

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2007 SEP -5 PM 12:17
REGIONAL HEARING
CLERK

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In the Matter of :
PAMARCO GLOBAL GRAPHICS : **CONSENT AGREEMENT**
Respondent. : **AND**
 : **FINAL ORDER**
Proceeding under Section 325(c) of : **DOCKET NUMBER**
Title III of the Superfund : **EPCRA-02-2007-4113**
Amendments and Reauthorization Act :
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PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 325(c) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. §11001 *et seq.* [also known as the Emergency Planning and Community Right-to-Know Act of 1986 (hereinafter, "EPCRA")]. The "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Etc." (40 C.F.R. Part 22 (July 1, 2000)), provide in 40 C.F.R. §22.13(b) that when the parties agree to settle one or more causes of action before the filing of an Administrative Complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order pursuant to 40 C.F.R. §§22.18(b)(2) and (3).

The Director of the Division of Enforcement and Compliance Assistance of the United States Environmental Protection Agency, Region 2 ("EPA or Complainant"), alleges that Pamarco Global Graphics located at 235 East Eleventh Avenue, Roselle, New Jersey 07203 violated the requirements of Section 313 of EPCRA (42 U.S.C. §11023) and the regulations promulgated pursuant to that Section, codified at 40 C.F.R. Part 372.

Under Section 313 of EPCRA and 40 C.F.R. §372.22, owners or operators of a facility subject to the requirements of Section 313(b) are required to submit annually, no later than July 1 of each year, a Toxic Chemical Release Inventory Reporting Form R, EPA Form 9350-1 (hereinafter, "Form R"), for each toxic chemical listed under 40 C.F.R. §372.65 and/or 40 C.F.R. §372.28 that was manufactured, imported, processed, or otherwise used during the preceding calendar year in quantities exceeding the established toxic chemical thresholds. The completed and correct Form R is required to be submitted to the Regional Administrator of the EPA and to the State in which the subject facility is located.

As an alternative to the requirements set forth above, pursuant to Section 313(f)(2) of EPCRA (42 U.S.C. §11023(f)(2)), and 40 C.F.R. §372.27, owners or operators of a facility subject to the requirements of Section 313(b), with respect to the manufacture, process or otherwise use of a toxic chemical, may apply an alternate threshold of one million (1,000,000) pounds per year to that chemical if the conditions set forth in 40 C.F.R. §372.27(a) are met. Pursuant to 40 C.F.R. §372.27(b), if the aforementioned alternate threshold for a specific toxic chemical is applicable, such owners or operators, in lieu of filing a Form R therefore, may submit "EPA Toxic Chemical Release Inventory Form A" (EPA Form 9350-2) (formerly the "Certification Statement"; see 59 Fed. Reg. 61488; November 30, 1994). EPA has excluded Persistent Bioaccumulative Toxic Chemicals (PBTs) from eligibility for the "Alternate Threshold for facilities with Low Annual Reportable Amounts." (40 C.F.R. §372.27(e))

EPA and Pamarco Global Graphics agree that settling this matter by entering into this Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. §22.13(b) and 40 C.F.R. §22.18(b)(2) and (3), is an appropriate means of resolving this case without further litigation. This CAFO is being issued pursuant to said provisions of 40 C.F.R. Part 22. No formal or adjudicated Findings of Fact or Conclusions of Law have been made. The following constitutes Complainant's Findings of Fact and Conclusions of Law based upon information EPA had obtained through December 12, 2006.

FINDINGS OF FACT
AND CONCLUSIONS OF LAW

1. Respondent is Pamarco Global Graphics (TRI Facility No.: 07203PMRCN209E1), a corporation duly existing under and organized pursuant to the laws of the State of Maryland.
2. At all times relevant hereto, Respondent has maintained a facility located at 235 East Eleventh Avenue, Roselle, New Jersey 07203 which is the subject of this Consent Agreement and Final Order (hereinafter, "Respondent's facility").
3. Respondent is a "person" within the meaning of Section 329(7) of EPCRA (42 U.S.C. §11049).
4. Respondent is an owner of a "facility" as that term is defined by Section 329(4) of EPCRA (42 U.S.C. §11049(4)) and by 40 C.F.R. §372.3.
5. Respondent is an operator of a "facility" as that term is defined by Section 329(4) of EPCRA (42 U.S.C. §11049(4)) and by 40 C.F.R. §372.3.
6. Respondent's facility has 10 or more "full time employees" as that term is defined by 40 C.F.R. §372.3.
7. Respondent's facility is in Standard Industrial Classification Code 2796.
8. Respondent's facility is in the American Industry Classification System (NAICS) Code 323122.
9. Copper compounds are listed under 40 C.F.R. §372.65.
10. The established threshold amount for reporting processing copper compounds in calendar years 2001, 2002, 2003 and 2004 was 25,000 pounds [40 C.F.R. §372.25(a)].
11. Respondent submitted a Form R report to the EPA for processing approximately 34,796 pounds of copper compounds for calendar year 2001 on May 11, 2006. The Form R was due July 1, 2002 (the "due date"). The Form R was greater than one year late.
12. Respondent submitted a Form R report to the EPA for processing approximately 46,390 pounds of copper compounds for calendar year 2002 on May 16, 2006. The Form R was due July 1, 2003 (the "due date"). The Form R was greater than one year late.

13. Respondent submitted a Form R report to the EPA for processing approximately 57,019 pounds of copper compounds for calendar year 2003 on May 18, 2006. The Form R was due July 1, 2004. (the "due date") The Form R was greater than one year late.

14. Respondent submitted a Form R report to the EPA for processing approximately 60,426 pounds of copper compounds for calendar year 2004 on April 17, 2006. The Form R was due July 1, 2005. (the "due date") The Form R was 290 days late.

15. Respondent was required to submit a complete and correct Form R or Form A for copper compounds for the calendar years 2001, 2002, 2003 and 2004 to the Administrator of EPA and to the State of New Jersey by each respective due date.

16. Respondent failed to submit, in a timely manner, a complete and correct Form R or Form A for copper compounds for the calendar years 2001, 2002, 2003 and 2004 to the Administrator and to the State of New Jersey .

17. Respondent's failure to submit, in a timely manner, a Form R or Form A for copper compounds for the calendar years 2001, 2002, 2003 and 2004 constitutes a failure for each of those years to comply with Section 313 of EPCRA (42 U.S.C. §11023) and with 40 C.F.R. Part 372.

18. Lead compounds are listed under 40 C.F.R. §372.65 and 40 C.F.R. §372.28.

19. The established threshold amount for reporting the Persistent Bioaccumulative Toxic Chemical lead compounds category for the 2001, 2002, 2003 and 2004 calendar years was 100 pounds. [40 C.F.R. §372.28].

20. Respondent submitted a Form R report to the EPA for processing approximately 397 pounds of lead compounds for calendar year 2001 on May 11, 2006. The Form R was due July 1, 2002 (the "due date"). The Form R was greater than one year late.

21. Respondent submitted a Form R report to the EPA for processing approximately 397 pounds of lead compounds for calendar year 2002 on May 16, 2006. The Form R was due July 1, 2003 (the "due date"). The Form R was greater than one year late.

22. Respondent submitted a Form R report to the EPA for processing approximately 397 pounds of lead compounds for calendar year 2003 on May 18, 2006. The Form R was due July 1, 2004. (the "due date") The Form R was greater than one year late.

23. Respondent submitted a Form R report to the EPA for processing approximately 397 pounds of lead compounds for calendar year 2004 on April 17, 2006. The Form R was due July 1, 2005. (the "due date") The Form R was 290 days late.

24. Respondent was required to submit a complete and correct Form R or Form A for lead compounds for the calendar years 2001, 2002, 2003 and 2004 to the Administrator of EPA and to the State of New Jersey by each respective due date.

25. Respondent failed to submit, in a timely manner, a complete and correct Form R or Form A for lead compounds for the calendar years 2001, 2002, 2003 and 2004 to the Administrator and to the State of New Jersey .

26. Respondent's failure to submit, in a timely manner, a Form R or Form A for lead compounds for the calendar years 2001, 2002, 2003 and 2004 constitutes a failure for each of those years to comply with Section 313 of EPCRA (42 U.S.C. §11023) and with 40 C.F.R. Part 372.

TERMS OF CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 325(c) of EPCRA, and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Etc., 40 C.F.R. §22.18 (hereinafter, "Consolidated Rules"), it is hereby agreed by and between the parties, and Respondent voluntarily and knowingly agrees as follows:

1. Respondent certifies herein that any and all EPA Toxic Chemical Release Inventory Forms submitted for the above-described violation comply with the requirements of Section 313 of EPCRA and the regulations set forth at 40 C.F.R. Part 372.

2. For the purpose of this proceeding, Respondent: (a) admits the jurisdictional allegations of this Consent Agreement as applied to the facility; and (b) neither admits nor denies the specific factual allegations contained in the Consent Agreement and the Findings of Fact and Conclusions of Law section above.

3. Respondent shall pay, by cashier's or certified check, a civil penalty in the amount of **TWENTY FOUR THOUSAND SIXTY DOLLARS (\$24,060.)** in two installments of **\$12,030.** each, payable to the "Treasurer, United States of America" and mailed to:

Region 2 - Regional Hearing Clerk
United States Environmental Protection Agency
P.O. Box 360188M
Pittsburgh, Pennsylvania 15251

Respondent shall also send a copy of each payment to each of the following:

Ms. Karen Maples, Regional Hearing Clerk
Office of the Regional Hearing Clerk
U.S. Environmental Protection Agency -Region 2
290 Broadway, 16th Floor (1631)
New York, New York 10007-1866

and

Kenneth S. Stoller, P.E., QEP, DEE, Chief
Pesticides and Toxic Substances Branch
U.S. Environmental Protection Agency - Region 2
2890 Woodbridge Avenue, Bldg. 10, MS-105
Edison, New Jersey 08837

The instrument of payment shall be identified with a notation thereon listing the following: **In the Matter of Pamarco Global Graphics, Docket No. EPCRA-02-2007-4113.** The first payment of **\$12,030.** must be received at the above address on or before 45 calendar days after the date of signature of the Final Order at the end of this document (the date by which payment must be received shall hereafter be referred to as the "due date"). The second payment of **\$12,030.** must be received at the above address on or before December 31, 2008.

a. Failure to pay the amount in full within the time period set forth above may result in referral of this matter to the United States Department of Justice or the United States Department of The Treasury for collection.

b. Furthermore, if payment is not made on or before the date specified in this document, interest for said payment shall be assessed at the annual rate established by the Secretary of The Treasury pursuant to 31 U.S.C. §3717, on the overdue amount from the date said payment was to have been made through the date said payment has been received. In addition, a late payment handling charge of \$15.00 will be assessed for each thirty (30) calendar day period, following the date the payment was to have been made, in which payment of the amount remains in arrears.

c. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

4. This Consent Agreement is being voluntarily entered into by the parties in full and final settlement of all civil liabilities under the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. §11001 et seq.) and the regulations promulgated thereunder, 40 C.F.R. Part 372, that attach or might have attached as a result of the assertions contained in the “Findings of Fact” section, above, and the allegations contained in the “Conclusions of Law” section, above.

5. Pamarco Global Graphics hereby waives its right to seek or to obtain any hearing (pursuant to Subpart D of 40 C.F.R. Part 22) on the “Findings of Fact” or the “Conclusions of Law” or the provisions of the Consent Agreement and Final Order in this matter.

6. Pamarco Global Graphics’s payment of the penalty in accordance with the requirements set forth in this document and any action it takes in compliance with or otherwise in connection with this Consent Agreement shall not affect the right of the EPA or the United States to pursue appropriate injunctive or otherwise equitable relief or criminal sanctions for any violation(s) of law occurring at Pamarco Global Graphics.

7. Pamarco Global Graphics has read the Consent Agreement, understands its terms, and voluntarily consents to its issuance and to abide by its terms and conditions, including payment of the full amount of the civil penalty in accordance with the terms set forth above. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.

8. Pamarco Global Graphics voluntarily waives any right or any remedy it has or might have pursuant to 40 C.F.R. §22.8 to be present during discussions with, or to be served with and reply to any memorandum or other communication addressed to, the Regional Administrator of EPA, Region 2, or the Deputy Regional Administrator of EPA, Region 2, where the purpose of such discussion, memorandum or other communication is to recommend that such official accept this Consent Agreement and issue the accompanying Final Order.

9. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect respondent’s obligation to comply with all applicable provisions of EPCRA and the regulations promulgated thereunder.

10. Each party shall bear its own costs and fees.

11. Each undersigned signatory to this Consent Agreement certifies that: a) he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all the terms, conditions and requirements set forth in this Consent Agreement, and b) he or she is duly and fully authorized to bind the party on behalf of whom he or she is entering this Consent Agreement to comply with and abide by all the terms, conditions and requirements of this Consent Agreement.

12. Respondent consents to service upon Respondent by a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

RESPONDENT:

Pamarco Global Graphics

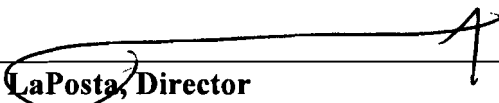
BY: 
Authorizing Signature

NAME: JOHN BURGESS
(PLEASE PRINT)

TITLE: VICE PRESIDENT

DATE: AUGUST 14 2007.

COMPLAINANT:


Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007

PATRICIA DORRICK FOR D

DATE: AUGUST 24, 2007

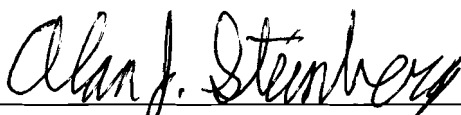
In the Matter of Pamarco Global Graphics
Docket Number EPCRA-02-2007-4113

FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the parties in full settlement of EPA's Complaint bearing **Docket No. EPCRA-02-2007-4113, issued In the Matter of Pamarco Global Graphics** is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA Region 2, New York, New York.

DATE: _____

8-27-07



Alan J. Steinberg
Regional Administrator
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007

In the Matter of Pamarco Global Graphics

Docket No. EPCRA-02-2007-4113

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the Foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced Docket Number, in the following manner to the respective addressees below:

Original and One Copy
by Interoffice Mail:

Ms. Karen Maples, Regional Hearing Clerk
Office of the Regional Hearing Clerk
U.S. Environmental Protection Agency -Region 2
290 Broadway, 16th Floor (1631)
New York, New York 10007-1866

Copy by Certified Mail,
Return Receipt Requested:

Mr. Martin Winnicki, Manager
Pamarco Global Graphics
235 East Eleventh Avenue
Roselle, New Jersey 7203

Copy by Mail:

Mr. Andrew Oppermann, EPCRA Program
State of New Jersey Department of Environmental Protection
Division of Environmental Safety and Health
Office of Pollution Prevention and Right To Know
22 S. Clinton Avenue, 3rd Floor
P.O. Box 443
Trenton, New Jersey 08625-0443

Mr. Vito A. Pinto, Esq.
Lindabury, McCormick, Estabrook & Cooper, PC
Attorneys at Law
53 Cardinal Drive
P.O. Box 2369
Westfield, New Jersey 07091-2369

Dated: AUG 30 2007



Mary Ann Kowalski, MS, MPH
Pesticides and Toxic Substances Branch
U.S. Environmental Protection Agency - Region 2
2890 Woodbridge Avenue (MS-105)
Edison, New Jersey 08837