

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1 – NEW ENGLAND**

Received by  
EPA Region 1  
Hearing Clerk

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*In the Matter of:* )  
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 Greenfield Global USA, Inc. )  
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 58 Vale Road )  
 Brookfield, Connecticut 06804 )  
 )  
 Respondent. )  
 )  
 Proceeding under Section 113 of the )  
 Clean Air Act and Section 325(c) of the )  
 Emergency Planning and Community )  
 Right-to-Know Act )  
 \_\_\_\_\_ )

Docket Numbers:  
CAA-01-2022-0034  
EPCRA-01-2022-0035

**CONSENT AGREEMENT AND FINAL ORDER**

1. The United States Environmental Protection Agency, Region 1 (“EPA” or “Complainant”) and Greenfield Global USA, Inc. (“Respondent” or “Greenfield”) consent to the entry of this Consent Agreement and Final Order (“CAFO”) pursuant to 40 C.F.R. § 22.13(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22 (“Consolidated Rules of Practice”). This CAFO resolves Respondent’s liability for an alleged violation of Section 112(r)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r)(1) and alleged violations of Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (“EPCRA”), 42 U.S.C. § 11023.

2. EPA and Respondent hereby agree to settle this matter through this CAFO without the filing of an administrative complaint, as authorized under 40 C.F.R. §§ 22.13(b) and 22.18(b).

3. EPA and Respondent agree that settlement of this matter is in the public interest, and that entry of this CAFO without further litigation is the most appropriate means of resolving this matter.

4. Therefore, before taking any testimony, upon the pleadings, without adjudication or admission of any issue of fact or law, it is hereby ordered as follows:

**I. PRELIMINARY STATEMENT**

5. This Consent Agreement and Final Order is entered into under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and the Consolidated Rules of Practice, 40 C.F.R. Part 22.

6. EPA and the U.S. Department of Justice jointly determined that this CAA matter is appropriate for administrative penalty assessment. 42 U.S.C. § 7413(d)(1); 40 C.F.R. § 19.4.

7. The Regional Judicial Officer is authorized to ratify this CAFO, which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b).

8. This CAFO both initiates and resolves an administrative action for the assessment of monetary penalties, pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d) and Section 325(c) of EPCRA, 42 U.S.C. § 11045(c). As more thoroughly discussed in Sections IV and V below, the CAFO resolves alleged CAA and EPCRA violations that Complainant asserted occurred in conjunction with Respondent's storage and handling of extremely hazardous substances, and manufacture or processing of toxic chemicals at its facility in Brookfield, Connecticut (the "Facility").

## **II. STATUTORY AND REGULATORY AUTHORITY**

9. The purpose of Section 112(r) of the CAA and its implementing regulations is “to prevent the accidental release and to minimize the consequences of any such release” of an “extremely hazardous substance.” 42 U.S.C. § 7412(r)(1).

### General Duty Clause

10. Section 112(r)(1) of the Act is referred to as the “General Duty Clause” or the “GDC.” Pursuant to the GDC, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to: (a) identify hazards that may result from accidental releases of such substances using appropriate hazard assessment techniques, (b) design and maintain a safe facility taking such steps as are necessary to prevent releases, and (c) minimize the consequences of accidental releases that do occur.

11. The term “have a general duty in the same manner and to the same extent as section 654 of title 29” of the United States Code means owners and operators must comply with the General Duty Clause in the same manner and to the same extent as employers must comply with the Occupational Safety and Health Act administered by the Occupational Safety and Health Administration (“OSHA”).

12. The term “extremely hazardous substance” means an extremely hazardous substance within the meaning of Section 112(r)(1) of the CAA, including any chemical which may, as a result of short-term exposures associated with releases to the air, cause death, injury, or property

damage due to its toxicity, reactivity, flammability or corrosivity.<sup>1</sup> The term includes, but is not limited to, regulated substances listed in CAA Section 112(r)(3) and in 40 C.F.R. § 68.130. In addition, the release of any substance that causes death or serious injury because of its acute toxic effect or as a result of an explosion or fire or that causes substantial property damage by blast, fire, corrosion or other reaction would create a presumption that such substance is extremely hazardous.<sup>2</sup> Under Section 112(r)(3) of the CAA, the term “extremely hazardous substances” also includes, without limitation and in addition to substances listed in 40 C.F.R. § 68.130, those substances listed in 40 C.F.R. Part 355, Appendices A and B, published under Section 302 of EPCRA, 42 U.S.C. § 11002.

13. The term “accidental release” is defined by Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A), as an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

14. The term “stationary source” is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), in pertinent part, as any buildings, structures, equipment, installations, or substance-emitting stationary activities, located on one or more contiguous properties under the control of the same person, from which an accidental release may occur.

15. The General Duty Clause is a performance standard with requirements that often can be achieved in a variety of ways. EPA routinely consults chemical Safety Data Sheets (“SDSs”), codes, standards, and guidance issued by chemical manufacturers, trade associations, and fire prevention associations (collectively, “industry standards”) to understand the hazards posed by using various extremely hazardous substances. The industry standards also are evidence of the

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<sup>1</sup> Senate Committee on Environment and Public Works, Clean Air Act Amendments of 1989, Sen. Report No. 228, 101<sup>st</sup> Congress, 1<sup>st</sup> Session 211 (1989).

<sup>2</sup> *Id.*

standard of care that industry, itself, has found to be appropriate for managing those hazards. These industry standards are consistently relied upon by industry safety and fire prevention experts and are sometimes incorporated into state building, fire, and mechanical codes.

16. Sections 113(a) and (d) of the CAA, 42 U.S.C. §§ 7413(a) and (d), provide for the assessment of civil penalties for violations of Section 112(r) of the CAA. Statutory maximum penalties for the CAA, as adjusted for inflation, are set forth in 40 C.F.R. Part 19

#### EPCRA

17. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048, EPA promulgated Toxic Chemical Release Reporting: Community Right-to-Know regulations at 40 C.F.R. Part 372.

18. Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), requires owners or operators of a facility subject to the requirements of Section 313(b) of EPCRA to submit annually, no later than July 1 of each year, a Toxic Chemical Release Inventory Reporting Form, EPA Form 9350-1 (“Form R”), for each toxic chemical listed under 40 C.F.R. § 372.65 that was manufactured, processed, or otherwise used during the preceding calendar year in quantities exceeding the toxic chemical thresholds established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. §§ 372.25 and 372.28.

19. A certification statement (Form A) may be submitted as an appropriate EPA reporting form in lieu of Form R if all criteria in 40 C.F.R. § 372.27 are met, including that total annual releases and waste management of a listed chemical do not exceed 500 pounds.

20. Each Form R or Form A (hereinafter, referred to together as “TRI Forms”) must be submitted to EPA and a designated state authority.

21. Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. §§ 372.22 and 372.30 provide that owners or operators of facilities that have 10 or more full-time employees; that are in a Standard Industrial Classification (“SIC”) code or North American Industry Classification System (“NAICS”) code set forth in 40 C.F.R. § 372.23; and that manufactured, processed, or otherwise used a toxic chemical listed under 40 C.F.R. § 372.65 in a quantity exceeding the established threshold during a calendar year, must submit TRI Forms to EPA and the state authority for each of these substances for that year.

22. “Manufacture” as defined in 40 C.F.R. § 372.3 means to produce, prepare, import, or compound a toxic chemical. Manufacture also applies to a toxic chemical that is produced coincidentally during the manufacture, processing, use, or disposal of another chemical or mixture of chemicals, including a toxic chemical that is separated from that other chemical or mixture of chemicals as a byproduct, and a toxic chemical that remains in that other chemical or mixture of chemicals as an impurity.

23. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), allows EPA to assess civil penalties for violations of EPCRA Section 313. Statutory maximum penalties for EPCRA, as adjusted for inflation, are set forth in 40 C.F.R. Part 19.

24. Pursuant to Section 325(c)(3) of EPCRA, 42 U.S.C. § 11045(c)(3), each day that an EPCRA Section 313 violation continues constitutes a separate violation.

### **III. GENERAL FACTUAL ALLEGATIONS**

25. Respondent is a corporation organized under the laws of the state of Connecticut with a place of business at 58 Vale Road, Brookfield, Connecticut.

26. Respondent repackages, blends according to pre-determined regulatory formulas, and stores multiple chemicals at the “Facility.” The Facility unloads bulk alcohol (ethanol and

isopropyl alcohol) into on-site vessels from railcars or tanker trucks. The Facility then repackages and blends (according to pre-determined regulatory formulas) the chemicals in its production area. The Facility also has a clean room to repackage specialty solvents. Once repackaged, the Facility stores the drums and containers into two warehouse storage areas.

27. The Facility handles several extremely hazardous substances including chloroform, formaldehyde, and sulfuric acid, which are regulated substances listed in CAA Section 112(r)(3); and propane which is a regulated substance listed in 40 C.F.R. § 68.130.

28. The Facility handles many other extremely hazardous substances which are described below.

- a. Methanol and ethanol are toxic and highly flammable, and their vapors mix easily with air to form an explosive mixture. Both are flammable even when very dilute and burns with an invisible flame that can present a fire-fighting challenge. Mixtures of ethanol or methanol with concentrated sulfuric acid can cause explosions.
- b. Dichloromethane is toxic and flammable. It is incompatible with strong oxidizers and strong caustics. Mixtures of dichloromethane in air with methanol vapor are flammable.
- c. N-Hexane is highly flammable and in a fire its vapors may explode. It can react vigorously with oxidizing materials, such as sulfuric acid.
- d. Sodium hydroxide is highly toxic and has rapid, heat producing reactions with organic and inorganic acids and with organic and inorganic acid chlorides.

- e. Ammonium hydroxide is highly corrosive and has heat producing reactions with acids. It can generate toxic gaseous ammonia with exposure to strong bases, such as sodium hydroxide and potassium hydroxide.
- f. Phosphoric acid is toxic and generates heat in reactions with bases.
- g. Acetic acid is toxic and when heated its vapors may form explosive mixtures with air. Acetic acid generates heat in reactions with bases, such as sodium hydroxide and potassium hydroxide.

29. The chemicals listed above in paragraph 28 a. through g., either alone or improperly co-located with an incompatible material are chemicals that may, as the result of short-term exposures associated with releases to air, have the potential to cause death, injury, or serious adverse effects to human health or the environment due to their toxicity, reactivity, flammability, or corrosivity. Accordingly, these chemicals are extremely hazardous substances within the meaning of the General Duty Clause of the Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

30. Respondent operates the Facility, as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3.

31. The Facility is a “stationary source” as that term is defined Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).

32. As a corporation, Respondent is a “person” within the meaning of Section 329(7) of EPCRA, 42 U.S.C. § 11049(7) and Section 302(e) of the Clean Air Act, 42 U.S.C. § 7602(e).

33. The Facility has more than 10 “full-time employees,” as that term is defined by 40 C.F.R. § 372.3.



34. Facility is classified in SIC codes 2869 and 5169 or NAICS codes 325193 and 424690 which are set forth in 40 C.F.R. § 372.23.

35. On December 4, 2019, EPA and its contractors conducted an inspection (the “Inspection”) at the Facility. The principal purpose of the Inspection was to determine whether Respondent was operating the Facility in compliance with federal environmental laws and regulations administered by EPA, including but not limited to Sections 302 – 312 of EPCRA, 42 U.S.C. §§ 11002 – 11022, and Section 112(r) of the Clean Air Act.

36. During the Inspection and based on information submitted after the Inspection, several areas of concern were noted for the Facility, as described in a February 5, 2020 EPA Inspection Report (“Inspection Report”), including these allegations: storing incompatible chemicals together in the warehouse (for example, acids/caustics and flammable chemicals); inaccessible eyewash and safety showers at the indoor and outdoor chemical storage/loading areas; missing NFPA diamonds on entrances to areas with chemicals and a propane storage cage; missing proper labeling on all piping where containers were filled in the Facility and on a propane tank; empty wooden pallets stored over six feet high inside the Facility, and pallets with drums or totes of methanol and isopropyl alcohol stacked greater than three high throughout the warehouse.

37. The unanticipated release of an extremely hazardous substance described in paragraphs 27 and 28 into the ambient air from the Facility, either alone or as a result of a reaction with a co-located incompatible material, would constitute an “accidental release,” as that term is defined by Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A).

38. For reporting year 2017, the total amount of EPCRA TRI reportable activities (releases and transfers and disposal) for the Facility was greater than 500 pounds for acetonitrile, methyl isobutyl ketone, N,N-dimethyl formamide, N-butyl alcohol, and N-hexane.

39. For reporting year 2018, the total amount of EPCRA TRI reportable activities (releases and transfers and disposal) for the Facility was greater than 500 pounds for methyl isobutyl ketone, N-butyl alcohol, N-hexane, and toluene.

40. During calendar year 2017, Respondent processed acetonitrile, a toxic chemical listed under 40 C.F.R. § 372.65, at the Facility in quantities exceeding the established threshold of 25,000 pounds set forth at 40 C.F.R. § 372.25.

41. During calendar years 2017 and 2018, Respondent processed methyl isobutyl ketone, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities exceeding the established threshold of 25,000 pounds set forth at 40 C.F.R. § 372.25(b).

42. During calendar years 2017 and 2018, Respondent processed N-butyl alcohol, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities exceeding the established threshold of 25,000 pounds set forth at 40 C.F.R. § 372.25(b).

43. During calendar years 2017 and 2018, Respondent processed N-hexane, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities exceeding the established threshold of 25,000 pounds set forth at 40 C.F.R. § 372.25(b).

44. During calendar year 2017, Respondent processed N, N-dimethyl formamide, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities exceeding the established threshold of 25,000 pounds set forth at 40 C.F.R. § 372.25(b).

45. During calendar year 2018, Respondent processed toluene, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities exceeding the established threshold of 25,000 pounds set forth at 40 C.F.R. § 372.25(b).

#### **IV. ALLEGED VIOLATIONS**

##### **Count 1: Failure to Design and Maintain a Safe Facility to Prevent Releases**

46. Complainant realleges and incorporates by reference Paragraphs 1 through 45.

47. Pursuant to the General Duty Clause in Section 112(r)(1) of the CAA, owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances have a general duty, to the same extent as 29 U.S.C. § 654, to design and maintain a safe facility to prevent releases.

48. The recommended standard of care for designing and maintaining a safe facility is to base design considerations upon applicable design codes, federal and state regulations, and recognized industry practices, to prevent releases or minimize their impacts, and to develop and implement standard operating procedures, preventative maintenance programs, personnel training programs, management of change practices, incident investigation procedures, and self-auditing procedures. The National Fire Protection Association (“NFPA”), American Society of Mechanical Engineers, and the American National Standards Institute have published standards and guidance for this purpose. See also U.S. EPA, *Guidance for Implementation of the General Duty Clause Clean Air Act Section 112(r)(1)* (May 2000) (“EPA’s General Duty Clause Guidance”).

49. The instances when Respondent allegedly failed in its general duty to design and maintain the Facility as a safe facility, taking such steps as are necessary to prevent a release of an extremely hazardous substance are summarized below.

a. Incompatible chemicals were stored next to each other in the warehouse. Industry standards of care require separation of incompatible chemicals. For example, NFPA 400 (2016) Section 6.1.12.1 requires separation of incompatible materials when stored in quantities greater than five pounds, and Section 6.1.12.2 provides examples of separation methods such as by a distance of at least 20 ft. or isolating materials using a non-combustible partition.

b. Indoor and outdoor chemical storage or loading areas had inaccessible eyewash and safety showers. Industry standards of care requires areas for quick flushing of eyes and drenching of body for immediate, emergency use where there is exposure to corrosive materials. See for example, 29 C.F.R. § 1910.151(c), OSHA regulations for medical services and first aid.

c. Entrances to areas with chemicals and a propane storage cage were missing NFPA diamonds. Signs and posted information aid in emergency response and provide a level of protection in addition to worker training and operating procedures. Industry standards, such as NFPA 704 (2017) Section 4.3(2), require signs indicating health, flammability, and ignitibility on the entrance to each room or area with hazardous materials to assist fire department response and access.

d. Piping lacked proper labeling throughout the Facility, and a propane tank near the pump house was not properly labeled. The lack of labeling increases the chance of inadvertent exposure to chemical and could frustrate efforts to react quickly during a release. Industry standards of care include systems for identification of contents of piping systems. For example, see ANSI/ASME 13.1 (2015) (scheme for identification of piping systems) and NFPA 58 (2017), Section 5.2.8.4 (requires warning labels that indicate hazards on propane containers less than 100 pounds).

50. By failing to design and maintain a safe facility to prevent accidental releases of an extremely hazardous substance used, handled, or stored as part of its operations, Respondent violated the General Duty Clause at Section 112(r)(1) of the Clean Air Act.

**Count 2: Failure to Timely Submit TRI Form R for Acetonitrile for Calendar Year 2017**

51. During calendar year 2017, Respondent manufactured (including imported) acetonitrile, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities greater than the 25,000-pound threshold amount established for EPCRA TRI reporting by 40 C.F.R. § 372.25(b).

52. Respondent's total reportable releases and waste management of acetonitrile exceeded 500 pounds in 2017, and therefore Respondent did not meet all criteria in 40 C.F.R. § 372.27 authorizing submission of a TRI Form A instead of a TRI Form R.

53. Respondent was therefore required to submit a TRI Form R for acetonitrile for calendar year 2017 to EPA on or before July 1, 2018. *See* 42 U.S.C. § 11023(a) and 40 C.F.R. §§ 372.30 (a) and (d).

54. Respondent failed to submit a TRI Form R for acetonitrile for calendar year 2017 to EPA on or before July 1, 2018.

55. Respondent's failure to timely submit a TRI Form R for acetonitrile for calendar year 2017 violated Section 313 of EPCRA and 40 C.F.R. Part 372.

**Count 3: Failure to Timely Submit TRI Form R for Methyl Isobutyl Ketone for Calendar Year 2017**

56. During calendar year 2017, Respondent processed methyl isobutyl ketone, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities greater than the 25,000-pound threshold amount established for EPCRA TRI reporting by 40 C.F.R. § 372.25(b).

57. Respondent's total reportable releases and waste management of methyl isobutyl ketone exceeded 500 pounds in 2017, and therefore Respondent did not meet all criteria in 40 C.F.R. § 372.27 authorizing submission of a TRI Form A instead of a TRI Form R.

58. Respondent was therefore required to submit a TRI Form R for methyl isobutyl ketone for calendar year 2017 to EPA on or before July 1, 2018. *See* 42 U.S.C. § 11023(a) and 40 C.F.R. §§ 372.30 (a) and (d).

59. Respondent failed to submit a TRI Form R for methyl isobutyl ketone for calendar year 2017 to EPA on or before July 1, 2018.

60. Respondent's failure to timely submit a TRI Form R for methyl isobutyl ketone for calendar year 2017 violated Section 313 of EPCRA and 40 C.F.R. Part 372.

**Count 4: Failure to Timely Submit TRI Form R for Methyl Isobutyl Ketone for Calendar Year 2018**

61. During calendar year 2018, Respondent processed methyl isobutyl ketone, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities greater than the 25,000-pound threshold amount established for EPCRA TRI reporting by 40 C.F.R. § 372.25(b).

62. Respondent's total reportable releases and waste management of methyl isobutyl ketone exceeded 500 pounds in 2018, and therefore Respondent did not meet all criteria in 40 C.F.R. § 372.27 authorizing submission of a TRI Form A instead of a TRI Form R.

63. Respondent was therefore required to submit a TRI Form R for methyl isobutyl ketone for calendar year 2018 to EPA on or before July 1, 2019. *See* 42 U.S.C. § 11023(a) and 40 C.F.R. §§ 372.30 (a) and (d).

64. Respondent failed to submit a TRI Form R for methyl isobutyl ketone for calendar year 2018 to EPA on or before July 1, 2019.

65. Respondent's failure to timely submit a TRI Form R for methyl isobutyl ketone for calendar year 2018 violated Section 313 of EPCRA and 40 C.F.R. Part 372.

**Count 5: Failure to Timely Submit TRI Form R for N-Butyl Alcohol for Calendar Year 2017**

66. During calendar year 2017, Respondent processed N-butyl alcohol, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities greater than the 25,000-pound threshold amount established for EPCRA TRI reporting by 40 C.F.R. § 372.25(b).

67. Respondent's total reportable releases and waste management of N-butyl alcohol exceeded 500 pounds in 2017, and therefore Respondent did not meet all criteria in 40 C.F.R. § 372.27 authorizing submission of a TRI Form A instead of a TRI Form R.

68. Respondent was therefore required to submit a TRI Form R for N-butyl alcohol for calendar year 2017 to EPA on or before July 1, 2018. *See* 42 U.S.C. § 11023(a) and 40 C.F.R. §§ 372.30 (a) and (d).

69. Respondent failed to submit a TRI Form R for N-butyl alcohol for calendar year 2017 to EPA on or before July 1, 2018.

70. Respondent's failure to timely submit a TRI Form R for N-butyl alcohol for calendar year 2017 violated Section 313 of EPCRA and 40 C.F.R. Part 372.

**Count 6: Failure to Timely Submit TRI Form R for N-Butyl Alcohol for Calendar Year 2018**

71. During calendar year 2018, Respondent processed N-butyl alcohol, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities greater than the 25,000-pound threshold amount established for EPCRA TRI reporting by 40 C.F.R. § 372.25(b).

72. Respondent's total reportable releases and waste management of N-butyl alcohol exceeded 500 pounds in 2018, and therefore Respondent did not meet all criteria in 40 C.F.R. § 372.27 authorizing submission of a TRI Form A instead of a TRI Form R.

73. Respondent was therefore required to submit a TRI Form R for N-butyl alcohol for calendar year 2018 to EPA on or before July 1, 2019. *See* 42 U.S.C. § 11023(a) and 40 C.F.R. §§ 372.30 (a) and (d).

74. Respondent failed to submit a TRI Form R for N-butyl alcohol for calendar year 2018 to EPA on or before July 1, 2019.

75. Respondent's failure to timely submit a TRI Form R for N-butyl alcohol for calendar year 2018 violated Section 313 of EPCRA and 40 C.F.R. Part 372.

**Count 7: Failure to Timely Submit TRI Form R for N-Hexane for Calendar Year 2017**

76. During calendar year 2017, Respondent processed N-hexane, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities greater than the 25,000-pound threshold amount established for EPCRA TRI reporting by 40 C.F.R. § 372.25(b).

77. Respondent's total reportable releases and waste management of N-hexane exceeded 500 pounds in 2017, and therefore Respondent did not meet all criteria in 40 C.F.R. § 372.27 authorizing submission of a TRI Form A instead of a TRI Form R.



78. Respondent was therefore required to submit a TRI Form R for N-hexane for calendar year 2017 to EPA on or before July 1, 2018. *See* 42 U.S.C. § 11023(a) and 40 C.F.R. §§ 372.30 (a) and (d).

79. Respondent failed to submit a TRI Form R for N-hexane for calendar year 2017 to EPA on or before July 1, 2018.

80. Respondent's failure to timely submit a TRI Form R for N-hexane for calendar year 2017 violated Section 313 of EPCRA and 40 C.F.R. Part 372.

**Count 8: Failure to Timely Submit TRI Form R for N-Hexane for Calendar Year 2018**

81. During calendar year 2018, Respondent processed N-hexane, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities greater than the 25,000-pound threshold amount established for EPCRA TRI reporting by 40 C.F.R. § 372.25(b).

82. Respondent's total reportable releases and waste management of N-hexane exceeded 500 pounds in 2018, and therefore Respondent did not meet all criteria in 40 C.F.R. § 372.27 authorizing submission of a TRI Form A instead of a TRI Form R.

83. Respondent was therefore required to submit a TRI Form R for N-hexane for calendar year 2018 to EPA on or before July 1, 2019. *See* 42 U.S.C. § 11023(a) and 40 C.F.R. §§ 372.30 (a) and (d).

84. Respondent failed to submit a TRI Form R for N-hexane for calendar year 2018 to EPA on or before July 1, 2019.

85. Respondent's failure to timely submit a TRI Form R for N-hexane for calendar year 2018 violated Section 313 of EPCRA and 40 C.F.R. Part 372.

**Count 9: Failure to Timely Submit TRI Form R for N, N-dimethyl formamide for Calendar Year 2017**

86. During calendar year 2017, Respondent processed N, N-dimethyl formamide, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities greater than the 25,000-pound threshold amount established for EPCRA TRI reporting by 40 C.F.R. § 372.25(b).

87. Respondent's total reportable releases and waste management of N,N-dimethyl formamide exceeded 500 pounds in 2017, and therefore Respondent did not meet all criteria in 40 C.F.R. § 372.27 authorizing submission of a TRI Form A instead of a TRI Form R.

88. Respondent was therefore required to submit a TRI Form R for N, N-dimethyl formamide for calendar year 2017 to EPA on or before July 1, 2018. *See* 42 U.S.C. § 11023(a) and 40 C.F.R. §§ 372.30 (a) and (d).

89. Respondent failed to submit a TRI Form R for N, N-dimethyl formamide for calendar year 2017 to EPA on or before July 1, 2018.

90. Respondent's failure to timely submit a TRI Form R for N, N-dimethyl formamide for calendar year 2017 violated Section 313 of EPCRA and 40 C.F.R. Part 372.

**Count 10: Failure to Timely Submit TRI Form R for Toluene for Calendar Year 2018**

91. During calendar year 2018, Respondent processed toluene, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities greater than the 25,000-pound threshold amount established for EPCRA TRI reporting by 40 C.F.R. § 372.25(b).

92. Respondent's total reportable releases and waste management of toluene exceeded 500 pounds in 2018, and therefore Respondent did not meet all criteria in 40 C.F.R. § 372.27 authorizing submission of a TRI Form A instead of a TRI Form R.

93. Respondent was therefore required to submit a TRI Form R for toluene for calendar year 2018 to EPA on or before July 1, 2019. *See* 42 U.S.C. § 11023(a) and 40 C.F.R. §§ 372.30 (a) and (d).

94. Respondent failed to submit a TRI Form R for toluene for calendar year 2018 to EPA on or before July 1, 2019.

95. Respondent's failure to timely submit a TRI Form R for toluene for calendar year 2018 violated Section 313 of EPCRA and 40 C.F.R. Part 372.

## **V. TERMS OF SETTLEMENT**

96. The provisions of this CAFO shall apply to and be binding on EPA, and on Respondent and its officers, directors, agents, successors, and assigns.

97. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO and that this CAFO states a claim, upon which relief may be granted, against Respondent. Respondent waives any defenses it might have as to jurisdiction and venue and without admitting or denying the factual and legal allegations contained herein, consents to the terms of this CAFO.

98. Respondent hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in this CAFO and waives its right to appeal the Final Order.

99. Respondent certifies that it has corrected the alleged violations cited in this CAFO and will operate the facility in compliance with Section 313 of EPCRA, 42 U.S.C. § 11023, the regulations promulgated thereunder found at 40 C.F.R. Part 372, and Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

100. Pursuant to Section 113(e) of the CAA, 42 U.S.C. § 7413(e), Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), and taking into account the relevant statutory penalty criteria, the facts alleged in this CAFO, and such other circumstances as justice may require, EPA has determined that it is fair and proper to assess a civil penalty of \$179,596 for the violations alleged in this matter.

101. Respondent agrees to the issuance of this CAFO and to the payment of the civil penalty cited in Paragraph 100.

102. Within thirty (30) days of the effective date of this CAFO, Respondent shall pay the total penalty amount of \$179,596 using any method or combination of methods, provided on the website <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

Respondent shall include the case name and docket numbers (“*In re Greenfield Global USA, Inc.*, CAA-01-2022-0034 and EPCRA-01-2022-0035”) on the face of each check or wire transfer confirmation. In addition, at the time of payment Respondent shall simultaneously send notice of proof of payment<sup>3</sup> to the following contacts:

Sarah Meeks  
U.S. EPA, Region 1  
5 Post Office Square, Suite 100  
Mail Code 04-3  
Boston, MA 02109-3912  
[meeks.sarah@epa.gov](mailto:meeks.sarah@epa.gov)

and

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Mail Code 4-6  
Boston, MA 02109-3912  
[santiago.wanda@epa.gov](mailto:santiago.wanda@epa.gov)

and

[R1\\_Hearing\\_Clerk\\_Filings@epa.gov](mailto:R1_Hearing_Clerk_Filings@epa.gov)

103. In the event that any portion of the civil penalty amount described in Paragraph 100 is not paid by the required due date, the total penalty amount of \$179,596, plus all accrued interest

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<sup>3</sup> Proof of payment means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with “*In re Greenfield Global USA, Inc.*, CAA-01-2022-0034 and EPCRA-01-2022-0035”.

shall become due immediately to the United States upon such failure. Then interest, as calculated in Paragraphs 104 and 105, shall continue to accrue on any unpaid amounts until the total amount due has been received by the United States. Respondent shall be liable for such amount regardless of whether EPA has notified Respondent of its failure to pay the penalty amount by the due date or made a demand for payment. All payments to the United States under this paragraph shall be made by company, bank, cashiers, or certified check, or by electronic funds transfer, as described in Paragraph 102.

104. **Collection Unpaid CAA Penalty:** In the event that any portion of the civil penalty amount relating to the alleged CAA violations (\$53,448) is not paid when due without demand, pursuant to Section 113(d)(5) of the CAA, Respondent will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Interest will be assessed on the civil penalty if it is not paid when due. In that event, interest will accrue from the due date at the “underpayment rate” established pursuant to 26 U.S.C § 6621(a)(2). In the event that a penalty is not paid when due, an additional charge will be assessed to cover the United States’ enforcement expenses, including attorney’s fees and collection costs. In addition, a quarterly nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondent’s outstanding civil penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

105. **Collection of Unpaid EPCRA Penalty:** 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. In the event that any portion of the civil

penalty amount relating to the alleged EPCRA violations (\$126,148) is not paid when due, the penalty shall be payable, plus accrued interest, without demand. Interest shall be payable at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2) and shall accrue from the original date on which the penalty was due to the date of payment. In addition, a penalty charge of six percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

106. The civil penalty under this CAFO and any interest, nonpayment penalties, and other charges described herein shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of Section 1.162-21 of the Internal Revenue Code, 26 C.F.R § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

107. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 113(d) of the CAA and Section 325(c) of EPCRA, for the violations alleged herein. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in this CAFO.

108. This CAFO in no way relieves Respondent or its employees of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to undertake any action against Respondent in response

to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

109. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law; nor shall it be construed to be a ruling on, or determination of any issue related to any federal, state, or local permit.

110. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.

**VI. EFFECT OF CONSENT AGREEMENT AND ATTACHED FINAL ORDER**

111. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations specifically alleged above.

112. By signing this CAFO, Respondent acknowledges that this document will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.

113. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.

114. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant

penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

115. Except as qualified by Paragraphs 104 and 105 (collection of unpaid penalties), each party shall bear its own costs and fees in this proceeding including attorney's fees. Respondent specifically waives any right to recover such costs from EPA pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable laws.

116. Complainant and Respondent, by entering into this Consent Agreement, each give their respective consent to accept digital signatures hereupon. Respondent further consents to accept electronic service of the fully executed CAFO, by e-mail to: legal@greenfield.com. Respondent understands that this e-mail address may be made public when the CAFO and Certificate of Service are filed and uploaded to a searchable database. Complainant has provided Respondent with a copy of the EPA Region 1 Regional Judicial Officer's Authorization of EPA Region 1 Part 22 Electronic Filing System for Electronic Filing and Service of Documents Standing order, dated June 19, 2020. Electronic signatures shall comply with, and be maintained in accordance with, that Order.

## **VII. EFFECTIVE DATE**

117. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, EPA will electronically transmit a copy of the filed CAFO to the Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Regional Hearing Clerk.



FOR RESPONDENT:



\_\_\_\_\_  
Signature

06/16/2022

\_\_\_\_\_  
Date

Printed Name: Frank Richards

Title: Executive Vice President

Address: 58 Vale Rd, Brookfield, CT 06804

FOR COMPLAINANT:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Karen McGuire, Director  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency  
Region 1 – New England

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1 – NEW ENGLAND**

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<i>In the Matter of:</i>	)	
	)	
Greenfield Global USA, Inc.	)	
	)	Docket Number:
58 Vail Street	)	CAA-01-2022-0034
Brookfield, Connecticut 06804	)	EPCRA-01-2022-0035
	)	
Respondent.	)	
	)	
Proceeding under Section 113 of the	)	
Clean Air Act and Section 325(c) of the	)	
Emergency Planning and Community	)	
Right-to-Know Act	)	
_____	)	

**FINAL ORDER**

Pursuant to 40 C.F.R. §§ 22.18(b) and (c) of EPA’s Consolidated Rules of Practice, Section 113(d) of the CAA, 42 U.S.C. § 7413(d) and Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), the Consent Agreement is incorporated by reference into this Final Order and is hereby ratified. Respondent, Greenfield Global USA, Inc., is ordered to pay the civil penalty of \$179,596 in the manner indicated. The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

SO ORDERED THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2022.

\_\_\_\_\_  
LeAnn Jensen, Regional Judicial Officer  
U.S. EPA, Region 1