



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

AUG 20 2013

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ms. Kara Long  
Ashland, Inc.  
5200 Blazer Parkway  
Dublin, Ohio 43017

Re: Hercules Incorporated  
Consent Agreement and Final Order  
Docket Number EPCRA-04-2013-2047(b)

Dear Ms. Long:

Enclosed please find an executed copy of the Consent Agreement and Final Order (CAFO) that resolves the Emergency Planning and Community Right-to-Know Act of 1986 matter (Docket No. EPCRA-04-2013-2047(b)) involving Hercules Incorporated. The CAFO was filed with the Regional Hearing Clerk, as required by 40 C.F.R. Part 22 and became effective on the date of the filing.

Also enclosed, please find a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Security and Exchange Commission (SEC) any environmental enforcement actions taken by the U.S. Environmental Protection Agency. If you have any questions with regards to the SEC's environmental disclosure requirements, you may refer to the contact phone number at the bottom of the SEC Notice.

If you have any questions, please call Ms. Erika White at (404) 562-9195.

Sincerely,

A handwritten signature in black ink, appearing to read "Caron B. Falchner".

Caron B. Falchner  
Chief  
EPCRA Enforcement Section

Enclosures

IN THE MATTER OF: )  
)  
Hercules Incorporated )  
)  
Respondent. )  
\_\_\_\_\_ )

Docket Number: EPCRA-04-2013-2047(b)

RECEIVED  
EPA REGION IV  
2013 AUG 20 PM 3:56  
HEARING CLERK

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045, and pursuant to 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. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Hercules Incorporated.

2. The authority to take action under Section 325 of EPCRA, 42 U.S.C. § 11045, is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under EPCRA to the Regional Administrators by EPA Delegation 22-3-A, dated May 11, 1994. The Regional Administrator, Region 4, has redelegate this authority to the Director, Air, Pesticides and Toxics Management Division, by EPA Region 4 Delegation 22-3-A, dated November 8, 1994. Pursuant to that delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

4. Respondent is Hercules Incorporated, a corporation doing business in the State of Mississippi.

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

6. Respondent owns and operates a "facility" as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

7. Respondent's facility is located at 613 West 7<sup>th</sup> Street, Hattiesburg, Mississippi.

### III. EPA's Allegations of Violations

8. 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 (a) has 10 or more full-time employees; (b) is in a Standard Industrial Classification (SIC) major group or industry listed in 40 C.F.R. § 372.23(a) (for which the corresponding North American Industry Classification System subsector and industry codes are listed in 40 C.F.R. §§ 372.23(b) and 372.23(c)); and (c) manufactured, processed, or otherwise used a toxic chemical listed in Section 313(c) and 40 C.F.R. § 372.65, in excess of an applicable threshold quantity established under EPCRA Section 313(f) and set forth in 40 C.F.R. § 372.25, during the calendar year, to complete and submit a toxic chemical release inventory reporting Form R (EPA Form 9350-1) to the Administrator of EPA and to the State in which the facility is located, by July 1 for the preceding calendar year for each toxic chemical known by the owner or operator to be manufactured, processed, or otherwise used in quantities exceeding the established threshold quantity during the preceding calendar year.

9. As set forth under Section 313(f) of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.25, the reporting threshold amount for a toxic chemical manufactured or processed at a facility is 25,000 pounds per calendar year. The reporting threshold for a toxic chemical otherwise used at a facility is 10,000 pounds.

10. Respondent has 10 or more full-time employees, as defined at 40 C.F.R. § 372.3 at its facility.

11. Respondent's facility is classified under SIC code 2869 and NAICS Code 325199.

12. Respondent's facility is classified in a covered SIC code as described at 40 C.F.R. § 372.22 and in a covered NAICS code as described at 40 C.F.R. § 372.23.

13. Formic acid is a toxic chemical referenced at Section 313(c) of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.65.

14. Respondent's facility processed a toxic chemical referenced at Section 313(c) of EPCRA, 42 U.S.C. § 11023 and 40 C.F.R. § 372.65, and listed under 40 C.F.R. § 372.65, in excess of the 25,000 pound threshold quantity established under Section 313(f) of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.25, during calendar year 2009.

15. Respondent failed to submit a Form A for formic acid to the Administrator of EPA and to the official designated by the Governor of the State of Mississippi by July 1 of the reporting year.

16. Respondent violated the reporting requirements of Section 313(f) of EPCRA, 42 U.S.C. § 11023, at its facility for calendar year 2009, reporting year 2010, and is therefore subject to the assessment of penalties under Section 325(c) of EPCRA, 42 U.S.C. § 11045.

17. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$37,500 for each violation of Section 313 that occurred after January 12, 2009. Each day a violation of Section 313 continues constitutes a separate violation. Civil penalties under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), may be assessed by an Administrative Order.

#### IV. Consent Agreement

18. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.

19. Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying the Consent Agreement.

20. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

21. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of EPCRA at the facility.

22. Compliance with the CAFO shall resolve the allegations of violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States other than as expressed herein. Complainant does not waive any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

23. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public's interest and that this CAFO is consistent with the applicable requirements of EPCRA.

#### V. Final Order

24. Respondent shall pay a civil penalty of SIXTEEN THOUSAND EIGHT HUNDRED SEVENTY DOLLARS (\$16,870), for the violations alleged in Section III. Payment shall be paid within thirty (30) days of the effective date of this CAFO.

25. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to: "Treasurer, United States of America," to the following address:

BY MAIL

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

BY OVERNIGHT

U.S. Bank  
Government Lockbox 979077 US  
EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
(314) 418-1028

26. At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Erika White  
U.S. EPA, Region 4  
Air, Pesticides & Toxics Management Division  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Saundi Wilson  
U.S. EPA, Region 4  
Office of Environmental Accountability  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

27. For the purposes of state and federal income taxes, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.

28. 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. Interest will therefore begin to accrue on the civil penalty from the date of entry of the CAFO if the penalty is not paid by the date required. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

29. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

30. This CAFO shall be binding upon the Respondent, its successors and assigns.

31. The following individual is authorized to receive service for EPA in this proceeding:

Caron B. Falconer  
U.S. EPA, Region 4  
Air, Pesticides & Toxic Management Division  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-8451

32. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

VI. Effective Date

33. The effective date of this CAFO shall be the date upon which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Hercules Incorporated

By: RS Bolton Date: 8/5/13

Rodney S. Bolton  
Regional Plant Manager

U.S. Environmental Protection Agency

By: Carol L. Kemker Date: 8-9-13

Carol L. Kemker, Acting Director,  
Air, Pesticides & Toxics Management Division

APPROVED AND SO ORDERED this 20 day of August, 2013.

Susan B. Schub  
Susan B. Schub  
Regional Judicial Officer

I hereby certify that I have this day served a true and correct copy of the foregoing  
Consent Agreement and Final Order, in the Matter of Hercules Incorporated, Docket Number:  
EPCRA-04-2013-2047(b), on the parties listed below in the manner indicated:

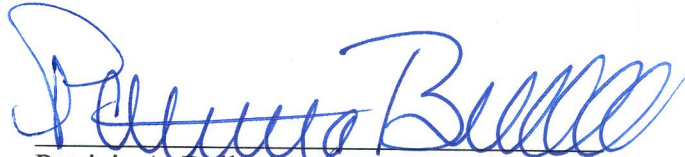
Caron B. Falconer (Via EPA's internal mail)  
U.S. EPA, Region 4  
Air, Pesticides & Toxics Management Division  
61 Forsyth Street  
Atlanta, GA 30303

Robert Caplan (Via EPA's internal mail)  
U.S. EPA, Region 4  
Office of Environmental Accountability  
61 Forsyth Street  
Atlanta, GA 30303

Kara Long (Via Certified Mail - Return Receipt  
Ashland Inc. Requested)  
5200 Blazer Parkway  
Dublin, Ohio 43017

Date:

8-20-13



Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-9511