



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

JUL 23 2008

REPLY TO THE ATTENTION OF:

SC-6J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Dan Ossola, President  
Ossola Industrials, Inc.  
400 A Street, Suite B  
Granite City, IL 62040

Re: Ossola Industrials, Inc., Granite City, Illinois, Consent Agreement and Final Order  
Docket No. EPCRA-05-2008-0019

Dear Mr. Ossola:

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the other original CAFO with the Regional Hearing Clerk on JUL 23 2008.

Please pay the civil penalty in the amount of \$2,000 in the manner prescribed in paragraph 45, and reference you check with the billing document number 2750844E016 and the docket number EPCRA-05-2008-0019.

Your payments are due on AUG 22 2008 [within 30 days of filing date].

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 Thomas Turner, Associate Regional Counsel, at (312) 886-6613. Thank you for your assistance in resolving this matter.

Sincerely yours,

Mark J. Horwitz, Chief  
Chemical Emergency Preparedness  
and Prevention Section

Enclosure

cc: Regional Hearing Clerk  
U.S. EPA Region 5

Thomas Turner (w/ enclosure)

Jon England, Legal Contact (w/ enclosure)  
Kathy Allen (w/ enclosure)  
IL SERC

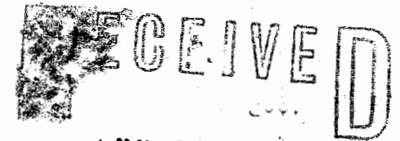
Marcy Toney  
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:	)	Docket No. EPCRA-05-2008-0019
	)	
Ossola Industrials, Inc.	)	Proceeding to Assess a Civil Penalty
400 A Street, Suite B	)	Under Section 325(c) (1) and (c) (2) of the
Granite City, IL 62040	)	Emergency Planning and Community
	)	Right-to-Know Act of 1986,
Respondent.	)	42 U.S.C. § 11045(c) (1) and (c) (2)

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Consent Agreement and Final Order  
Preliminary Statement



JUL 23 2008

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL

A handwritten signature in dark ink, appearing to be "BW".

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, Emergency Response Branch 2, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. Respondent is Ossola Industrials, Inc., a corporation doing business in the State of Illinois.
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 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) for a hazardous chemical, to prepare and submit to the state emergency response commission (SERC), community emergency coordinator for the local emergency planning committee (LEPC), and fire department with jurisdiction over the facility by March 1, 1988, and annually thereafter on March 1, an emergency and hazardous chemical inventory form (Tier I or Tier II as described in 40 C.F.R. Part 370). The form must contain the information required by Section 312(d) of EPCRA, 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 and all extremely hazardous chemicals present at the facility at any one time in amounts equal to or greater than 500 pounds or the threshold planning quantity designated by U.S. EPA at 40 C.F.R. Part 355, Appendices A and B, whichever is lower.

10. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), assists state and local committees 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, MSDS.

12. Under 29 C.F.R. § 1910.1200(d)(3), chemicals listed in 29 C.F.R. Part 1910, Subpart Z are hazardous.

13. 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 for each EPCRA Section 312 violation. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19 increased the statutory maximum penalty to \$27,500 per day of violation that occurred from January 31, 1997 through March 15, 2004, and to \$32,500 per day of violation for violations that occurred after March 15, 2004.

#### **Factual Allegations and Alleged Violations**

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

15. At all times relevant to this CAFO, Respondent was the owner or operator of the facility located at 400 A Street, Suite B, Granite City, Illinois, 62040.

16. At all times relevant to this CAFO, Respondent was the 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 under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

19. Components of the chemicals stored at Respondent's facility, including but not limited to Kumram 03, Kum SFC 102, Kum SFC 103, Unreco 135 DVSCT, Unicast LC-65P, Monrox B, Diatomaceous Earth, and Silica Mix 7A are listed as toxic and hazardous substances under Occupational Safety and Health Administration (OSHA) regulations at 29 C.F.R. Part 1910, Subpart Z, and 29 C.F.R. § 1910.1000, Table Z-1.

20. Kumram 03 (CAS#1309-48-4), Kum SFC 102 (CAS#1309-48-4), Kum SFC 103 (CAS#1309-48-4), Unreco 135 DVSCT (CAS#14808-60-7), Unicast LC-65P-1 (CAS#1344-28-1), Monrox B (CAS#1344-28-1), Diatomaceous Earth (CAS#91053-39-3), and Silica Mix 7A (CAS#14808-60-7) are "hazardous chemicals" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

21. Kumram 03 (CAS#1309-48-4), Kum SFC 102 (CAS#1309-48-4), Kum SFC 103 (CAS#1309-48-4), Unreco 135 DVSCT (CAS#14808-60-7), Unicast LC-65P-1 (CAS#1344-28-1), Monrox B (CAS#1344-28-1), Diatomaceous Earth (CAS#91053-39-3), and Silica Mix 7A (CAS#14808-60-7) have a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

22. During at least one period of time in calendar year 2003, Unreco 135 DVSCT, Diatomaceous Earth, and Silica Mix 7A were present at Respondent's facility in an amount equal to or greater than the minimum threshold level.

23. During at least one period of time in calendar year 2004, Unreco 135 DVSCT, Monrox B, Diatomaceous Earth, and Silica Mix 7A were present at Respondent's facility in an amount equal to or greater than the minimum threshold level.

24. During at least one period of time in calendar year 2005, Unreco 135 DVSCT, Monrox B, Diatomaceous Earth, and Silica Mix 7A were present at Respondent's facility in an amount equal to or greater than the minimum threshold level.

25. During at least one period of time in calendar year 2006, Kumram 03, Kum SFC 102, Kum SFC 103, Unreco 135 DVSCT, Unicast LC-65P, Monrox B, Diatomaceous Earth, and Silica Mix 7A were present at Respondent's facility in an amount equal to or greater than the minimum threshold level.

26. OSHA requires Respondent to prepare, or have available, an MSDS for Kumram 03, Kum SFC 102, Kum SFC 103, Unreco 135 DVSCT, Unicast LC-65P, Monrox B, Diatomaceous Earth, and Silica Mix 7A.

27. Respondent was required to submit to the SERC, LEPC, and jurisdictional fire department on or before March 1, 2004, a completed emergency and hazardous chemical inventory form including Unreco 135 DVSCT, Diatomaceous Earth, and Silica Mix 7A for calendar year 2003.

28. Respondent was required to submit to the SERC, LEPC, and jurisdictional fire department on or before March 1, 2005, a completed emergency and hazardous chemical inventory form including Unreco 135 DVSCT, Monrox B, Diatomaceous Earth, and Silica Mix 7A for calendar year 2004.

29. Respondent was required to submit to the SERC, LEPC, and the jurisdictional fire department on or before March 1, 2006, a completed emergency and hazardous chemical inventory form including Unreco 135 DVSCT, Monrox B, Diatomaceous Earth, and Silica Mix 7A for calendar year 2005.

30. Respondent was required to submit to the SERC, LEPC, and jurisdictional fire

department on or before March 1, 2007, a completed emergency and hazardous chemical inventory form including Kumram 03, Kum SFC 102, Kum SFC 103, Unreco 135 DVST, Unicast LC-65P, Monrox B, Diatomaceous Earth, and Silica Mix 7A for calendar year 2006.

31. At all times relevant to this CAFO, the Illinois Emergency Management Agency was the SERC for Illinois under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

32. At all times relevant to this CAFO, the Madison County Local Emergency Planning Committee was the LEPC for Madison County, Illinois, under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

33. At all times relevant to this CAFO, the Granite City, Illinois, Fire Department was the fire department with jurisdiction over the Respondent's facility. See, Section 312(a)(1)(c) of EPCRA, 42 U.S.C. § 11022(a) (1) (c).

34. As of August 16, 2007, Respondent had not submitted to the SERC, LEPC, and Granite City, Illinois, Fire Department a completed Emergency and Hazardous Chemical Inventory Form including Unreco 135 DVST, Diatomaceous Earth, and Silica Mix 7A for calendar year 2003.

35. As of August 16, 2007, Respondent had not submitted to the SERC, LEPC, and Granite City, Illinois, Fire Department a completed Emergency and Hazardous Chemical Inventory Form including Unreco 135 DVST, Monrox B, Diatomaceous Earth, and Silica Mix 7A for calendar year 2004.

36. As of August 16, 2007, Respondent had not submitted to the SERC, LEPC, and Granite City, Illinois, Fire Department a completed Emergency and Hazardous Chemical Inventory Form including Unreco 135 DVST, Monrox B, Diatomaceous Earth, and Silica Mix 7A for calendar year 2005.



37. On October 18, 2007, Respondent submitted to the SERC, LEPC, and Granite City, Illinois, Fire Department a completed Emergency and Hazardous Chemical Inventory Form including Kumram 03, Kum SFC 102, Kum SFC 103, Unreco 135 DVSCT, Unicast LC-65P, Monrox B, Diatomaceous Earth, and Silica Mix 7A for calendar year 2006.

38. Each day Respondent failed to submit to the SERC, LEPC, and Granite City, Illinois Fire Department a completed Emergency and Hazardous Chemical Inventory Form including Unreco 135 DVSCT, Diatomaceous Earth, and Silica Mix 7A by March 1, 2004, for calendar year 2003 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

39. Each day Respondent failed to submit to the SERC, LEPC, and Granite City, Illinois Fire Department a completed Emergency and Hazardous Chemical Inventory Form including Unreco 135 DVSCT, Monrox B, Diatomaceous Earth, and Silica Mix 7A by March 1, 2005, for calendar year 2004 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

40. Each day Respondent failed to submit to the SERC, LEPC, and Granite City, Illinois Fire Department a completed Emergency and Hazardous Chemical Inventory Form including Unreco 135 DVSCT, Monrox B, Diatomaceous Earth, and Silica Mix 7A by March 1, 2006, for calendar year 2005 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

41. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including Kumram 03, Kum SFC 102, Kum SFC 103, Unreco 135 DVSCT, Unicast LC-65P, Monrox B, Diatomaceous Earth, and Silica Mix 7A by March 1, 2007, for calendar year 2006 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

42. Each day Respondent failed to submit to the LEPC a completed Emergency and Hazardous Chemical Inventory Form including Kumram 03, Kum SFC 102, Kum SFC 103, Unreco 135 DVST, Unicast LC-65P, Monrox B, Diatomaceous Earth, and Silica Mix 7A by March 1, 2007, for calendar year 2006 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

43. Each day Respondent failed to submit to the Granite City, Illinois Fire Department a completed Emergency and Hazardous Chemical Inventory Form including Kumram 03, Kum SFC 102, Kum SFC 103, Unreco 135 DVST, Unicast LC-65P, Monrox B, Diatomaceous Earth, and Silica Mix 7A by March 1, 2007, for calendar year 2006 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

#### **Civil Penalty**

44. In consideration of Respondent's financial status, quick settlement, and size of business, U.S. EPA has determined that an appropriate civil penalty to settle this action is \$2,000. U.S. EPA considered financial information submitted by Respondent, and performed a financial analysis. The U.S. EPA financial analysis supports the civil penalty amount.

45. Within 30 days after the effective date of this CAFO, Respondent must pay a \$2,000 civil penalty for the EPCRA violations. Respondent must pay the penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

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

The check must note the following: Ossola Industrials, Inc., Granite City, Illinois, the docket number of this CAFO and the billing document number 2750844E016.

Respondent may also pay by electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read "D68010727  
Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state the following: Ossola  
Industrials, Inc., Granite City, Illinois, the docket number of this CAFO and the billing document

number 27508448016 *JDW*

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

Regional Hearing Clerk, (E-13J)  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

James Entzminger, (SC-6J)  
Chemical Emergency Preparedness  
and Prevention Section  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

Tom Turner, ORC (C-14J)  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

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

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

49. 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**

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

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

52. Respondent certifies that it is complying with Section 312 of EPCRA, 42 U.S.C. § 11022.

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

54. This CAFO is a "final order" for purposes of U.S. EPA's Enforcement Response Policy for Section 312 of EPCRA.

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


56. 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.

57. Each party agrees to bear its own costs and fees, including attorneys' fees, in this action.

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

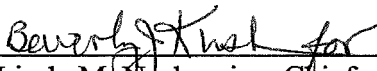
**Ossola Industrials, Inc., Respondent**

7/7/08  
Date

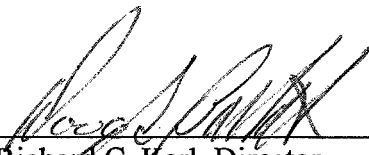
  
Mr. Dan Ossola, President  
Ossola Industrials, Inc.

**U.S. Environmental Protection Agency, Complainant**

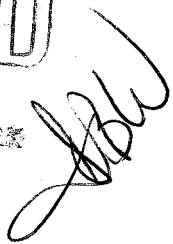
07/14/08  
Date

  
Linda M. Wachowicz, Chief  
Emergency Response Branch 2  
Superfund Division

7/16/08  
Date

  
Richard C. Karl, Director  
Superfund Division

In the Matter of:  
**Ossola Industrials, Inc., Granite City, Illinois**  
Docket No. EPCRA-05-2008-0019


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PROTECTION AGENCY  


In the Matter of:  
Ossola Industrials, Inc., Granite City, Illinois  
Docket No. EPCRA-05-2008-0019

**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.

7-22-08  
Date

  
Bharat Mathur  
Acting Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

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PROTECTION AGENCY



**In the Matter of:**  
**Ossola Industrials, Inc., Granite City, Illinois**  
**Docket No. EPCRA-05-2008-0019**

**Certificate of Service**

I, James Entzminger certify that I hand delivered the original of the Consent Agreement and Final Order, docket number EPCRA-05-2008-0019 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, personally served a copy on the Regional Judicial Officer, and mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Ossola Industrials, Inc. by placing them in the custody of the United States Postal Service addressed as follows:

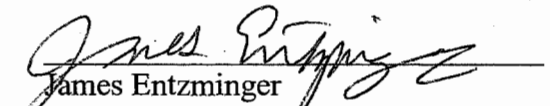
Mr. Dan Ossola, President  
Ossola Industrials, Inc.  
400 A Street, Suite B  
Granite City, IL 62040

on the 23 day of July, 2008

RECEIVED  
JUL 23 2008

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PROTECTION AGENCY



  
James Entzminger  
U.S. Environmental Protection Agency  
Region 5