



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

June 14, 2021

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Wail Saab
Owner
Advanced Packaging Company, LLC
12678 Burt Road
Detroit, Michigan 48223

Re: Advanced Packaging Company, LLC, Detroit, Michigan, Consent Agreement and Final Order, Docket No. EPCRA-05-2021-0005

Dear Mr. Saab:

Enclosed please find a copy of the fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the original CAFO with the Regional Hearing Clerk on June 14, 2021.

Please pay the Emergency Planning and Community Right-to-Know Act civil penalty in the amount of \$3,000 plus interest in the manner prescribed in paragraph 67, and reference your checks with the docket number EPCRA-05-2021-0005.

Your first payment due on July 14, 2021.

Your second payment is due on August 13, 2021.

Your third payment is due on September 13, 2021.

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. Please direct any legal questions to Robert Guenther, Associate Regional Counsel, at (312) 886-0566. Thank you for your assistance in resolving this matter.

Sincerely,

MICHAEL
HANS

Digitally signed by
MICHAEL HANS
Date: 2021.06.09 09:38:15
-05'00'

Michael E. Hans, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

cc: Captain Kevin Sweeney, Chairperson (w/ enclosure)
State Emergency Response Commission
EMHSD/Michigan Department of State Police
Post Office Box 30634
Lansing, Michigan 48909

Brenna L. Roos (w/ enclosure)
State Emergency Response Commission
EMHSD/Michigan Department of State Police
Post Office Box 30634
Lansing, Michigan 48909

Michael Young (w/ enclosure)
State Emergency Response Commission
Michigan Department EGLE
Post Office Box 30457
Lansing, Michigan 48909

Jay Eickholt (w/ enclosure)
State Emergency Response Commission
Michigan Department EGLE
Post Office Box 30457
Lansing, Michigan 48909

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. EPCRA-05-2021-0005
)	
Advanced Packaging Company LLC, Detroit, Michigan,)	Proceeding to Assess a Civil Penalty Under Section 325(c)(1) of the Emergency Planning and Community Right-to-Know Act of 1986
)	
<u>Respondent.</u>)	

**Consent Agreement and Final Order
Preliminary Statement**

1. This is an administrative action commenced and concluded under section 325(c)(1) of the Emergency Planning and Community Right-to-know Act of 1986 (EPCRA), 42 U.S.C. §11045(c)(1), 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, by lawful delegation, the Chief of Emergency Response Branch 1, Superfund & Emergency Management Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is Advanced Packaging Company LLC, a Michigan limited liability company doing business in the State of Michigan.

4. According to 40 C.F.R. § 22.13(b), 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).

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 agrees with the terms of the 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 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.

Statutory and Regulatory Background

9. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and its implementing regulations at 40 C.F.R. part 370, require the owner or operator of a facility, which is required by the Occupational Safety and Health Act (OSHA) to prepare or have available a Material Safety Data Sheet (MSDS) or Safety Data Sheet (SDS) for a hazardous chemical, to submit to the State Emergency Response Commission (SERC), community coordinator for the Local Emergency Planning Committee (LEPC), and fire department with jurisdiction over the facility by March 1, 1988, and annually thereafter, an emergency and hazardous chemical inventory form (Tier I or Tier II as described in 40 C.F.R. part 370, hereinafter referred to as a “Tier Form”). The form must contain the information required by section 312(d) of EPCRA, 42 U.S.C. § 11022(d), covering all hazardous chemicals present at the facility at any one time during the preceding year in amounts equal to or exceeding 10,000 pounds.

10. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), assists state commissions, local committees, and fire departments in planning for emergencies and makes information on chemical presence and hazards available to the public. A delay in reporting could result in harm to human health and the environment.

11. Under 29 C.F.R. § 1910.1200(b)(1), all employers are required to provide information to their employees about the hazardous chemicals to which they are exposed including, but not limited to, MSDSs or SDSs.

12. Under section 311(e) of EPCRA, 42 U.S.C. § 11021(e), with certain exceptions, the term “hazardous chemical” has the meaning given such term by 29 C.F.R. § 1910.1200(c).

13. Under 29 C.F.R. § 1910.1200(c), a hazardous chemical is any chemical which is classified as a physical or health hazard, a simple asphyxiant, combustible dust, pyrophoric gas, or hazard not otherwise classified.

14. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), authorizes U.S. EPA to assess a civil penalty of up to \$25,000 per day of violation of EPCRA section 312. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. No. 114-74, § 701, 129 Stat. 584, 599 (2015), amending 28 U.S.C. § 2461 note, and the implementing regulations at 40 C.F.R. part 19 increased the statutory maximum penalty to \$59,017 per day of violation for each day that occurred after November 2, 2015, and for which penalties are assessed on or after December 23, 2020.

Factual Allegations and Alleged Violations

15. Respondent is a “person” as that term is defined under section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

16. At all times relevant to this CAFO, Respondent was the owner or operator of the facility located at 12678 Burt Road, Detroit, Michigan (facility).

17. At all times relevant to this CAFO, Respondent was the employer at the facility.

18. 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.

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

20. At all times relevant to this CAFO, the Michigan SERC was the SERC for Michigan under section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

21. At all times relevant to this CAFO, the City of Detroit, Michigan LEPC was the LEPC for Detroit, Michigan, under section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

22. At all times relevant to this CAFO, the City of Detroit Fire Department was the local fire department with jurisdiction over the facility.

Methanol

23. Methanol (CAS # 67-56-1) is classified as a physical or health hazard.

24. Methanol is a "hazardous chemical" within the meaning of section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

25. Methanol has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. part 370.

26. During at least one period of time in calendar year 2016, methanol was present at the facility in an amount equal to or greater than the minimum threshold level.

27. During at least one period of time in calendar year 2017, methanol was present at the facility in an amount equal to or greater than the minimum threshold level.

28. During at least one period of time in calendar year 2018, methanol was present at the facility in an amount equal to or greater than the minimum threshold level.

29. During at least one period of time in calendar year 2019, methanol was present at the facility in an amount equal to or greater than the minimum threshold level.

30. OSHA requires Respondent to prepare, or have available, an MSDS or SDS for methanol.

31. Respondent was required to submit to the SERC, LEPC, and local fire department with jurisdiction on or before March 1, 2017, a Tier Form including methanol for calendar year 2016, and to submit the Tier Form annually by March 1 of the following year if Respondent stored methanol in quantities exceeding the regulatory threshold during that year.

Ethylene Glycol

32. Ethylene glycol (CAS #107-21-1) is classified as a health hazard.

33. Ethylene glycol is a “hazardous chemical” within the meaning of section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

34. Ethylene glycol has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. part 370.

35. During at least one period of time in calendar year 2016, ethylene glycol was present at the facility in an amount equal to or greater than the minimum threshold level.

36. During at least one period of time in calendar year 2017, ethylene glycol was present at the facility in an amount equal to or greater than the minimum threshold level.

37. During at least one period of time in calendar year 2018, ethylene glycol was present at the facility in an amount equal to or greater than the minimum threshold level.

38. During at least one period of time in calendar year 2019, ethylene glycol was present at the facility in an amount equal to or greater than the minimum threshold level.

39. OSHA required Respondent to prepare or have available an MSDS or SDS for ethylene glycol.

40. Respondent was required to submit to the SERC, LEPC, and local fire department with jurisdiction on or before March 1, 2017, a Tier Form including ethylene glycol for calendar year 2016, and to submit the Tier Form annually by March 1 of the following year if Respondent stored ethylene glycol in quantities exceeding the regulatory threshold during that year.

Glycol Inhibitor

41. Glycol inhibitor is classified as a health hazard.

42. Glycol inhibitor is a “hazardous chemical” within the meaning of section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

43. Glycol inhibitor has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. part 370.

44. During at least one period of time in calendar year 2016, glycol inhibitor was present at the facility in an amount equal to or greater than the minimum threshold level.

45. During at least one period of time in calendar year 2017, glycol inhibitor was present at the facility in an amount equal to or greater than the minimum threshold level.

46. During at least one period of time in calendar year 2018, glycol inhibitor was present at the facility in an amount equal to or greater than the minimum threshold level.

47. During at least one period of time in calendar year 2019, glycol inhibitor was present at the facility in an amount equal to or greater than the minimum threshold level.

48. OSHA required Respondent to prepare or have available an MSDS or SDS for glycol inhibitor.

49. Respondent was required to submit to the SERC, LEPC, and local fire department with jurisdiction on or before March 1, 2017, a Tier Form including glycol inhibitor for calendar year 2016, and to submit the Tier Form annually by March 1 of the following year if Respondent stored glycol inhibitor in quantities exceeding the regulatory threshold during that year.

Failure to Submit Tier Forms
Section 312 of EPCRA, 42 U.S.C. § 11022

50. On September 27, 2019, Respondent submitted to the SERC, LEPC, and Detroit Fire Department a completed Tier Form including methanol, ethylene glycol, and glycol inhibitor for calendar year 2016.

51. Each day Respondent failed to submit to the SERC, LEPC, and Detroit Fire Department a completed emergency and hazardous chemical inventory form including methanol, ethylene glycol and glycol inhibitor by March 1, 2017, for calendar year 2016 constitutes a separate violation of section 312(a) of EPCRA, 42 U.S.C. § 11022(a), for each hazardous chemical.

52. On September 27, 2019, Respondent submitted to the SERC, LEPC, and Detroit Fire Department a completed Tier Form including methanol, ethylene glycol, and glycol inhibitor for calendar year 2017.

53. Each day Respondent failed to submit to the SERC, LEPC, and Detroit Fire Department a completed emergency and hazardous chemical inventory form including methanol, ethylene glycol and glycol inhibitor by March 1, 2018, for calendar year 2017 constitutes a separate violation of section 312(a) of EPCRA, 42 U.S.C. § 11022(a), for each hazardous chemical.

54. On September 27, 2019, Respondent submitted to the SERC a completed Tier Form including methanol, ethylene glycol, and glycol inhibitor for calendar year 2018.

55. Each day Respondent failed to submit to the SERC a completed emergency and hazardous chemical inventory form including methanol, ethylene glycol and glycol inhibitor by March 1, 2019, for calendar year 2018 constitutes a separate violation of section 312(a) of EPCRA, 42 U.S.C. § 11022(a), for each hazardous chemical.

56. On September 27, 2019, Respondent submitted to the LEPC a completed Tier Form including methanol, ethylene glycol, and glycol inhibitor for calendar year 2018.

57. Each day Respondent failed to submit to the LEPC a completed emergency and hazardous chemical inventory form including methanol, ethylene glycol and glycol inhibitor by March 1, 2019, for calendar year 2018 constitutes a separate violation of section 312(a) of EPCRA, 42 U.S.C. § 11022(a), for each hazardous chemical.

58. On September 27, 2019, Respondent submitted to the Detroit Fire Department a completed Tier Form including methanol, ethylene glycol, and glycol inhibitor for calendar year 2018.

59. Each day Respondent failed to submit to the Detroit Fire Department a completed emergency and hazardous chemical inventory form including methanol, ethylene glycol and glycol inhibitor by March 1, 2019, for calendar year 2018 constitutes a separate violation of section 312(a) of EPCRA, 42 U.S.C. § 11022(a), for each hazardous chemical.

60. On March 17, 2020, Respondent submitted to the SERC a completed Tier Form including methanol, ethylene glycol, and glycol inhibitor for calendar year 2019.

61. Each day Respondent failed to submit to the SERC a completed emergency and hazardous chemical inventory form including methanol, ethylene glycol and glycol inhibitor by

March 1, 2020, for calendar year 2019 constitutes a separate violation of section 312(a) of EPCRA, 42 U.S.C. § 11022(a), for each hazardous chemical.

62. On March 17, 2020, Respondent submitted to the LEPC a completed Tier Form including methanol, ethylene glycol, and glycol inhibitor for calendar year 2019.

63. Each day Respondent failed to submit to the LEPC a completed emergency and hazardous chemical inventory form including methanol, ethylene glycol and glycol inhibitor by March 1, 2020, for calendar year 2019 constitutes a separate violation of section 312(a) of EPCRA, 42 U.S.C. § 11022(a), for each hazardous chemical.

64. On March 17, 2020, Respondent submitted to the Detroit Fire Department a completed Tier Form including methanol, ethylene glycol, and glycol inhibitor for calendar year 2019.

65. Each day Respondent failed to submit to the Detroit Fire Department a completed emergency and hazardous chemical inventory form including methanol, ethylene glycol and glycol inhibitor by March 1, 2020, for calendar year 2019 constitutes a separate violation of section 312(a) of EPCRA, 42 U.S.C. § 11022(a), for each hazardous chemical.

Civil Penalty

66. Complainant has determined that an appropriate civil penalty to settle this action is \$3,000 plus interest. 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, effect on ability to continue to do business, prior history of violations, economic benefit or savings resulting from the violations and any other matters as justice may require. Complainant also considered U.S. EPA's Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive

Environmental Response Compensation and Liability Act, dated September 30, 1999 (EPCRA/CERCLA Enforcement Response Policy).

67. Within 30 days after the effective date of this CAFO, Respondent must begin to pay the penalty for the EPCRA violations according to the following schedule, which includes interest:

Payment Number	Due Date	Payment	Principle	Interest
Payment 1	30 Days of File Date	\$1,001.39	\$1,000.00	\$0.00
Payment 2	File Date +60	\$1,001.39	\$1,000.00	\$3.33
Payment 3	File Date +90	\$1,001.39	\$1,000.00	\$0.83
Total		\$3,004.17	\$3,000.00	\$4.17

Respondent must pay each penalty payment by sending a cashier’s or certified check, payable to “Treasurer, United States of America,” to:

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

For checks sent by express mail, by sending a cashier’s or certified check, payable to” Treasurer, United States of America,” to:

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

The check must note the following: Advanced Packaging Company LLC and the docket number of this CAFO EPCRA-05-2021-0005.

68. A transmittal letter, stating Respondent's name, the case name, Respondent's complete address, and the case docket number, must accompany each payment. Respondent must send a copy of each check and transmittal letter to:

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

James Entzminger (SE-5J)
Chemical Emergency Preparedness
and Prevention Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

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

70. If Respondent does not timely pay any installment payment as set forth in paragraph 67, above, the entire unpaid balance of the civil penalty and any amount required by paragraph 67, shall become due and owing upon written notice by U.S. EPA to Respondent of the delinquency. U.S. 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.

71. 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, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

72. The parties' consent to service of this CAFO by email at the following valid email addresses: guenther.robert@epa.gov (for Complainant) and Wailsaab22@gmail.com (for Respondent).

73. Full payment of the penalty and compliance with this CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

74. This CAFO does not affect the rights of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

75. Respondent certifies that it is complying with section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

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

77. This CAFO is a "final order" for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

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

79. Each person signing this consent 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.

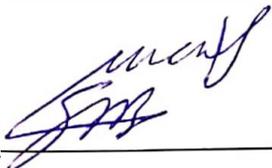
80. Each party agrees to bear its own costs and attorney's fees in this action.

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

In the Matter of: Advanced Packaging Company LLC, Detroit, Michigan
Docket No. _____

Advanced Packaging Company LLC, Respondent

6-7-21
Date


Wail Saab
Owner
Advanced Packaging Company LLC

U.S. Environmental Protection Agency, Complainant

Date

**JASON
EL-ZEIN**

Digitally signed by
JASON EL-ZEIN
Date: 2021.06.09
16:27:06 -04'00'

Jason El-Zein, Chief
Emergency Response Branch 1
Superfund & Emergency Management Division
U.S. Environmental Protection Agency
Region 5

Date



Digitally signed by
DOUGLAS BALLOTTI
Date: 2021.06.10
12:10:11 -05'00'

Douglas Ballotti
Director
Superfund & Emergency Management Division
U.S. Environmental Protection Agency
Region 5

In the Matter of: Advanced Packaging Company LLC, Detroit, Michigan
Docket No. EPCRA-05-2021-0005

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.

**ANN
COYLE**

Digitally signed by
ANN COYLE
Date: 2021.06.14
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Date

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

In the Matter of: Advanced Packaging Company LLC, Detroit, Michigan
Docket No. EPCRA-05-2021-0005

Certificate of Service

I certify that I sent a true and correct copy of the foregoing Consent Agreement and Final Order, which was filed on June 14, 2021 in the following manner to the addressees:

Electronic Service

Copy by E-mail:

Wail Saab
Owner
Advanced Packaging Company, LLC
12678 Burt Road
Detroit, Michigan 48223
Wailsaab22@gmail.com

Copy by E-mail to

Attorney for Complainant:

Robert Guenther
guenther.robert@epa.gov

Copy by E-mail to

Regional Judicial Officer:

Ann Coyle
Coyle.ann@epa.gov

Dated: _____

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