



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

APR - 7 2014

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Richard Gearheard
President
Crop Production Services, Inc.
3005 Rocky Mountain Avenue
Post Office Box 22
Loveland, Colorado 80538

Re: Crop Production Services, Inc., Greenville and Lake Odessa, Michigan and Attica,
Indiana, Consent Agreement and Final Order, Docket Nos. MM-05-2014-0002
CERCLA-05-2014-0006

Dear Mr. Gearheard:

Enclosed please find a copy of the fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the original CAFO with the Regional Hearing Clerk on APR - 7 2014.

Please pay the Comprehensive Environmental Response, Compensation and Liability Act civil penalty in the amount of \$5,252 in the manner prescribed in paragraph 114, and reference your check with the billing document number 2751430B006 and the docket number CERCLA-05-2014-0006.

Please pay the Emergency Planning and Community Right-to-Know Act civil penalty in the amount of \$23,498 in the manner prescribed in paragraph 116, and reference your check with the docket number EPCRA-05-2014-0013.

Your payments are due on MAY - 7 2014.

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. Please direct any legal questions to Terence Stanuch, Associate Regional Counsel, at (312) 886-8044. Thank you for your assistance in resolving this matter.

Sincerely,

Michael E. Hans, Chief
Chemical Emergency Preparedness
and Prevention Section

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
EPCRA-05-2014-0013



In the Matter of:) **Docket Nos. MM-05-2014-0002**
) **CERCLA-05-2014-0006**
)
) **Proceeding to Assess a Civil Penalties**
Crop Production Services, Inc.) **pursuant to Section 109(b) of the**
Loveland, Colorado,) **Comprehensive Environmental Response,**
) **Compensation and Liability Act, and Section**
) **325(b)(2) of the Emergency Planning and**
Respondent.) **Community Right-to-Know Act of 1986**
)
)

Consent Agreement and Final Order
Preliminary Statement

1. This is an administrative action commenced and concluded under Section 109(b) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609(b); Section 325(b)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(b)(2); 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. The Complainant is, by lawful delegation, the Chief of the Enforcement and Compliance Assurance Branch, Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is Crop Production Services, Inc., corporation headquartered in Loveland, Colorado and doing business in the States of Indiana and Michigan.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

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 assessment of the civil penalties specified in this CAFO, and to the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO. Respondent neither admits nor denies the Factual Allegations and Alleged Violations in this CAFO. Respondent is entering into this CAFO solely in the interest of settling matters herein without the cost and expense of litigation.

8. 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

9. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires any person in charge of a facility to immediately notify the National Response Center (NRC) as soon as that person has knowledge of any release of a hazardous substance from the facility in an amount equal to or greater than the reportable quantity (RQ) of the hazardous substance.

10. Section 304(a)(1) of EPCRA, 42 U.S.C. § 11004(a)(1), requires that the owner or operator of a facility must immediately provide notice, as described in Section 304(b) of EPCRA, 42 U.S.C. § 11004(b), if a release of an extremely hazardous substance in quantities equal to or greater than an RQ occurs from a facility at which hazardous chemicals are produced, used or stored and such release requires notice under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

11. Under Section 304(b) of EPCRA, 42 U.S.C. § 11004(b), notice required under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), must be given immediately after the release by the owner or operator of a facility to the community emergency coordinator for the local emergency planning committee (LEPC) for any area likely to be affected by the release and to the state emergency response commission (SERC) of any state likely to be affected by a release.

12. Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), requires that, as soon as practicable after a release which requires notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), the owner or operator of the facility must provide written follow-up emergency notice setting forth and updating the information required under Section 304(b), 42 U.S.C. § 11004(b).

13. For purposes of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), U.S. EPA defines “as soon as practicable” to be within thirty (30) days following knowledge of the release.

14. Under Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), with certain exceptions, the term “hazardous chemical” has the meaning given such term by 29 U.S.C. § 1910.1200(c).

15. Under 29 C.F.R. § 1910.1200(c), a hazardous chemical is any chemical which is classified as a physical or health hazard, a simple asphyxiant, combustible dust, pyrophoric gas, or hazard not otherwise classified.

16. Section 109(b) of CERCLA, 42 U.S.C. § 9609(b), and Section 325(b)(2) of EPCRA, 42 U.S.C. § 11045(b)(2), authorize U.S. EPA to assess a civil penalty of up to \$25,000 per day of violation of CERCLA Section 103 and EPCRA Section 304. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and its implementing regulations at 40 C.F.R. Part 19 increased these statutory maximum penalties to \$37,500 per day of violation for violations that occurred after January 12, 2009.

Factual Allegations

17. Respondent is a “person” as that term is defined under Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

18. Respondent is a “person” as that term is defined under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

19. At all times relevant to this CAFO, Respondent was an owner or operator of a facility located at 9009 State Road 28 West in Attica, Indiana (the Attica facility); a facility located at 6288 South Greenville Road in Greenville, Michigan (the Greenville facility); and a facility located at 211 Milbourne Street in Lake Odessa, Michigan (the Lake Odessa facility).

20. At all times relevant to this CAFO, Respondent was in charge of the Attica facility, the Greenville facility and the Lake Odessa facility.

21. Respondent’s Attica facility, Greenville facility and Lake Odessa facility each consisted of buildings, structures, installations, equipment, pipes or pipelines, storage containers, rolling stock or any site or area where a hazardous substance had been deposited, stored, disposed of, or placed, or otherwise come to be located.

22. Respondent’s Attica facility, Greenville facility and Lake Odessa facility are each defined as a “facility” as that term is defined under Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

23. Respondent’s Attica facility, Greenville facility and Lake Odessa facility each consisted of buildings, equipment, structures, and other stationary items which were located on a single site or on contiguous or adjacent sites, and which were owned or operated by the same person.

24. Respondent's Attica facility, Greenville facility and Lake Odessa facility are each defined as a "facility" as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

25. Anhydrous ammonia (CAS #7664-41-7) is a "hazardous substance" as that term is defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

26. Anhydrous ammonia (CAS #7664-41-7) has an RQ of 100 pounds, as indicated at 40 C.F.R. Part 302, Table 302.4.

27. Anhydrous ammonia (CAS #7664-41-7) is classified as a physical or health hazard, and as a simple asphyxiant.

28. Anhydrous ammonia (CAS #7664-41-7) is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

29. Anhydrous ammonia (CAS #7664-41-7) is an "extremely hazardous substance" according to Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2).

30. Anhydrous ammonia (CAS #7664-41-7) has an RQ of 100 pounds, as indicated at 40 C.F.R. Part 355, Appendix A.

31. At all times relevant to this CAFO, anhydrous ammonia (CAS #7664-41-7) was produced, used or stored at Respondent's Attica facility, Greenville facility and Lake Odessa facility.

32. At all times relevant to this CAFO, the Indiana State Emergency Response Commission was the SERC for the State of Indiana as established pursuant to Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

33. At all times relevant to this CAFO, the Tippecanoe County Local Emergency Planning Committee was the LEPC for Tippecanoe County, Indiana as established pursuant to Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

34. At all times relevant to this CAFO, the Citizen-Community Emergency Response Coordinating Council was the SERC for the State of Michigan as established pursuant to Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

35. At all times relevant to this CAFO, the Montcalm County Local Emergency Planning Committee was the LEPC for Montcalm County, Michigan as established pursuant to Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

36. At all times relevant to this CAFO, the Eaton County Local Emergency Planning Committee was the LEPC for Eaton County, Michigan as established pursuant to Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

Alleged Violations – Attica, Indiana Facility

37. On August 2, 2010, at or about 11:30 a.m., a release occurred from Respondent's Attica facility of approximately 550 pounds anhydrous ammonia (CAS #7664-41-7) (the Attica release).

38. In a 24 hour time period, the Attica release of anhydrous ammonia (CAS #7664-41-7) exceeded 100 pounds, the RQ for this chemical.

39. During the Attica release, an amount greater than the RQ spilled, leaked, poured, emitted, discharged or escaped into the ambient air or air.

40. The Attica release is a "release" as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

41. The Attica release is a “release” as that term is defined under Section 329(8) of EPCRA, 42 U.S.C. § 11049(8).

42. Respondent had knowledge of the Attica release on August 2, 2010 at approximately 11:30 a.m.

43. The Attica release was one for which notice was required under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

44. The Attica release required notices under Sections 304(a) and (c) of EPCRA, 42 U.S.C. §§ 11004(a) and (c).

45. The Attica release was likely to affect the State of Indiana.

46. The Attica release was likely to affect Tippecanoe County in the State of Indiana.

47. Respondent notified the NRC of the Attica release on August 2, 2010 at approximately 6:33 p.m.

48. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the Attica release.

49. Respondent’s failure to immediately notify the NRC of the Attica release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

50. Respondent notified the Indiana SERC of the Attica release on August 2, 2010 at approximately 6:35 p.m.

51. Respondent did not immediately notify the Indiana SERC after Respondent had knowledge of the Attica release.

52. Respondent’s failure to immediately notify the Indiana SERC of the Attica release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

53. Respondent notified the Tippecanoe County LEPC of the Attica release on August 2, 2010 at approximately 6:50 p.m.

54. Respondent did not immediately notify the Tippecanoe County LEPC after Respondent had knowledge of the Attica release.

55. Respondent's failure to immediately notify the Tippecanoe County LEPC of the Attica release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

56. Respondent did not provide the Indiana SERC with a written follow-up emergency notice of the Attica release as soon as practicable after the release occurred.

57. Respondent's failure to provide a written follow-up emergency notice to the Indiana SERC as soon as practicable after the Attica release occurred is a violation Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

58. Respondent did not provide the Tippecanoe County LEPC with a written follow-up emergency notice of the Attica release as soon as practicable after the release occurred.

59. Respondent's failure to provide a written follow-up emergency notice to the Tippecanoe LEPC as soon as practicable after the Attica release occurred is a violation of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

Alleged Violations – Greenville, Michigan Facility

60. On May 27, 2010, at or about 1:30 a.m., a release occurred from Respondent's Greenville facility of approximately 920 pounds anhydrous ammonia (CAS #7664-41-7) (the Greenville release).

61. In a 24 hour time period, the Greenville release of anhydrous ammonia (CAS #7664-41-7) exceeded 100 pounds, the RQ for this chemical.

62. During the Greenville release, an amount greater than the RQ spilled, leaked, poured, emitted, discharged or escaped into the ambient air or air.

63. The Greenville release is a “release” as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

64. The Greenville release is a “release” as that term is defined under Section 329(8) of EPCRA, 42 U.S.C. § 11049(8).

65. Respondent had knowledge of the Greenville release on May 27, 2010 at approximately 4:30 a.m.

66. The Greenville release was one for which notice was required under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

67. The Greenville release required notices under Sections 304(a) and (c) of EPCRA, 42 U.S.C. §§ 11004(a) and (c).

68. The Greenville release was likely to affect the State of Michigan.

69. The Greenville release was likely to affect Montcalm County in the State of Michigan.

70. Respondent notified the NRC of the Greenville release on May 27, 2010 at approximately 9:21 a.m.

71. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the Greenville release.

72. Respondent’s failure to immediately notify the NRC of the Greenville release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

73. Respondent notified the Michigan SERC of the Greenville release on May 27, 2010 at approximately 9:28 a.m.

74. Respondent did not immediately notify the Michigan SERC after Respondent had knowledge of the Greenville release.

75. Respondent's failure to immediately notify the Michigan SERC of the Greenville release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

76. Respondent notified the Montcalm County LEPC of the Greenville release on May 27, 2010 at approximately 9:35 a.m.

77. Respondent did not immediately notify the Montcalm County LEPC after Respondent had knowledge of the Greenville release.

78. Respondent's failure to immediately notify the Montcalm County LEPC of the Greenville release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

79. Respondent did not provide the Michigan SERC with a written follow-up emergency notice of the Greenville release as soon as practicable after the release occurred.

80. Respondent's failure to provide a written follow-up emergency notice to the Michigan SERC as soon as practicable after the Greenville release occurred is a violation Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

81. Respondent did not provide the Montcalm County LEPC with a written follow-up emergency notice of the Greenville release as soon as practicable after the release occurred.

82. Respondent's failure to provide a written follow-up emergency notice to the Montcalm County LEPC as soon as practicable after the Greenville release occurred is a violation of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

Alleged Violations – Lake Odessa, Michigan Facility

83. On March 26, 2013, at or about 3:49 p.m., a release occurred from Respondent's Lake Odessa facility of approximately 511 pounds anhydrous ammonia (CAS #7664-41-7) (the Lake Odessa release).

84. In a 24 hour time period, the Lake Odessa release of anhydrous ammonia (CAS #7664-41-7) exceeded 100 pounds, the RQ for this chemical.

85. During the Lake Odessa release, an amount greater than the RQ spilled, leaked, poured, emitted, discharged or escaped into the ambient air or air.

86. The Lake Odessa release is a "release" as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

87. The Lake Odessa release is a "release" as that term is defined under Section 329(8) of EPCRA, 42 U.S.C. § 11049(8).

88. Respondent had knowledge of the Lake Odessa release on March 26, 2013 at approximately 4:30 p.m.

89. The Lake Odessa release was one for which notice was required under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

90. The Lake Odessa release required notices under Sections 304(a) and (c) of EPCRA, 42 U.S.C. §§ 11004(a) and (c).

91. The Lake Odessa release was likely to affect the State of Michigan.

92. The Lake Odessa release was likely to affect Eaton County in the State of Michigan.

93. Respondent notified the NRC of the Lake Odessa release on March 26, 2013 at approximately 6:41 p.m.

94. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the Lake Odessa release.

95. Respondent's failure to immediately notify the NRC of the Lake Odessa release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

96. Respondent notified the Michigan SERC of the Lake Odessa release on March 26, 2013 at approximately 6:50 p.m.

97. Respondent did not immediately notify the Michigan SERC after Respondent had knowledge of the Lake Odessa release.

98. Respondent's failure to immediately notify the Michigan SERC of the Lake Odessa release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

99. Respondent notified the Eaton County LEPC of the Lake Odessa release on March 26, 2013 at approximately 7:00 p.m.

100. Respondent did not immediately notify the Eaton County LEPC after Respondent had knowledge of the Lake Odessa release.

101. Respondent's failure to immediately notify the Eaton County LEPC of the Lake Odessa release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

102. Respondent did not provide the Michigan SERC with a written follow-up emergency notice of the Lake Odessa release as soon as practicable after the release occurred.

103. Respondent's failure to provide a written follow-up emergency notice to the Michigan SERC as soon as practicable after the Lake Odessa release occurred is a violation Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

104. Respondent did not provide the Eaton County LEPC with a written follow-up emergency notice of the Lake Odessa release as soon as practicable after the release occurred.

105. Respondent's failure to provide a written follow-up emergency notice to the Eaton County LEPC as soon as practicable after the Lake Odessa release occurred is a violation of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

Environmentally Beneficial Projects

106. Respondent has undertaken the following environmentally beneficial projects which U.S. EPA has taken into consideration in determining an appropriate civil penalty to settle this matter.

107. At Respondent's Attica facility: Respondent installed additional perimeter lighting and a 24-hour surveillance system to monitor of the anhydrous ammonia storage tanks and transport equipment. The surveillance system includes six cameras and motion detectors in and around the facility's buildings. Completed on or before January, 2014.

108. At Respondent's Greenville facility: Respondent no longer stores, handles or sells anhydrous ammonia from this facility. Completed on or before January, 2014.

109. At Respondent's Lake Odessa facility: Respondent installed a new security system that uses motion detectors and surveillance cameras to monitor all of the location's anhydrous ammonia storage tanks and transport equipment. Completed on or before January, 2014.

110. At Respondent's West Lebanon, Indiana facility: Nurse tanks have been doubled-up which reduces the chance of anhydrous ammonia releases by eliminating the need to pull multiple single-mounted tanks in-series behind equipment, whether in transport or when product is being applied in the field. The more compact arrangement of dual tank running gears lessens the chances of accidents and thereby reduces the possibility of releases. Completed on or before October, 2013.

111. At Respondent's Greenfield, Illinois facility: Respondent moved and then reconstructed all of its bulk anhydrous ammonia storage. This project included many security and safety upgrades, including the installation of new tanks, all new emergency shutoff valves with pneumatic switches, new piping, new pumps, and new lighting to ensure that law enforcement can monitor activity at the facility during the overnight hours. Completed on or before October, 2013.

112. At Respondent's Greenview, Illinois facility: Respondent implemented a significant upgrade of the facility's anhydrous ammonia delivery system. This project included the installation of new emergency shut off valves, new more accurate gauges, pneumatic emergency dump valves, pneumatic emergency charge valves, and new concrete under rebuilt pumps. The upgrades at the facility lessened the chances of releases and significantly upgraded the facility's ability to respond to an emergency. Completed on or before October, 2013.

Civil Penalties

A. CERCLA Penalty

113. Complainant has determined that an appropriate civil penalty to settle the CERCLA violations alleged herein is \$5,252. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the alleged violations, Respondent's performance of several environmentally beneficial projects and, with respect to Respondent, its ability to pay, any history of prior violations, economic benefit or savings resulting from the alleged violations and any other matters as justice may require. Complainant also considered U.S. EPA's Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response

Compensation and Liability Act, dated September 30, 1999 (EPCRA/CERCLA Enforcement Response Policy).

114. Within 30 days after the effective date of this CAFO, Respondent must pay a \$5,252 civil penalty for the CERCLA violations alleged herein. Respondent must pay the penalty by sending a cashier's or certified check, payable to "EPA Hazardous Substance Superfund," to:

U.S. Bank
Government Lockbox 979076
U.S. EPA Superfund Payments
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The check must note the following: Crop Production Services, Inc., the docket number of this CAFO and the billing document number _____.

B. EPCRA Penalty

115. Complainant has determined that an appropriate civil penalty to settle the EPCRA violations alleged herein is \$23,498. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the alleged violations, Respondent's performance of environmentally beneficial projects and, with respect to Respondent, its ability to pay, any history of prior violations, economic benefit or savings resulting from the alleged violations and any other matters as justice may require. Complainant also considered U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

116. Within 30 days after the effective date of this CAFO, Respondent must pay a \$23,498 civil penalty for the EPCRA violations alleged herein. Respondent must pay the penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The check must note the following: Crop Production Services, Inc. and the docket numbers of this CAFO.

C. Civil Penalties – General Provisions

117. For all civil penalty payments made by check, a transmittal letter stating Respondent's name, the case name, Respondent's complete address, the case docket numbers and the billing document number, if any, must accompany the payment. Respondent shall send a copy of this transmittal letter, and a copy of the check, to the three addressees listed in this paragraph. For all civil penalty payments made electronically, a letter stating Respondent's name, the case name, Respondent's complete address, the case docket numbers and the billing document number, if any, and some document evidencing the payment that was made, shall be sent to the following three addressees:

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

James Entzminger, (SC-5J)
Chemical Emergency Preparedness
and Prevention Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Terence Stanuch, (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

119. If Respondent does not timely pay the civil penalties required by this CAFO, U.S. 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. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action. U.S. EPA may also 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. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

120. 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, U.S. EPA will assess a six percent (6%) per year penalty on any principal amount 90 days past due.

General Provisions

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

122. This CAFO does not affect the rights of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

123. Respondent certifies that, to the best of its knowledge, it is complying with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and Section 304 of EPCRA, 42 U.S.C. § 11004.

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

125. This CAFO is a "final order" for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

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

127. Each person signing this consent 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.

128. Each party agrees to bear its own costs and attorney's fees in this action.

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


Crop Production Services, Inc., Loveland, Colorado, Respondent

3/10/2014
Date

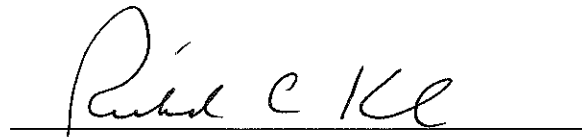
J. Billy Pirkle
J. Billy Pirkle
Senior Director EHS
Crop Production Services, Inc., Loveland, Colorado

U.S. Environmental Protection Agency, Complainant

3/31/14
Date


Sharon Jaffess, Chief
Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency
Region 5

4-1-14
Date


Richard C. Karl, Director
Superfund Division
U.S. Environmental Protection Agency
Region 5


In the Matter of: Crop Production Services, Inc., Loveland, Colorado
Docket Nos. MM-05-2014-0002 CERCLA-05-2014-0006 EPCRA-05-2014-0013



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, U.S. Environmental Protection Agency, Region 5. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

4/3/2014
Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

In the Matter of: **Crop Production Services, Inc., Loveland, Colorado**
Docket Nos. **MM-05-2014-0002 CERCLA-05-2014-0006 EPCRA-05-2014-0013**



Certificate of Service

I, Jarrah P. Sanders, certify that I filed the original and a copy of the Consent Agreement and Final Order (CAFO) with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 5, delivered a copy of the CAFO by intra-office mail to the Regional Judicial Officer, U.S. Environmental Protection Agency, Region 5, and mailed the second original CAFO by first-class, postage prepaid, certified mail, return receipt requested, to Respondent by placing it in the custody of the United States Postal Service addressed as follows:

Mr. Richard Gearheard
President
Crop Production Services, Inc.
3005 Rocky Mountain Avenue
Post Office Box 22
Loveland, Colorado 80538

Joseph M. Kellmeyer
Attorney
Thompson Coburn LLP
One US Bank Plaza
St. Louis, Missouri 63101

Captain Christopher A. Kelenske, Chairperson (w/ enclosure)
Susan Parker (w/ enclosure)
MI SERC

Ian Wilson (w/ enclosure)
IN SERC

James Entzinger
Terence Stanuch

on the 7th day of April, 2014

Jarrah P. Sanders
U.S. Environmental Protection Agency
Region 5