



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

SEP 27 2018

REPLY TO THE ATTENTION OF:

LC-17J

George F. Whittier
Morrey Corporation
100 Morey Drive
Woodridge, Illinois 60517

RE: Consent Agreement and Final Order in the Matter of: Morrey Corporation **EPCRA-05-2018-0013**

Dear Mr. Whittier:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on September 27, 2018 with the Regional Hearing Clerk.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Kenneth Zolnierczyk".

Kenneth Zolnierczyk
Pesticides and Toxics Compliance Section

Enclosure



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	
)	Docket No. EPCRA-05-2018-0013
THE MOREY CORPORATION,)	
WOODRIDGE, ILLINOIS,)	Proceeding to Assess a Civil Penalty
)	Under Section 325(c) of the Emergency
RESPONDENT.)	Planning and Community Right-to-know
_____)	Act of 1986, 42 U.S.C. § 11045(e)

CONSENT AGREEMENT AND FINAL ORDER

1. This is an administrative action commenced and concluded under section 325(c) of the Emergency Planning and Community Right-to-know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c), 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. Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent is The Morey Corporation, a corporation doing business in the State of Illinois.
4. According to 40 C.F.R. § 22.13(b), where the parties agree to settle one or more causes of action before the filing of a complaint, an administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the terms of this CAFO, including the assessment of the civil penalty specified herein.

Jurisdiction and Waiver of Right to Hearing

8. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

9. 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

10. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 372.30 require the owner or operator of a facility that has 10 or more full-time employees; is covered by certain standard industrial classification (SIC) codes; meets one of the criteria set forth in 40 C.F.R. § 372.22(b)(1)-(3); and manufactured, processed or otherwise used a toxic chemical in an amount exceeding an applicable threshold quantity of that chemical listed under section 313(f) of EPCRA and 40 C.F.R. § 372.28 during the calendar year, to complete and submit a toxic chemical release inventory form (Form R) to the Administrator of EPA and to the state in which the subject facility is located by July 1 for each toxic chemical manufactured, processed or otherwise used in quantities exceeding the established threshold during the preceding calendar year.

11. As set forth in section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28, the reporting threshold amount for lead (CAS # 7439-92-1) manufactured, processed or otherwise used at a facility is 100 pounds for calendar years including and subsequent to 2001.

12. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), authorizes the Administrator of EPA to assess a civil penalty of up to \$25,000 per day for each violation of section 313 of

EPCRA. The Federal Civil Penalties Inflation Adjustment Act, 28 U.S.C. § 2461 note (1990), as amended by the Debt Collection Improvement Act, 31 U.S.C. § 3701 note (1996), required federal agencies to issue regulations adjusting for inflation the maximum civil penalties that may be assessed pursuant to each agency's statutes. EPA may assess a civil penalty of up to \$37,500 per day for each violation of section 313 of EPCRA that occurred after January 12, 2009, pursuant to section 325(c)(1) and (3) of EPCRA, 42 U.S.C. § 11045(c)(1) and (3), and 40 C.F.R. part 19.

Allegations of Fact and Liability

13. Respondent is a "person" as that term is defined at section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

14. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 100 Morey Drive, Woodridge, Illinois (facility).

15. At all times relevant to this CAFO, Respondent had "10 or more full-time employees," as defined at 40 C.F.R. § 372.3, and was an employer at the facility.

16. 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.

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

18. The facility has a SIC code of 3679, a covered SIC code as defined at section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.22.

Count I

19. During calendar year 2011, Respondent's facility otherwise used, as that term is defined at 40 C.F.R. § 372.3, lead (not contained in stainless steel, brass or bronze alloy) in the amount of 9,691 pounds which is greater than the threshold for reporting set forth in section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.

20. Respondent was required to submit to the Administrator of EPA and to the State of Illinois a Form R for lead for calendar year 2011 by July 1, 2012.

21. On March 4, 2017, Respondent submitted Form R for lead to the Administrator of EPA and to the State of Illinois for calendar year 2011.

22. Respondent did not submit to the Administrator of EPA and to the State of Illinois a Form R for lead for calendar year 2011 by July 1, 2012.

23. Respondent's failure to submit timely a Form R for lead to the Administrator of EPA and to the State of Illinois for calendar year 2011 violated section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count II

24. During calendar year 2012, Respondent's facility otherwise used, as that term is defined at 40 C.F.R. § 372.3, lead (not contained in stainless steel, brass or bronze alloy) in the amount of 13,356 pounds which is greater than the threshold for reporting set forth in section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.

25. Respondent was required to submit to the Administrator of EPA and to the State of Illinois a Form R for lead for calendar year 2012 by July 1, 2013.

26. On March 2, 2017, Respondent submitted Form R for lead to the Administrator of EPA and to the State of Illinois for calendar year 2012.

27. Respondent did not submit to the Administrator of EPA and to the State of Illinois a Form R for lead for calendar year 2012 by July 1, 2013.

28. Respondent's failure to submit timely a Form R for lead to the Administrator of EPA and to the State of Illinois for calendar year 2012 violated section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count III

29. During calendar year 2013, Respondent's facility otherwise used, as that term is defined at 40 C.F.R. § 372.3, lead (not contained in stainless steel, brass or bronze alloy) in the amount of 14,420 pounds which is greater than the threshold for reporting set forth in section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.

30. Respondent was required to submit to the Administrator of EPA and to the State of Illinois a Form R for lead for calendar year 2013 by July 1, 2014.

31. On March 2, 2017, Respondent submitted Form R for lead to the Administrator of EPA and to the State of Illinois for calendar year 2013.

32. Respondent did not submit to the Administrator of EPA and to the State of Illinois a Form R for lead for calendar year 2013 by July 1, 2014.

33. Respondent's failure to submit timely a Form R for lead to the Administrator of EPA and to the State of Illinois for calendar year 2013 violated section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count IV

34. During calendar year 2014, Respondent's facility otherwise used, as that term is defined at 40 C.F.R. § 372.3, lead (not contained in stainless steel, brass or bronze alloy) in the

amount of 12,800 pounds which is greater than the threshold for reporting set forth in section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.

35. Respondent was required to submit to the Administrator of EPA and to the State of Illinois a Form R for lead for calendar year 2014 by July 1, 2015.

36. On March 2, 2017, Respondent submitted Form R for lead to the Administrator of EPA and to the State of Illinois for calendar year 2014.

37. Respondent did not submit to the Administrator of EPA and to the State of Illinois a Form R for lead for calendar year 2014 by July 1, 2015.

38. Respondent's failure to submit timely a Form R for lead to the Administrator of EPA and to the State of Illinois for calendar year 2014 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Civil Penalty

39. Pursuant to section 325 of EPCRA, 42 U.S.C. § 11045, Complainant determined that an appropriate civil penalty to settle this action is \$43,000. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violations, and any other matters as justice may require. Complainant also considered EPA's Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990) (amended) (April 12, 2001).

40. Within 30 days after the effective date of this CAFO, Respondent must pay a \$43,000 civil penalty for the EPCRA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

The check must note the caption and the docket number of this CAFO.

41. Respondent must send a notice of payment that states Respondent's name and the case docket number to EPA at the following addresses when it pays the penalty:

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

Ken Zolnierczyk (LC-17J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

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

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

43. If Respondent does not pay timely the civil penalty, 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. Respondent agrees that the validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

44. 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, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

45. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: guenther.robert@epa.gov (for Complainant), and GRovner@foley.com (for Respondent).

46. Respondent certifies that it is in compliance with section 313 of EPCRA, 42 U.S.C. § 11023.

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

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

49. This CAFO is a "final order" for purposes of EPA's enforcement response policy for section 313 of EPCRA.

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


51. Each person signing this 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.

52. Each party agrees to bear its own costs and attorneys fees in this action.

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

The Morey Corporation, Respondent


September 17, 2018
Date


George F. Whittier
Vice-President of Operations

United States Environmental Protection Agency, Complainant

9-26-18

Date



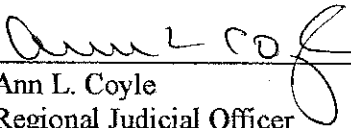
Tinka G. Hyde, Director
Land and Chemicals Division

In the Matter of:
The Morey Corporation
Docket No. EPCRA-05-2018-0013

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.

9/26/18
Date


Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

The Morrey Corporation

In the matter of:

Docket Number: EPCRA-05-2018-0013

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, which was filed on September 27, 2018, this day in the following manner to the addressees:

Copy by e-mail to
Respondent:

George F. Whittier
Morrey Corporation
100 Morey Drive
Woodridge, Illinois 60517
GRovner@foley.com

Copy by e-mail to
Attorney for Complainant:

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

Copy by e-mail to
Regional Judicial Officer:

Ann Coyle
Coyle.ann@epa.gov

Dated: September 27, 2018


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