



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

APR 25 2012

Certified Mail - Return Receipt Requested # 7009 1680 0002 2842 3336

Jim Childress, Owner
Classic Marble Limited Company
P.O. Box 5036
Cabot, AR 72023

**RE: In the Matter of Classic Marble Limited Company
Docket No. EPCRA-06-2012-0508**

Dear Mr. Childress:

Enclosed you will find the fully executed Complaint and Consent Agreement and Final Order (CAFO) that has been filed with the Regional hearing Clerk. A financial analysis to determine Classic Marble Limited Company's ability to pay indicated that the company could not afford to pay a penalty at this time; therefore the CAFO does not have a monetary component. Based on this fact, as well as the company's return to compliance regarding the violations covered by this Enforcement Action, this letter will conclude this matter.

In the event you should have any further questions or concerns regarding this matter please contact Stan Lancaster at 214.665.8034. Your cooperation in expediting the settlement of this case is most appreciated.

Sincerely yours,

A handwritten signature in black ink, appearing to read "CE Edlund", with a long horizontal flourish extending to the right.

Carl E. Edlund, P.E.
Director
Multimedia Planning and
Permitting Division

Enclosure (1)

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
2012 APR 25 PM 1:58
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:

CLASSIC MARBLE, LLC
CABOT, ARKANSAS

RESPONDENT

§
§
§
§
§
§
§
§

DOCKET NO. EPCRA-06-2012-0508

CONSENT AGREEMENT AND FINAL ORDER

The Director, Multimedia Planning and Permitting Division, United States Environmental Protection Agency (EPA), Region 6 (Complainant), and Classic Marble, LLC (Respondent) in the above-referenced proceeding, hereby agree to resolve this matter through the issuance of this Consent Agreement and Final Order (CAFO).

I. PRELIMINARY STATEMENT

1. This proceeding for the assessment of civil penalties pursuant to Section 325(c) of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045(c), is simultaneously commenced and concluded by the issuance of this CAFO against the Respondent pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

2. For the purposes of this proceeding, the Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations contained in this CAFO.

3. The Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed Final Order set forth therein, and waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.

4. Compliance with all the terms and conditions of this CAFO shall resolve only those violations which are set forth herein.

5. The Respondent consents to the issuance of this CAFO, to the assessment and payment of the stated civil penalty in the amount and by the method set forth in this CAFO.

6. The Respondent represents that it is duly authorized to execute this CAFO and that the party signing this CAFO on behalf of the Respondent is duly authorized to bind the Respondent to the terms and conditions of this CAFO.

7. The Respondent agrees that the provisions of this CAFO shall be binding on its officers, directors, employees, agents, servants, authorized representatives, successors, and assigns.

8. The Respondent hereby certifies that as of the date of the execution of this CAFO, Classic Marble, LLC. has corrected the violation(s) alleged in this CAFO and is now, to the best of its knowledge, in compliance with all applicable requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

II. STATUTORY AND REGULATORY BACKGROUND

9. 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: (a) has ten or more full-time employees; (b) that is an establishment with a primary Standard Industrial Classification (SIC) major group or industry code listed in 40 C.F.R. § 372.23(a), or a primary North American Industry Classification System (NAICS) subsector or industry code listed in 40 C.F.R. §§ 372.23(b) or (c); and (c) “manufactured, processed, or otherwise used” a toxic chemical listed under

Subsection 313(c) of EPCRA and 40 C.F.R. § 372.65, in excess of the threshold quantity established under Subsection 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. §§ 372.25, 372.27, or 372.28 during the calendar year, to complete and submit a toxic chemical release inventory Form R to the Administrator of EPA and to the State in which the subject 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 that preceding calendar year.

10. According to Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, the threshold amount for reporting under Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.30, is 25,000 pounds for any toxic chemical “manufactured or processed,” and 10,000 pounds for any toxic chemical “otherwise used” for the applicable calendar year. Alternative reporting thresholds are set forth in 40 C.F.R. §§ 372.27 and 372.28.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. PRELIMINARY ALLEGATIONS

11. The Respondent is a corporation incorporated under the laws of the State of Arkansas, and authorized to do business in the State of Arkansas.

12. The Respondent is a “person” as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

13. The Respondent owns and operates the business at 3148 Hwy 367 S, Cabot, Arkansas, 72023.

14. Classic Marble, LLC, identified in Paragraph 13, is a “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.

15. The Respondent's facility has ten (10) or more “full-time employees” that term is defined by 40 C.F.R. § 372.3.

16. The Respondent's facility is in NAICS subsector or industry code 444190, Other building material dealers.

17. Styrene is a “toxic chemical” within the meaning of 40 C.F.R. §§ 372.3 and 372.65.

18. During calendar years 2006 and 2007, the toxic chemical in paragraph 17 was “manufactured, processed, or otherwise used” as those terms are defined by 40 C.F.R. § 372.3, at the Respondent's facility.

19. On May 3, 2011, an inspection was conducted by a duly authorized representative of EPA, Region 6, on the facility located at 3148 Hwy 367 S, Cabot, Arkansas, 72023.

B. VIOLATIONS

Count 1 – Failure to File Form R for Calendar Year 2006

20. During calendar year 2006, the Respondent “otherwise used” the “toxic chemical” listed in paragraph 17, at the Respondent’s facility, in excess of the applicable threshold quantities.

21. The Respondent failed to file a Form R with EPA and the State of Arkansas for the “toxic chemical” listed in paragraph 17 by July 1, 2007, for the 2006 calendar year.

22. Therefore, the Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to submit complete and accurate Form R for styrene, for calendar year 2006, to EPA and to the State of Arkansas by July 1, 2007.

Count 2 – Failure to File Form R for Calendar Year 2007

23. During calendar year 2007, the Respondent “otherwise used” the “toxic chemical” listed in paragraph 17, at the Respondent’s facility, in excess of the applicable threshold quantities.

24. The Respondent failed to file a Form R with EPA and the State of Arkansas for the “toxic chemical” listed in paragraph 17 by July 1, 2008, for the 2007 calendar year.

25. Therefore, the Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to submit complete and accurate Form R for styrene, for calendar year 2007, to EPA and to the State of Arkansas by July 1, 2008.

IV. TERMS OF SETTLEMENT

A. CIVIL PENALTY

26. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the nature, circumstances, extent and gravity of the alleged violations, and with respect to the Respondent, ability to pay, history of prior EPCRA Section 313 violations, the degree of culpability, economic benefit or savings (if any) resulting from the violations, and other factors

as justice may require, it is **ORDERED** that Respondent be assessed a civil penalty of **zero dollars and no cents (\$0.00)**.

27. This document is a "Final Order" as that term is defined in the "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)," dated August 10, 1992; Amended, April 21, 2001; for the purpose of demonstrating a history of "prior such violations".

B. RETENTION OF ENFORCEMENT RIGHTS

28. The EPA does not waive any rights or remedies available to EPA for any other violations by the Respondent of Federal or State laws, regulations, or permitting conditions.

29. Nothing in this CAFO shall relieve the Respondent of the duty to comply with all applicable provisions of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

30. Except as specifically provided in this CAFO, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate or minimize an actual or threatened release of hazardous substances, pollutants, contaminants, hazardous substances on, at or from the Respondent's facility. Furthermore, nothing in this CAFO shall be construed to prevent or limit EPA's civil and criminal authorities, or that of other Federal, State, or local agencies or departments to obtain penalties or injunctive relief under other Federal, State, or local laws or regulations.

C. COSTS

31. Each party shall bear its own costs and attorney's fees. Furthermore, the Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17.

D. COMPLIANCE

32. The Form Rs for the violations contained herein have been submitted.

THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:

FOR THE RESPONDENT:

Date: 4/10/12



Jim Childress
Owner
Classic Marble, LLC
P.O. Box 5036
Cabot, AR 72023

FOR THE COMPLAINANT:

Date: 4/19/12



Carl E. Edlund, P.E.
Director
Multimedia Planning and
Permitting Division
U.S. EPA Region 6

V. FINAL ORDER

Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in the Consent Agreement. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated

4-25-12



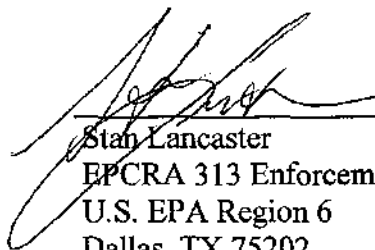
Patrick Rankin
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of April, 2012, the original and one copy of the foregoing Consent Agreement and Final Order (CAFO) was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and a true and correct copy of the CAFO was delivered to the following individual(s) by the method indicated below:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED # 7009 1680 0002 2842 3336

Jim Childress
Owner
Classic Marble, LLC
P.O. Box 5036
Cabot, AR 72023



Stan Lancaster
EPCRA 313 Enforcement
U.S. EPA Region 6
Dallas, TX 75202