



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 30 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. William S. Wade
Manager, Human Resources/Safety
Southeastern Extrusion & Tool, Inc.
510 Staples Drive
Florence, AL 35630

SUBJ: Southeastern Extrusion & Tool, Inc.
Consent Agreement and Final Order
Docket No. EPCRA-04-2007-2021(b)

Dear Mr. Wade:

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-04-2007-2021(b)) involving Southeastern Extrusion & Tool, Inc. 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 Ms. Jennifer Lewis at (404) 562-9518.

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:)
)
 Southeastern Extrusion &)
 Tool, Inc.)
)
 Respondent.)
 _____)

Docket Number: EPCRA-04-2007-2021(b)

RECEIVED
EPA REGION IV
2007 MAR 30 AM 8:58
HEARING CLERK

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 Southeastern Extrusion & Tool, Inc.

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 redelegated 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 is Southeastern Extrusion & Tool, Inc., a corporation 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 EPCRA Section 329(4), 42 U.S.C. § 11049(4).

7. Respondent's facility is located at 510 Staples Drive, Florence, Alabama.

8. EPCRA Section 313 42 U.S.C. § 11023, and 40 CFR § § 372.22 and 372.30, require the owner or operator of a facility that (a) has 10 or more full-time employees; (b) is in a covered Standard Industrial Classification (SIC) code, which is defined as follows: major group codes 10 (except 1011, 1081, 1094), 12 (except 1241), 20-39, 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); or 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C, 42 U.S.C. § 6921 et seq.), 5169, 5171, and 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); and (c) that manufactured, processed, or otherwise used a toxic chemical listed under Section 313(c) and in 40 CFR § 372.65, in excess of an applicable threshold quantity established under EPCRA Section 313(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 EPCRA Section 313(f) and 40 CFR § 372.25, the reporting threshold amount for a toxic chemical manufactured or processed at a facility is 25,000 pounds. 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 § 372.3 at its facility.

11. The facility is classified under SIC code 3544.

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

13. Ammonia and methanol are toxic chemicals listed under EPCRA Section 313(c) and 40 CFR § 372.65.

14. Respondent's facility processed or otherwise used a toxic chemical listed under EPCRA Section 313(c) and 40 CFR § 372.65, in excess of the 25,000 pound threshold quantity established under EPCRA Section 313(f) and 40 CFR § 372.25, during calendar year(s) 2003 and 2004.

15. Respondent failed to submit a Form R for ammonia and methanol 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. Part 11023, at its facility for calendar year(s) 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 penalty of not more than \$27,500 for each violation of Section 313 that occurred on, or after January 30, 1999 and \$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.

18. Section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations found at 40 CFR Part 370, provide that the owner or operator of a facility that is required to prepare or have available a Material Safety Data Sheet (MSDS) for hazardous chemicals under the Occupational Safety and Health Act of 1970 (OSHA) and regulations promulgated under that Act, shall submit to the Local Emergency Planning Committee (LEPC), the State Emergency Response Commission (SERC), and the fire department with jurisdiction over the facility, by March 1, 1988, and on or before March 1 annually thereafter, a completed emergency and hazardous chemical inventory form (Tier I or Tier II) as described in 40 CFR Part 370, containing the information required by that part for hazardous chemicals present at the facility at any one time in the calendar year in amounts equal to or greater than 10,000 pounds and containing the information required by that part for extremely hazardous substances (EHS) present at the facility at any one time in amounts equal to or greater than the threshold planning quantity (TPQ) or 500 pounds, whichever is less.

19. At some time during the calendar year(s) of 2005, 2004 and 2003, ammonia was present at the facility in an amount equal to or greater than 500 pounds.

20. Ammonia is an "extremely hazardous substance" as defined under Section 329(3) 42 U.S.C. § 11049(3) and 40 CFR Part 355, Appendices A & B for which Respondent is required to prepare or have available an MSDS under OSHA at its facility.

21. Respondent failed to submit a completed Emergency and Hazardous Chemical Inventory Form for ammonia to the SERC, the LEPC, and fire department with jurisdiction over the facility for calendar year(s) 2005, 2004 and 2003 by March 1 of the year following the calendar year for which a report was required.

22. Respondent violated the reporting requirements of Section 312 of EPCRA, 42 U.S.C. § 11022, at its facility for calendar year(s) 2005, 2004 and 2003 and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

23. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and 40 CFR Part 19 EPA may assess a penalty of not more than \$27,500 for each violation of Section 312 that occurred on, or after January 30, 1997, and \$32,500 after March 15, 2004. Each day a violation of Section 312 continues constitutes a separate violation. Civil penalties under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), may be assessed by Administrative Order.

III. Consent Agreement

24. 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.

25. Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying the Consent Agreement.

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

27. 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.

28. 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.

29. 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's interest and that this CAFO is consistent with the applicable requirements of EPCRA.

IV. Final Order

30. Respondent shall pay a civil penalty of SIXTY EIGHT THOUSAND NINE HUNDRED NINETY-FIVE DOLLARS (\$68,995), for the violations alleged in Section II. Payment shall be made within thirty (30) days of the effective date of this CAFO

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

Mellon Client Service Center
ATTN: Shift Supervisor, Room 0690
Lockbox 371099M

500 Ross Street
Pittsburgh, PA 15262-0001

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

32. 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

33. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payment shall constitute a violation of this CAFO.

34. 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.

35. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

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

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, GA 30303
(404) 562-8451

38. 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.

Effective Date

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

AGREED AND CONSENTED TO:

Southeastern Extrusion & Tool, Inc.

By: Paul R. Fickbohm Date: 3/15/07

Name: PAUL R. Fickbohm (Typed or Printed)

Title: CONTROLLER (Typed or Printed)

U.S. Environmental Protection Agency

By: Beverly H. Banister Date: 3/2/07

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

APPROVED AND SO ORDERED this 29th day of March, 2007.

Susan B. Schub
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 Southeastern Extrusion & Tool, Inc. EPCRA-04-2007-2021(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

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

Mr. William S. Wade (Via Certified Mail - Return Receipt
Manager, Human Resources/Safety Requested)
Southeastern Extrusion & Tool, Inc.
510 Staples Drive
Florence, AL 35630

Date:

3-30-07



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