant to the relevant factors for penalties issued pursuant to Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), and taking into account any such matters as justice may require, Complainant has determined that it is fair and proper that Respondent pay a total civil penalty in the amount of fourteen thousand nine-hundred dollars (\$14,900) to resolve the alleged violations of Section 313 of EPRCA.

31. Within thirty (30) days of the effective date of this CAFO, Respondent shall pay the penalty of \$14,900 by cashier's check, certified check, or wire transfer. Check payment shall be made payable to "Treasurer, United States of America," and reference the title and docket number of the action ("*In the Matter of V & S Taunton Galvanizing, LLC*, EPCRA-01-2013-0016"). The check shall be mailed via first class U.S. Postal Service mail to:

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

Payment by wire transfer shall include the docket number "EPCRA-01-2013-0016" 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

A copy of the check or wire transfer receipt shall be sent by certified mail to:

Chris Jendras, Environmental Protection Specialist
U.S. Environmental Protection Agency, Region I
Office of Environmental Stewardship (OES05-1)
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

Wanda Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region I
Office of the Regional Administrator (ORA18-1)
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

32. 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 partial payment 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 to the 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. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d).

33. The penalty provided for herein is a penalty within the meaning of 26 U.S.C. § 162(f) and is not deductible for purposes of federal, state, or local taxes.

34. The provisions of this CAFO shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, and successors or assigns.

35. Respondent shall bear its own costs and attorneys fees in this proceeding.

36. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 325(c) of EPCRA for the violations specifically alleged in this CAFO. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations. This CAFO in no way relieves Respondent or its employees of any criminal liability. Nothing in this CAFO shall be construed to limit the authority of the United States to undertake any action against Respondent in response to conditions which may present an imminent

and substantial endangerment to the public.

37. The terms, conditions, and compliance requirements of this CAFO may not be modified except upon the written agreement of both parties and approval of the Regional Judicial Officer.

38. The undersigned representative of Respondent certifies that he or she is fully authorized by Respondent to enter into the terms and conditions of this CAFO and legally bind Respondent.

39. In accordance with 40 C.F.R. § 22.31(b), the effective date is the date on which this CAFO is filed with the Regional Hearing Clerk.

RESPONDENT:

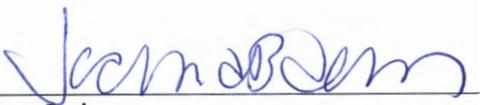
V & S Taunton Galvanizing, LLC
Eamonn McCarthy, Operations Manager

By: 

Date: 3-25-2013

COMPLAINANT:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

By: 
Joanna Jerison
Legal Enforcement Manager
Office of Environmental Stewardship
EPA, Region 1

Date: 4/15/13

V. FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of the above Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.

Date: Apr. 22, 2013



LeAnn Jensen
Acting Regional Judicial Officer
U.S. EPA, Region 1