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HEARINGS CLERK
REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. EPCRA-Docket 10-2019-0123
)	
MULTISTAR INDUSTRIES, INC.,)	CONSENT AGREEMENT
)	
Othello, Washington,)	
)	
Respondent.)	
)	

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 325 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11045, and Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9609.

1.2. Pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 109 of CERCLA, 42 U.S.C. § 9609, and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and Multistar Industries, Inc. (“Respondent”) agrees to issuance of, the Final Order attached to this Consent Agreement (“Final Order”).

II. PRELIMINARY STATEMENT

2.1. EPA initiated this proceeding for the assessment of a civil penalty pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 109 of CERCLA, 42 U.S.C. § 9609, by filing a Complaint against Respondent on August 8, 2019 (“Complaint”).

2.2. In the Complaint, EPA alleged that Respondent violated Section 304 of EPCRA, 42 U.S.C. § 11004, and 40 C.F.R. §§ 355.30 and 355.40, and Section 103 of CERCLA, 42 U.S.C. § 9603, and 40 C.F.R. § 302.6, by failing to timely notify emergency response authorities of an ammonia release at the Multistar facility in Othello, Washington. The Complaint also alleged that Multistar violated Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. Part 370, by failing to timely file chemical inventory reports for ammonia with emergency response authorities for calendar year 2014.

2.3. The complete factual and jurisdictional basis for proposing the assessment of a civil penalty is set forth in the Complaint and is incorporated herein by reference, except that EPA states and Respondent acknowledges that the dates referenced in Paragraphs 3.11, 3.14, and 4.10 contain a typographical error and that the referenced dates are understood by both parties to have intended to be to August 24, 2014.

2.4. The Director of the Enforcement and Compliance Assurance Division, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 109 of CERCLA, 42 U.S.C. § 9609, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of EPCRA and CERCLA are proposed to be assessed.

III. TERMS OF SETTLEMENT

3.1 For purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint.

3.2 Respondent neither admits nor denies the specific factual allegations and legal conclusions alleged in the Complaint.

3.3 In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 325(b) of EPCRA, 42 U.S.C. § 11045(b), and Section 109(a)(3) of CERCLA, 42 U.S.C. § 9609(a)(3). After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$40,000 (the "Assessed Penalty"), \$2,400 of which reflects violations of CERCLA, and \$37,600 of which reflects violations of EPCRA.

3.4 Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.

3.5 Payments under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

Respondent must note on the check the title and docket number of this action. Respondent must also include a note with the payment indicating that \$2,400 is for the CERCLA penalty and \$37,600 is for the EPCRA penalty.

3.6 Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 3.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency,
Region 10
1200 Sixth Avenue,
Suite 155, Mail Stop 11-C07
Seattle, Washington 98101
young.teresa@epa.gov

Erin Williams
U.S. Environmental Protection Agency,
Region 10
1200 Sixth Avenue,
Suite 155, Mail Stop 20-C04
Seattle, Washington 98101
williams.erin@epa.gov

3.7 If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of the Assessed Penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action under Section 325(f)(1) of EPCRA, 42 U.S.C. § 11045(f)(1), and/or Section 109 of CERCLA, 42 U.S.C. § 9609, to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below.

3.8 If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, Respondent shall also be responsible for payment of the following amounts:

a. Interest. Pursuant to 31 U.S.C. § 3717(a)(1), any unpaid portion of the Assessed Penalty shall bear interest at the rate established by the Secretary of the Treasury from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the Assessed Penalty that is paid within 30 days of the effective date of the Final Order contained herein.

b. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the Assessed Penalty is more than 30 days past due.

c. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the Assessed Penalty that is more than 90 days past due, which nonpayment shall be calculated as of the date the underlying penalty first becomes past due.

3.9 The Assessed Penalty, including any additional costs incurred under Paragraph 3.8, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

3.10 The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

3.11 Except as described in Paragraph 3.8, each party shall bear its own costs and attorneys' fees in bringing or defending this action.

3.12 For the purposes of this proceeding, Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in the Complaint or this Consent Agreement and to appeal the Final Order.

3.13 The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

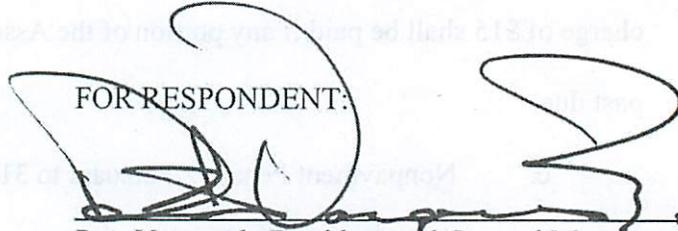
3.14 Respondent consents to the issuance of any specified compliance or corrective action order, to any conditions specified in this consent agreement, and to any stated permit action.

3.15 The above provisions in Part III are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

10/8/2019

FOR RESPONDENT:

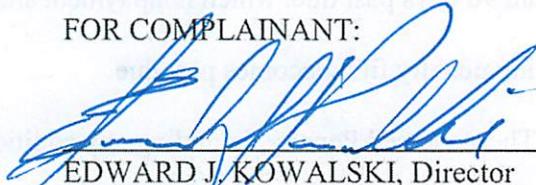


Pete Vanourek, President and General Manger
Multistar Industries, Inc.

DATED:

10/10/2019

FOR COMPLAINANT:



EDWARD J. KOWALSKI, Director
Enforcement and Compliance Assurance Division
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. EPCRA-Docket 10-2019-0123
)	
MULTISTAR INDUSTRIES, INC.,)	FINAL ORDER
)	
Othello, Washington,)	
)	
Respondent.)	

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under EPCRA and CERCLA for the violations alleged in the Complaint, as modified by Paragraph 2.3 of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of EPCRA and CERCLA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 16th day of October, 2019.



RICHARD MEDNICK
Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Multistar Industries, Inc., Docket No.: EPCRA-10-19-0123**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

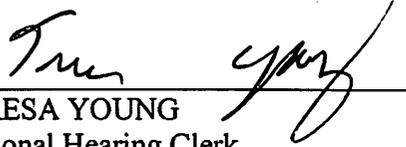
The undersigned certifies that a true and correct copy of the document was delivered to:

Julie Vergeront
U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue,
Suite 155, Mail Stop 11-C07
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Michael B. Gillett
The Gillett Law Firm
12535 15th Avenue N.E., Suite 212
Seattle, Washington 98125-4095

DATED this October day of 17, 2019.


TERESA YOUNG
Regional Hearing Clerk
EPA Region 10