



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

JAN 27 2016

REPLY TO THE ATTENTION OF:

LC- 8J

CERTIFIED MAIL: No. 7011 1150 0000 2639 2383
RETURN RECEIPT REQUESTED

Mr. Michael J. Jagemann
Jagemann Plating Company
1324 South 26th Street
Manitowoc, Wisconsin 54220

Consent Agreement and Final Order In the Matter of
Jagemann Plating Company, Docket No. **EPCRA-05-2016-0006**

Mr. Jagemann:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. This document was filed on *January 27, 2016* with the Regional Hearing Clerk.

The civil penalty in the amount of \$75,922 is to be paid in the manner described in paragraph 155. Please be certain that the docket number is written on both the transmittal letter and on the check.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in blue ink that reads "Meghan Dunn".

Meghan Dunn
Pesticides and Toxics Compliance Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5



In the Matter of:) Docket No. EPCRA-05-2016-0006
)
Jagemann Plating Company) Proceeding to Assess a Civil Penalty
Manitowoc, Wisconsin,) Under Section 325(c) of the Emergency
Respondent.) Planning and Community Right-to-Know
) Act of 1986, 42 U.S.C. § 11045(c)
)

Consent Agreement and Final Order

1. This is an administrative action commenced and concluded under Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c), 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 the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.

3. Respondent is Jagemann Plating Company, a corporation doing business in the State of Wisconsin.

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 to the terms of this 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 and alleged 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.

9. Respondent certifies that it is complying with Section 313 of EPCRA, 42 U.S.C. § 11023.

Statutory and Regulatory Background

10. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 372.30 require the owner or operator of a facility that has 10 or more full-time employees; is covered by certain Standard Industrial Classification (SIC) codes; meets one of the criteria set forth in 40 C.F.R. § 372.22(b)(1)-(3); and manufactured, processed or otherwise used a toxic chemical in an amount exceeding an applicable threshold quantity of that chemical listed under Section 313(f) of EPCRA and 40 C.F.R. §§ 372.25 and 372.28, during the calendar year, to complete and submit a toxic chemical release inventory form (Form R) to the Administrator of EPA and to the state in which the subject facility is located by July 1 for each toxic chemical manufactured, processed or otherwise used in quantities exceeding the established threshold during the preceding calendar year.

11. As set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, except as provided in 40 C.F.R. §§ 372.27 and 372.28, the reporting threshold amount for a toxic chemical manufactured or processed at a facility is 25,000 pounds for calendar years including and subsequent to 1989. The reporting threshold for a toxic chemical otherwise used

at a facility is 10,000 pounds for calendar years including and subsequent to 1987.

12. As set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28, the reporting threshold amount for lead manufactured, processed or otherwise used at a facility is 100 pounds for calendar years including and subsequent to 2001.

13. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), authorizes the Administrator of EPA to assess a civil penalty of up to \$25,000 per day for each violation of Section 313 of EPCRA. The Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note (1990), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note (1996), required federal agencies to issue regulations adjusting for inflation the maximum civil penalties that may be assessed pursuant to each agency's statutes. EPA may assess a civil penalty of up to \$37,500 per day for each violation of Section 313 of EPCRA that occurred after January 12, 2009, pursuant to Section 325(c)(1) and (3) of EPCRA, 42 U.S.C. § 11045(c)(1) and (3), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

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

15. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 1324 South 26th Street, Manitowoc, Wisconsin (facility).

16. At all times relevant to this CAFO, Respondent had "10 or more full-time employees," as defined at 40 C.F.R. § 372.3, and was an employer at the facility.

17. Respondent's 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.

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

19. The facility has a SIC code of 3471, a covered SIC code as defined at Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 23.

20. At all times relevant to this CAFO, Respondent retained an outside environmental consultant to prepare Respondent's EPCRA Section 313 Form R filings.

Count 1

21. Complainant incorporates paragraphs 1 through 20 of the Complaint as if set forth in this paragraph.

22. The reporting threshold for a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 that is processed during the 2011 calendar year is 25,000 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. § 372.25(a).

23. During the 2011 calendar year, Respondent's facility processed 43,408 pounds of chromium compounds, Chemical Category Code N090.

24. Chromium compounds are a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65.

25. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, required Respondent to submit to the Administrator of EPA and to Wisconsin a Form R for chromium compounds for the 2011 calendar year on or before July 1, 2012.

26. Respondent failed to submit to the Administrator of EPA and to Wisconsin a Form R for chromium compounds for the 2011 calendar year on or before July 1, 2012.

27. On November 19, 2012, Respondent submitted to the Administrator of EPA a Form R for chromium compounds for the 2011 calendar year.

28. On August 13, 2013, Respondent withdrew its Form R for chromium compounds for the 2011 calendar year.

29. On or about August 6, 2015, Respondent submitted to the Administrator of EPA a Form R for chromium compounds for the 2011 calendar year.

30. Respondent's failure to submit timely to the Administrator of EPA a Form R for chromium compounds for the 2011 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count II

31. Complainant incorporates paragraphs 1 through 20 of the Complaint as if set forth in this paragraph.

32. The reporting threshold for a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 that is manufactured or processed during the 2011 calendar year is 25,000 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. § 372.25(a).

33. During the 2011 calendar year, Respondent's facility manufactured 34,376 pounds of copper compounds, Chemical Category Code N100.

34. During the 2011 calendar year, Respondent's facility processed 34,376 pounds of copper compounds, Chemical Category Code N100.

35. Copper compounds are a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65.

36. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, required Respondent to submit to the Administrator of EPA and to Wisconsin a Form R for copper compounds for the 2011 calendar year on or before July 1, 2012.

37. Respondent failed to submit to the Administrator of EPA and to Wisconsin a

Form R for copper compounds for the 2011 calendar year on or before July 1, 2012.

38. On November 19, 2012, Respondent submitted to the Administrator of EPA a Form R for copper compounds for the 2011 calendar year.

39. On August 13, 2013, Respondent withdrew its Form R for copper compounds for the 2011 calendar year.

40. On or about August 6, 2015, Respondent submitted to the Administrator of EPA a Form R for copper compounds for the 2011 calendar year.

41. Respondent's failure to submit timely to the Administrator of EPA a Form R for copper compounds for the 2011 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count III

42. Complainant incorporates paragraphs 1 through 20 of the Complaint as if set forth in this paragraph.

43. The reporting threshold for a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 that is manufactured or processed during the 2011 calendar year is 25,000 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. § 372.25(a).

44. During the 2011 calendar year, Respondent's facility manufactured 37,781 pounds of cyanide compounds, Chemical Category Code N106.

45. During the 2011 calendar year, Respondent's facility processed 34,376 pounds of cyanide compounds, Chemical Category Code N106.

46. Cyanide compounds are a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65.

47. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, required

Respondent to submit to the Administrator of EPA and to Wisconsin a Form R for cyanide compounds for the 2011 calendar year on or before July 1, 2012.

48. Respondent failed to submit to the Administrator of EPA and to Wisconsin a Form R for cyanide compounds for the 2011 calendar year on or before July 1, 2012.

49. On November 19, 2012, Respondent submitted to the Administrator of EPA a Form R for cyanide compounds for the 2011 calendar year.

50. On August 13, 2013, Respondent withdrew its Form R for cyanide compounds for the 2011 calendar year.

51. On or about August 6, 2015, Respondent submitted to the Administrator of EPA a Form R for cyanide compounds for the 2011 calendar year.

52. Respondent's failure to submit timely to the Administrator of EPA a Form R for cyanide compounds for the 2011 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count IV

53. Complainant incorporates paragraphs 1 through 20 of the Complaint as if set forth in this paragraph.

54. The reporting threshold for a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 that is manufactured or processed during the 2011 calendar year is 25,000 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. § 372.25(a).

55. During the 2011 calendar year, Respondent's facility manufactured 68,230 pounds of nickel compounds, Chemical Category Code N495.

56. During the 2011 calendar year, Respondent's facility processed 68,230 pounds of nickel compounds, Chemical Category Code N495.

57. Nickel compounds are a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65.

58. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, required Respondent to submit to the Administrator of EPA and to Wisconsin a Form R for nickel compounds for the 2011 calendar year on or before July 1, 2012.

59. Respondent failed to submit to the Administrator of EPA and to Wisconsin a Form R for nickel compounds for the 2011 calendar year on or before July 1, 2012.

60. On November 19, 2012, Respondent submitted to the Administrator of EPA a Form R for nickel compounds for the 2011 calendar year.

61. On August 13, 2013, Respondent withdrew its Form R for nickel compounds for the 2011 calendar year.

62. On or about August 6, 2015, Respondent submitted to the Administrator of EPA a Form R for nickel compounds for the 2011 calendar year.

63. Respondent's failure to submit timely to the Administrator of EPA a Form R for nickel compounds for the 2011 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count V

64. Complainant incorporates paragraphs 1 through 20 of the Complaint as if set forth in this paragraph.

65. The reporting threshold for a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 that is manufactured or processed during the 2011 calendar year is 25,000 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. § 372.25(a).

66. During the 2011 calendar year, Respondent's facility manufactured 40,677 pounds

of nitrate compounds, Chemical Category Code N511.

67. Nitrate compounds are a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65.

68. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, required Respondent to submit to the Administrator of EPA and to Wisconsin a Form R for nitrate compounds for the 2011 calendar year on or before July 1, 2012.

69. Respondent failed to submit to the Administrator of EPA and to Wisconsin a Form R for nitrate compounds for the 2011 calendar year on or before July 1, 2012.

70. On August 14, 2013, Respondent submitted to the Administrator of EPA a Form R for nitrate compounds for the 2011 calendar year.

71. On or about August 6, 2015, Respondent revised its Form R for nitrate compounds for the 2011 calendar year.

72. Respondent's failure to submit timely to the Administrator of EPA a Form R for nitrate compounds for the 2011 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count VI

73. Complainant incorporates paragraphs 1 through 20 of the Complaint as if set forth in this paragraph.

74. The reporting threshold for a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 that is manufactured or processed during the 2011 calendar year is 25,000 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. § 372.25(a).

75. During the 2011 calendar year, Respondent's facility manufactured 2,306,070 pounds of zinc compounds, Chemical Category Code N982.

76. During the 2011 calendar year, Respondent's facility processed 2,306,070 pounds of zinc compounds, Chemical Category Code N982.

77. Zinc compounds are a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65.

78. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, required Respondent to submit to the Administrator of EPA and to Wisconsin a Form R for zinc compounds for the 2011 calendar year on or before July 1, 2012.

79. Respondent failed to submit to the Administrator of EPA and to Wisconsin a Form R for zinc compounds for the 2011 calendar year on or before July 1, 2012.

80. On November 19, 2012, Respondent submitted to the Administrator of EPA a Form R for zinc compounds for the 2011 calendar year.

81. On August 13, 2013, Respondent withdrew its Form R for zinc compounds for the 2011 calendar year.

82. On or about August 6, 2015, Respondent submitted to the Administrator of EPA a Form R for zinc compounds for the 2011 calendar year.

83. Respondent's failure to submit timely to the Administrator of EPA a Form R for zinc compounds for the 2011 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count VII

84. Complainant incorporates paragraphs 1 through 20 of this Complaint as if set forth in this paragraph.

85. The reporting threshold for a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 that is otherwise used during the 2011

calendar year is 10,000 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. § 372.25(b).

86. During the 2011 calendar year, Respondent's facility otherwise used 31,910 pounds of nitric acid, CAS No. 7697-37-2.

87. Nitric acid is a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65.

88. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, required Respondent to submit to the Administrator of EPA and to Wisconsin a Form R or Form A for nitric acid for the 2011 calendar year on or before July 1, 2012.

89. Respondent failed to submit to the Administrator of EPA and to Wisconsin a Form R or Form A for nitric acid for the 2011 calendar year on or before July 1, 2012.

90. On November 19, 2012, Respondent submitted to the Administrator of EPA a Form R for nitric acid for the 2011 calendar year.

91. On August 13, 2013, Respondent withdrew its Form R for nitric acid for the 2011 calendar year.

92. On August 14, 2013, Respondent submitted to the Administrator of EPA a Form A for nitric acid for the 2011 calendar year.

93. On or about August 6, 2015, Respondent withdrew its Form A for nitric acid for the 2011 calendar year.

94. On or about August 6, 2015, Respondent submitted to the Administrator of EPA a Form R for nitric acid for the 2011 calendar year.

95. Respondent's failure to submit timely to the Administrator of EPA a Form R for nitric acid for the 2011 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count VIII

96. Complainant incorporates paragraphs 1 through 20 of this Complaint as if set forth in this paragraph.

97. The reporting threshold for lead that is manufactured (including imported), processed, or otherwise used during the 2011 calendar year is 100 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. 372.28.

98. The reporting threshold for lead compounds that are manufactured (including imported), processed, or otherwise used during the 2011 calendar year is 100 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. 372.28.

99. During the 2011 calendar year, Respondent's facility manufactured 215 pounds of lead compounds, Chemical Category Code N420.

100. During the 2011 calendar year, Respondent's facility processed 138 pounds of lead, CAS No. 7439-92-1.

101. Lead is a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 371.65.

102. Lead compounds are a chemical category identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 371.65.

103. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, required Respondent to submit to the Administrator of EPA and to Wisconsin a Form R for lead or lead compounds for the 2011 calendar year on or before July 1, 2012.

104. Respondent failed to submit to the Administrator of EPA and to Wisconsin a Form R for lead or lead compounds for the 2011 calendar year on or before July 1, 2012.

105. On August 14, 2013, Respondent submitted to the Administrator of EPA a Form R

for lead for the 2011 calendar year.

106. On or about August 6, 2015, Respondent withdrew its Form R for lead for the 2011 calendar year.

107. On or about August 6, 2015, Respondent submitted to the Administrator of EPA a Form R for lead compounds for the 2011 calendar year.

108. Respondent's failure to submit timely to the Administrator of EPA a Form R for lead or lead compounds for the 2011 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count IX

109. Complainant incorporates paragraphs 1 through 20 of the Complaint as if set forth in this paragraph.

110. The reporting threshold for a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 that is processed during the 2012 calendar year is 25,000 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. § 372.25(a).

111. During the 2012 calendar year, Respondent's facility processed 43,334 pounds of chromium compounds, Chemical Category Code N090.

112. Chromium compounds are a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65.

113. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, required Respondent to submit to the Administrator of EPA and to Wisconsin a Form R for chromium compounds for the 2012 calendar year on or before July 1, 2013.

114. Respondent failed to submit to the Administrator of EPA and to Wisconsin a Form R for chromium compounds for the 2012 calendar year on or before July 1, 2013.

115. On or about August 6, 2015, Respondent submitted to the Administrator of EPA a Form R for chromium compounds for the 2012 calendar year.

116. Respondent's failure to submit timely to the Administrator of EPA a Form R for chromium compounds for the 2012 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count X

117. Complainant incorporates paragraphs 1 through 20 of the Complaint as if set forth in this paragraph.

118. The reporting threshold for a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 that is manufactured or processed during the 2012 calendar year is 25,000 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. § 372.25(a).

119. During the 2012 calendar year, Respondent's facility manufactured 46,182 pounds of nickel compounds, Chemical Category Code N495.

120. During the 2012 calendar year, Respondent's facility processed 48,772 pounds of nickel compounds, Chemical Category Code N495.

121. Nickel compounds are a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65.

122. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, required Respondent to submit to the Administrator of EPA and to Wisconsin a Form R for nickel compounds for the 2012 calendar year on or before July 1, 2013.

123. Respondent failed to submit to the Administrator of EPA and to Wisconsin a Form R for nickel compounds for the 2012 calendar year on or before July 1, 2013.

124. On or about August 6, 2015, Respondent submitted to the Administrator of EPA a

Form R for nickel compounds for the 2012 calendar year.

125. Respondent's failure to submit timely to the Administrator of EPA a Form R for nickel compounds for the 2012 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count XI

126. Complainant incorporates paragraphs 1 through 20 of the Complaint as if set forth in this paragraph.

127. The reporting threshold for a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 that is manufactured or processed during the 2012 calendar year is 25,000 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. § 372.25(a).

128. During the 2012 calendar year, Respondent's facility manufactured 1,836,660 pounds of zinc compounds, Chemical Category Code N982.

129. During the 2012 calendar year, Respondent's facility processed 1,836,660 pounds of zinc compounds, Chemical Category Code N982.

130. Zinc compounds are a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65.

131. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, required Respondent to submit to the Administrator of EPA and to Wisconsin a Form R for zinc compounds for the 2012 calendar year on or before July 1, 2013.

132. Respondent failed to submit to the Administrator of EPA and to Wisconsin a Form R for zinc compounds for the 2012 calendar year on or before July 1, 2013.

133. On or about August 6, 2015, Respondent submitted to the Administrator of EPA a Form R for zinc compounds for the 2012 calendar year.

134. Respondent's failure to submit timely to the Administrator of EPA a Form R for zinc compounds for the 2012 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count XII

135. Complainant incorporates paragraphs 1 through 20 of the Complaint as if set forth in this paragraph.

136. The reporting threshold for a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 that is manufactured or processed during the 2013 calendar year is 25,000 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. § 372.25(a).

137. During the 2013 calendar year, Respondent's facility manufactured 46,182 pounds of nickel compounds, Chemical Category Code N495.

138. During the 2013 calendar year, Respondent's facility processed 48,772 pounds of nickel compounds, Chemical Category Code N495.

139. Nickel compounds are a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65.

140. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, required Respondent to submit to the Administrator of EPA and to Wisconsin a Form R for nickel compounds for the 2013 calendar year on or before July 1, 2014.

141. Respondent failed to submit to the Administrator of EPA and to Wisconsin a Form R for nickel compounds for the 2013 calendar year on or before July 1, 2014.

142. On or about August 5, 2015, Respondent submitted to the Administrator of EPA a Form R for nickel compounds for the 2013 calendar year.

143. Respondent's failure to submit timely to the Administrator of EPA a Form R for

nickel compounds for the 2013 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count XIII

144. Complainant incorporates paragraphs 1 through 20 of the Complaint as if set forth in this paragraph.

145. The reporting threshold for a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65 that is manufactured or processed during the 2013 calendar year is 25,000 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. § 372.25(a).

146. During the 2013 calendar year, Respondent's facility manufactured 1,836,660 pounds of zinc compounds, Chemical Category Code N982.

147. During the 2013 calendar year, Respondent's facility processed 1,836,660 pounds of zinc compounds, Chemical Category Code N982.

148. Zinc compounds are a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65.

149. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, required Respondent to submit to the Administrator of EPA and to Wisconsin a Form R for zinc compounds for the 2013 calendar year on or before July 1, 2014.

150. Respondent failed to submit to the Administrator of EPA and to Wisconsin a Form R for zinc compounds for the 2013 calendar year on or before July 1, 2014.

151. On or about August 5, 2015, Respondent submitted to the Administrator of EPA a Form R for zinc compounds for the 2013 calendar year.

152. Respondent's failure to submit timely to the Administrator of EPA a Form R for zinc compounds for the 2013 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023,

and 40 C.F.R. § 372.30.

Civil Penalty

154. Pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, Complainant determined that an appropriate civil penalty to settle this action is \$75,922. 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 EPA's Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990) (amended) (April 12, 2001) (ERP). One factor considered under the ERP in determining the penalty was Respondent's expenditure of \$180,400 to phase out the use of hexavalent chromium in two plating lines, replacing it with the less toxic trivalent chromium. Respondent eliminated annual amounts of hexavalent chromium compounds manufactured and processed by approximately 11,400 pounds and 24,800 pounds, respectively.

155. Within 30 days after the effective date of this CAFO, Respondent must pay a \$75,922 civil penalty for the EPCRA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," via express mail to:

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must note Jagemann Plating Company and the docket number of this CAFO.

156. Respondent must send a notice of payment that states Respondent's name, complete address and the case docket number to EPA at the following addresses when it pays the penalty:

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

Meghan Dunn (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Jeffrey A. Cahn (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

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

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

159. 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, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

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

161. This CAFO does not affect the rights of EPA or the United States to pursue

appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

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

163. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for Section 313 of EPCRA.

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

165. Each person signing this 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.

166. Each party agrees to bear its own costs and attorneys fees in this action.

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

Jagemann Plating Company, Respondent

12/29/15
Date

Michael J. Jagemann
Michael J. Jagemann
Executive Vice President
Jagemann Plating Company

United States Environmental Protection Agency, Complainant

1/19/2016
Date

Margaret M. Guerriero
Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
Jagemann Plating Company
Docket No. EPCRA-05-2016-0006

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.

11/25/16
Date

Robert A. Keph for
Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

In the matter of: Jagemann Plating Company

Docket Number: _____

EPCRA-05-2016-0006

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing *Consent Agreement and Final Order*, which was filed on January 27, 2016, in the following manner to the addressees:

Copy by Certified Mail

Return-receipt:

Mr. Michael J. Jagemann
Jagemann Plating Company
1324 South 26th Street
Manitowoc, Wisconsin 54220

Copy by E-mail to

Attorney for Complainant:

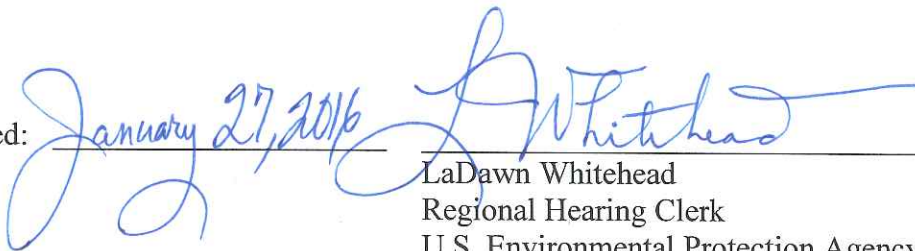
Jeffrey A. Cahn
cahn.jeffrey@epa.gov

Copy by E-mail to

Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: _____

January 27, 2016 

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2639 2383