



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

77 W. Jackson Boulevard
Chicago, IL 60604-3590

FILED

Aug 08, 2024
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U.S. EPA REGION 5
HEARING CLERK

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

DOCKET NO: EPCRA-05-2024-0020

This Expedited Settlement Agreement is issued to:

Minnesota Freezer Warehouse Company

1907 14th Street

Austin, Minnesota 55912

for alleged violations of Section 312 of the Emergency Planning and Community Right-To-Know Act.

The United States Environmental Protection Agency, Region 5, and Minnesota Freezer Warehouse Company, Austin, Minnesota ("Respondent") have agreed to the settlement of this action before the filing of a complaint. EPA and Respondent (jointly "the Parties") have agreed 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. This action is thus simultaneously commenced and concluded by this Expedited Settlement Agreement ("ESA") and Final Order. See 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3).

This ESA is an administrative action for the assessment of civil penalties instituted pursuant to EPA's authority under Sections 325 of the Emergency Planning and Community Right-To-Know Act (EPCRA), 42 U.S.C. § 11045. The Director of the Superfund & Emergency Management Division, Region 5, EPA has been delegated the authority to issue an Administrative Complaint seeking the assessment of civil penalties for violations of Section 312 of EPCRA, 42 U.S.C. § 11022. The Regional Judicial Officer for Region 5 of EPA is authorized to issue a Final Order, which concludes this matter pursuant to 40 C.F.R. § 22.18. The Regional Administrator has delegated the authority to issue Final Orders ratifying settlements pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(3) to the Regional Judicial Officer, Office of Regional Counsel, EPA Region 5. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Sections 22.18(c) and 22.31(a) of the Consolidated Rules of Practice.

ALLEGED VIOLATIONS

EPA alleges that Respondent, owner and/or operator of the facility at 1907 14th Street, NE, Austin, Minnesota failed to include lead on the submitted emergency and hazardous chemical inventory forms (Tier I or Tier II form as described in 40 C.F.R. § 370.25 and 40 C.F.R. Part 370, Subpart D) for calendar years 2020-2023, as required by Section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations at 40 C.F.R. Part 370. Under Section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations at 40 C.F.R. Part 370, Respondent was required include to lead on the Tier II Forms submitted for calendar years 2020-2023 on or before March 1, 2021, March 1, 2022, March 1, 2023, and March 1, 2024, respectively.

SETTLEMENT

In consideration of factors including the nature, circumstances, extent, and gravity of the violations; Respondent's prior history of violations; and any other matters as justice may require, EPA and Respondent agree that an appropriate civil penalty to settle this action is \$5,000.00. In signing this ESA, Respondent: (1) admits that Respondent is subject to the requirements of Section 312 of EPCRA; (2) admits that EPA has jurisdiction over Respondent's conduct as alleged herein; (3) neither admits nor denies the factual allegation(s) contained herein; (4) consents to the assessment of this penalty; and (5) waives any right to request a hearing to contest any fact or allegation or appeal the final order contained herein. Respondent consents to, and is bound by, the terms and conditions of this ESA.

By its signature below Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) the alleged violation has been corrected; and (2) Respondent is submitting payment of the civil penalty as described below.

Respondent agrees to pay civil penalty in the amount of \$5,000 for the EPCRA violations ("Assessed Penalty") when submitting the signed ESA to EPA.

Respondents shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

When making a payment, Respondent shall:

- a. Identify every EPCRA payment with Respondent's name and the docket number of this Agreement, EPCRA-05-2024-0020.
- b. Respondent shall provide a copy of the penalty payment when submitting the signed ESA to :

James Entzminger
entzminger.james@epa.gov

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number, Respondent's name.

Upon the issuance of the Final Order, Respondent's correction of the alleged violation, and confirmation of receipt of Respondent's payment of the civil penalty, Respondent's liability is resolved only for any federal civil penalties due as a result of the facts and violations alleged in this ESA. This ESA, the Final Order, and Respondent's full payment of the civil penalty set

forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. EPA also does not waive any enforcement authority for any other violation of EPCRA or any other statute. The issuance of the Final Order does not waive, extinguish, or otherwise affect Respondent's duty to comply with EPCRA, the regulations promulgated thereunder, or any other applicable law or requirement.

If the signed original ESA **with an attached copy of the Assessed Penalty** is not returned to the **EPA Region 5 office** at the above address in correct form by Respondent within 45 days of the date of Respondent's receipt of this ESA (90 days if an extension has been granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified in this ESA.

This ESA is binding on the Parties signing below.

Each Party to this action shall bear its own costs and fees, if any.

Each Person signing this ESA and Final Order 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.

FOR RESPONDENT:

Signature: Charles T. Newell Date: 7-31-24

Name (print): CHARLES T. NEWELL

Title (print): PRESIDENT - CEO

Name of facility: MINNESOTA FREEZER WAREHOUSE

FOR COMPLAINANT:

Douglas Ballotti, Director
Superfund & Emergency Management Division

Date: _____

Expedited Settlement Agreement

In the Matter of: Minnesota Freezer Warehouse Company, Austin, Minnesota

Docket No. EPCRA-05-2024-0020

FINAL ORDER

This Expedited Settlement 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.

Date: _____

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