



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

JAN 17 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Margaret A. Hill, Esq.
Blank & Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, Pennsylvania 19103-6998

SUBJECT: Atlantic Marine Alabama, LLC
Consent Agreement and Final Order
Docket No. EPCRA-04-2008-2005(b)

Dear Ms. Hill:

Enclosed please find an executed copy of the Consent Agreement and Final Order (CAFO) that resolves the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) matter (Docket No. EPCRA-04-2008-2005(b)) involving Atlantic Marine Alabama, LLC. The CAFO was filed with the Regional Hearing Clerk, as required by 40 CFR Part 22 and became effective on the date of the filing.

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

If you have any questions, please call Mr. Jyoti Bhushan at (404) 562-9182.

Sincerely,

A handwritten signature in black ink that reads "Caron B. Falconer".

Caron B. Falconer
Chief, EPCRA Enforcement Section

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)
)
Atlantic Marine Alabama, LLC)
)
Respondent.)
_____)

Docket Number: EPCRA-04-2008-2003(b)

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ENVIRONMENTAL
2009 JAN 17 PM 1:28
HEALTH & ENVIRONMENT

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045, and pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 40 CFR Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Atlantic Marine Alabama, LLC.

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

II. Preliminary Statements

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

4. Respondent, Atlantic Marine Alabama, LLC, is incorporated in the State of Delaware, and doing business in the State of Alabama.

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

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

7. Respondent's facility is located at Main Gate, Dunlap Drive, Mobile, Alabama.

8. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 CFR §§ 372.22 and 372.30, requires the owner or operator of a facility that (a) has 10 or more full-time employees; (b) is in a Standard Industrial Classification (SIC) major group or industry listed in 40 CFR § 372.23(a) (for which the corresponding North American Industry Classification System subsector and industry codes are listed in 40 CFR §§ 372.23(b) and 372.23(c)); and (c) manufactured, processed, or otherwise used a toxic chemical listed in Section 313(c) of EPCRA, 42 U.S.C. § 11023(c) and 40 CFR § 372.65, in excess of an applicable threshold quantity established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f) and set forth in 40 CFR § 372.25, during the calendar year, to complete and submit a toxic chemical release inventory reporting Form R (EPA Form 9350-1) to the Administrator of EPA and to the State in which the facility is located, by July 1 for the preceding calendar year for each toxic chemical known by the owner or operator to be manufactured, processed, or otherwise used in quantities exceeding the established threshold quantity during the preceding calendar year.

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

10. Respondent has 10 or more full-time employees, as defined at 40 CFR § 372.22 at its facility.

11. Respondent's facility is classified under SIC code 3731.

12. Respondent's facility is classified in a covered SIC code as described at 40 CFR § 372.22.

13. Propylene is a toxic chemical listed under 40 CFR § 372.65 and Section 313(c) of EPCRA, 42 U.S.C. § 11023(c).

14. Respondent's facility processed or otherwise used a toxic chemical listed under Section 313 of EPCRA, 42 U.S.C. § 11023 and 40 CFR § 372.65, in excess of the 25,000/10,000 pound threshold quantity established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f) and 40 CFR § 372.25, during calendar years 2003, 2004, and 2005.

15. Respondent failed to submit a Form R for propylene to the Administrator of EPA and to the official designated by the Governor of the State of Alabama by July 1 of the reporting year.

16. Respondent violated the reporting requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, at its facility for calendar years 2005, 2004, and 2003, and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

17. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and 40 CFR Part 19, EPA may assess a civil penalty of not more than \$27,500 for each violation of Section 313 that occurred after January 30, 1999, and not more than \$32,500 after March 15, 2004. Each day a violation of Section 313 continues constitutes a separate violation. Civil penalties under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), may be assessed by an Administrative Order.

III. Consent Agreement

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

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

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

21. Respondent agrees to complete the Supplemental Environmental Project (SEP) set forth in this CAFO.

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

23. Compliance with this CAFO shall resolve the allegations of violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States other than as expressed herein. Neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for a violation of any federal or state statute, regulation or permit; to initiate an action for imminent and substantial endangerment; or to pursue criminal enforcement.

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

IV. Final Order

25. Respondent shall pay a civil penalty of FIFTEEN THOUSAND EIGHT HUNDRED THIRTY ONE DOLLARS (\$15,831), for the violations alleged in Section II. Payment shall be paid within thirty (30) days of the effective date of this CAFO.

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

U.S. MAIL:

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

OVERNIGHT:

U.S. Bank
Ms. Natalie Pearson
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

The check shall reference on its face the name and the Docket Number of the CAFO.

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

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

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

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

28. In addition to paying a cash penalty, Respondent shall undertake and complete the following Supplemental Environmental Projects (SEPs):

Atlantic Marine Alabama, LLC, will perform Emergency Planning and Preparedness SEPs as listed in this CAFO, to include:

- (a) the purchase and installation of emergency alarm systems capable of automatically transmitting emergency signals to at least five (5) different emergency response organizations,
- (b) purchase and installation of equipment capable of providing emergency indoor warning to facility personnel, and
- (c) purchase and installation of equipment capable of providing audible emergency warning to the neighboring community. The components and specifications for the newly installed alarm system shall include:

Electronic Siren Equipment – Two Way

1	MOD6024	Siren, 2400W, OMNI DIR
1	UVTDU	Digital, 2-Way, UHF, 120V
1	OMNI-16	Antenna, 460-470MHz UHF
1	AMB-P	Antenna Mounting Bracket
6	UV400	Amplifier – 400W

Central Control Points

1	SFCD10	Software, PRGMNG, 10 sites
1	SS2000D	Digital 2-way CNTL, Desk M
1	BSU	Base STN, Radio, UHF
1	MNC-MC	MIC, Noise Cancelling .25
1	OMNI-16	Antenna, 460-470MHz, UHF
1	AMB-W	Antenna Mounting Bracket
1	ISYS-ENG-AD	901-951 Auto Dialer
4	ISYS-ENG-VC	950-9178 Ten Second Voice Chip
1	ISYS-ENG-PS	815-9015 Power Supply

Pipe Shop / Combined Shop

3	UVICU	CNTL, indoor, UHF, 120V
20	AMR6-2570	8W Ceiling Speaker 70Vrms
3	AM50-70B	2W Wall Speaker 70Vrms
8	WDS80	80W Wide Area Dispersion Loudspeaker
8	FB2PST-120R	Warning Strobe 300 Effective Candlepower 120 AC Red
3	OMNI-16	Antenna, 460-470MHz UHF
3	AMB-W	Antenna Mounting Bracket

The expenditure of the equipment shall be completed within 90 calendar days of the effective date of the CAFO.

29. No later than 120 calendar days after the effective date of the CAFO, Respondent shall submit to EPA a SEP Completion Report. The Report shall be sent to the EPCRA Enforcement Section, to the attention of Jyoti Bhushan, at the address provided above. The Report shall include the following:

(a) an affidavit from an authorized company official, attesting that the SEP has been completed or explaining in detail any failure to complete it;

(b) copies of appropriate documentation, including invoices and canceled checks, showing total amounts of SEVENTY THREE THOUSAND ONE HUNDRED EIGHTY ONE DOLLARS (\$73,181) or greater, was spent on the purchases and installations of the above equipment described in paragraph 28 of this CAFO.

Upon request, Respondent shall send EPA any additional documentation requested by EPA.

30. Respondent certifies that, as of the date this CAFO is signed, it is not required to perform any part of the SEP by any federal, state or local law, regulation, permit or order, or by any agreement or grant. Respondent further certifies that, as of this date, it has not received and is not negotiating to receive, credit for any part of the SEP in any other enforcement action of any kind.

31. Any public statement, oral or written, by Respondent making any reference to the SEP shall include the following language:

“This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986.”

32. If Respondent fails to timely and fully complete any part of the SEP, including failing to spend the minimum amount of: SEVENTY THREE THOUSAND ONE HUNDRED EIGHTY ONE DOLLARS (\$73,181), for the SEP, Respondent shall be liable for stipulated penalties of the difference between SEVENTY THREE THOUSAND ONE HUNDRED EIGHTY ONE DOLLARS (\$73,181) and the amount actually expended, except as follows below:

(a) if the SEP was fully and timely completed, and Respondent expended at least 90 percent of the minimum amount required, Respondent shall not pay a stipulated penalty; or

(b) if the SEP was not fully and timely completed, but Respondent expended at least 90 percent of the minimum amount required, Respondent shall not pay a stipulated

penalty if the Respondent has made a good faith effort to fully and timely complete the SEPs.

For purposes of this paragraph, whether Respondent has fully and timely completed the SEP and whether Respondent made a good faith, timely effort to do so shall be in the sole discretion of EPA.

33 If Respondent fails to timely submit a SEP Completion Report as required by this CAFO, Respondent shall pay to the United States a stipulated penalty of \$100 for each calendar day the report is late.

34 Respondent shall pay any stipulated penalties that accrue under this CAFO within 15 calendar days of the receipt by Respondent of written demand from EPA for such penalties. Such penalties shall be paid in accordance with the procedures set forth above for the payment of the civil penalty. If Respondent believes the demand for payment of any stipulated penalty is erroneous or contrary to law, Respondent may request a meeting with the Director, Air, Pesticides & Toxics Management Division.

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

36 For Federal Income Tax purposes, Atlantic Marine Alabama, LLC, agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

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

38 The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

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

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

V. Effective Date

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

AGREED AND CONSENTED TO:

Atlantic Marine Alabama, LLC

By:  Date: _____

Name: Matthew R. Miles (Typed or Printed)

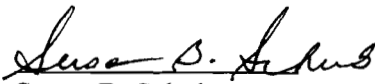
Title: Secretary (Typed or Printed)

U.S. Environmental Protection Agency

By:  Date: 12/11/07

Beverly H. Banister
Director
Air, Pesticides & Toxics
Management Division
Region 4

APPROVED AND SO ORDERED this 16th day of January ²⁰⁰⁸ ~~2007~~ SBS


Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

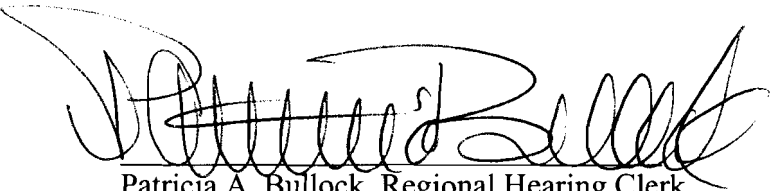
I hereby certify that I have this day served a true and correct copy of the foregoing
Consent Agreement and Final Order, in the Matter of Atlantic Marine Alabama, LLC,
EPCRA-04-2008-2005(b), on the parties listed below in the manner indicated:

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

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

Margaret A. Hill, Esq. (Via Certified Mail - Return Receipt
Blank & Rome LLP Requested)
One Logan Square
130 North 18th Street
Philadelphia, PA 19103-6998

Date: 1-17-08


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

Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings

Securities and Exchange Commission Regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) require disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K, or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceeding to the SEC. This notice does not create, modify, or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by government authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the Office of Chief Counsel of the SEC's Division of Corporation Finance. The phone number is (202) 551-3500.

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi J Wilson on 11/1/08
(Name) (Date)

in the OEH at (404) 562-9504
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree
USAO COLLECTS

Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree
DOJ COLLECTS

Oversight Billing - Cost Package required:
Sent with bill

Other Receivable

Not sent with bill

This is an original debt

Oversight Billing - Cost Package not required

This is a modification

PAYEE: Atlantic Marine Alabama LLC
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 15,831
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: EPC RA 04 2008 2005 (6)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date: _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- | | |
|--|------------------------------|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD) |
| | 3. Designated Program Office |

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |