



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

March 13, 2015

REPLY TO THE ATTENTION OF:

LC- 8J

CERTIFIED MAIL: No.7011 1150 0000 2643 8395
RETURN RECEIPT REQUESTED

Pat Watson
Cardinal FG Company
2200 Stokke Parkway
Menomonie, Wisconsin 54751

Consent Agreement and Final Order In the Matter of
Cardinal FG Company, Docket No. EPCRA-05-2015-0013

Pat Watson:

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 March 13, 2015, with the Regional Hearing Clerk.

The civil penalty in the amount of \$40,936 is to be paid in the manner described in paragraphs 24 and 25. 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 black ink, appearing to read "Maynard Shaw".

For
Maynard Shaw
Pesticides and Toxics Compliance Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5



IN THE MATTER OF:

CARDINAL FG COMPANY,
MENOMONIE, WISCONSIN,

RESPONDENT.

DOCKET NO. EPCRA-05-2015-0013

PROCEEDING TO ASSESS A CIVIL
PENALTY 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

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), codified at 40 C.F.R. part 22.
2. Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent is Cardinal FG Company, a business incorporated in the State of Wisconsin.
4. According to 40 C.F.R. § 22.13(b), where parties agree to settle one or more causes of action before the filing of a complaint, an administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO).
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. § 372.28 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. § 372.28, the reporting threshold amount for lead (CAS # 7439-92-1) manufactured, processed or otherwise used at a facility is 100 pounds for calendar years 2010-2012.

12. 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), requires federal agencies to issue regulations adjusting for inflation the maximum civil penalties that may be assessed pursuant to each agency's statutes. Subsequently, EPA may assess a civil penalty of up to \$37,500 per day for each violation of section 313 of EPCRA occurring after January 12, 2009, and prior to December 6, 2013, 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.

ALLEGATIONS OF FACT AND LIABILITY

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

14. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 2200 Stokke Parkway, Menomonie, Wisconsin (facility).

15. 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.

16. 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.

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

18. Respondent's facility has a SIC code of 3211, a SIC code included in section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.22.

19. During calendar years 2010, 2011 and 2012, Respondent's facility otherwise used, as that term is defined at 40 C.F.R. § 372.3, lead, a chemical category or substance with a

Chemical Abstract Service number (CAS No.) listed at 40 C.F.R. § 372.65, in an amount exceeding 100 pounds, the threshold for reporting set forth in section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.

20. Respondent was required to submit to the Administrator of EPA and to the State of Wisconsin a Form R for lead for calendar years 2010, 2011 and 2012 by July 1 of the year following the reporting year.

21. Respondent did not submit to the Administrator of EPA and to the State of Wisconsin a Form R for lead for calendar years 2010, 2011 and 2012 by July 1 of the year following the reporting year.

22. Respondent's failure to submit timely a Form R for lead to the Administrator of EPA and to the State of Wisconsin for calendar years 2010, 2011 and 2012 violated section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

CIVIL PENALTY

23. Pursuant to section 325 of EPCRA, 42 U.S.C. § 11045, Complainant determined that an appropriate civil penalty to settle this action is \$40,936. 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).

24. Within 30 days after the effective date of this CAFO, Respondent must pay a \$40,936 civil penalty for the EPCRA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

25. Respondent must send a notice of payment that states Respondent's name 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

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

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

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

27. 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. Respondent agrees that the validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

28. 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

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

30. 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.

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

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

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


34. 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.

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

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

Cardinal FG Company, Respondent


2/13/15
Date



Pat Watson
President, Cardinal FG Company

United States Environmental Protection Agency, Complainant

3/9/2015
Date



Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
Cardinal FG Company
Docket No.
EPCRA-05-2015-0013

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.

3/11/2015

Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

In the matter of: Cardinal FG Company
Docket Number: **EPCRA-05-2015-0013**

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 March 13, 2015, in the following manner to the addressees:

Copy by Certified Mail
Return-receipt:

Pat Watson
Cardinal FG Company
2200 Stokke Parkway
Menomonie, Wisconsin 54751

Copy by E-mail to
Attorney for Complainant:

Robert S. Guenther
Guenther.robert@epa.gov

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: March 16, 2015



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

CERTIFIED MAIL RECEIPT NUMBER(S): **7011 1150 0000 2643 8395**