



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

MEMORANDUM

DATE: November 23, 2010

SUBJECT: In the Matter of Chemical Equipment Labs, Inc.
U.S. EPA Docket No.: EPCRA-03-2010-0308
Consent Agreement and Final Order

FROM: Alison Lecker, Assistant Regional Counsel (3RC41)

TO: Lydia Guy, Regional Hearing Clerk (3RC00)

Enclosed for filing is a fully executed Consent Agreement and Final Order settling this matter. A courtesy copy of the Consent Agreement and Final Order is also enclosed.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

In the Matter of:)	
)	U.S. EPA Docket No.: EPCRA-03-2010-0308
Chemical Equipment Labs, Inc.)	
Walnut and Pine Streets)	Proceedings Pursuant to Sections 312 and 325
Marcus Hook, Pennsylvania,)	of the Emergency Planning and Community
19061)	Right-to-Know Act, 42 U.S.C. §§ 11022 and 11045
)	
Respondent.)	
)	
Chemical Equipment Labs, Inc.)	
Walnut and Pine Streets)	
Marcus Hook, Pennsylvania,)	
19061,)	
)	
Facility.)	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of the signed Consent Agreement and Final Order with the Regional Hearing Clerk, U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that true and correct copies of the Consent Agreement and Final Order were sent by certified mail to:

Mr. Ronald M. Varnum
Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599

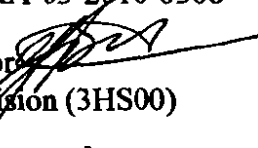
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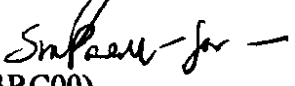
Alison Lecker
Alison Lecker (3RC41)
Assistant Regional Counsel
Counsel for Complainant
(215) 814-2698

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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DATE: November 23, 2010

SUBJECT: In the Matter of: Chemical Equipment Labs, Inc.
U.S. EPA Docket No.: EPCRA-03-2010-0308

FROM: Ronald J. Borsellino, Director 
Hazardous Site Cleanup Division (3HS00)

Marcia E. Mulkey 
Regional Counsel (3RC00)

TO: Renée Sarajian
Regional Judicial Officer (3RC00)

NATURE OF THE CASE

On June 21, 2010, EPA filed a Complaint against Chemical Equipment Labs, Inc. ("Respondent") alleging violations of Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022 for failing to timely submit Chemical Inventory Forms to the state emergency response commission, the local emergency planning committee, and the local fire department. Respondent filed an Answer on July 21, 2010 and Alternative Dispute Resolution ("ADR") was initiated by Order of Administrative Law Judge Biro on August 10, 2010. EPA and Respondent subsequently engaged in settlement negotiations and ADR was extended until December 10, 2010, by Order of Administrative Law Judge Nissen.

The Parties have agreed to a settlement amount of \$1,500.00, to resolve the alleged violations in this matter.

PROPOSED SETTLEMENT

The proposed settlement is appropriate following the analysis of the following statutory penalty factors: the nature, circumstances, extent and gravity of the violation or violations and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require. We recommend that this settlement be ordered, as such a settlement is in the best interest of the parties.

cc: Ronald M. Varnum, Esq.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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1650 Arch Street
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In the Matter of:) EPA Docket No.: EPCRA-03-2010-0308

Chemical Equipment Labs, Inc.)
Walnut and Pine Streets)
Marcus Hook, Pennsylvania)
19061,)

Respondent.)

Chemical Equipment Labs, Inc.)
Walnut and Pine Streets)
Marcus Hook, Pennsylvania)
19061,)

Facility.)

Proceedings Pursuant to Sections 312 and 325
of the Emergency Planning and Community
Right-to-Know Act of 1986,
42 U.S.C. §§ 11022, 11045

CONSENT AGREEMENT AND FINAL ORDER

Statutory Authority

This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 325 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11045, and under the authority provided by the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," 40 C.F.R. Part 22 ("Part 22"), in Section 22.18(b)(2). The Administrator has delegated the authority under Section 325 of EPCRA, 42 U.S.C. § 11045, to the Regional Administrator of EPA, Region III, who has redelegated those authorities to the Director, Hazardous Site Cleanup Division, EPA Region III ("Complainant").

Preliminary Statement and Stipulations

The Respondent, Chemical Equipment Labs, Inc. ("Respondent" or "CEL"), by its attorney or other authorized representative, and EPA stipulate as follows:



1. EPA issued an Administrative Complaint ("Complaint") against Respondent, EPA Docket No. EPCRA-03-2010-0308, on June 21, 2010. The Complaint alleges that Respondent violated Section 312 of EPCRA, 42 U.S.C. § 11022, by failing to timely submit complete and accurate Emergency and Hazardous Chemical Inventory Forms to the State Emergency Response Commission ("SERC"), Local Emergency Planning Committee ("LEPC"), and local fire department for calendar year 2007.

2. For the purpose of this proceeding, Respondent admits to the jurisdictional allegations of the Complaint.

3. For the purpose of this proceeding, Respondent neither admits nor denies the specific factual allegations contained in the Complaint, but expressly waives any of its rights to contest said allegations.

4. For the purpose of this proceeding, Respondent expressly waives its rights to a hearing and to appeal this Consent Agreement and accompanying Final Order (collectively, the "CA/FO") under Section 325 of EPCRA, 42 U.S.C. § 11045.

5. EPA incorporates by reference the factual allegations contained in the Complaint as EPA's Findings of Fact for this Consent Agreement.

6. Based upon EPA's Findings of Fact, EPA concludes that Respondent violated the provisions of Section 312 of EPCRA, 42 U.S.C. § 11022, by failing to timely provide complete and accurate Emergency and Hazardous Chemical Inventory Forms to the SERC, LEPC, and local fire department for calendar year 2007.

7. As a result of EPA's conclusion that Respondent violated Section 312 of EPCRA, 42 U.S.C. § 11022, EPA has determined that Respondent is liable for a civil penalty. In determining the amount of the civil penalty, the following factors have been taken into consideration: the nature, circumstances, extent and gravity of the violation or violations, and with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such matters as justice may require. The agreed upon penalty is consistent with 40 C.F.R. Part 19 and the *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 (September 30, 1999)*.

Penalty

8. In settlement of the above-captioned action, Respondent consents to the assessment of a civil penalty of **\$1,500.00**. Based on the foregoing Stipulations and Findings, the parties, by their attorneys or authorized officials, hereby agree to the following:

Payment Terms

9. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with the civil penalty described in this CA/FO, Respondent must pay the civil penalty no later than 30 days after the date on which a copy of this CA/FO is mailed or hand-delivered to Respondent.

10. The EPCRA penalty of \$1,500.00 shall be paid in the following manner:

a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action;

b. All checks shall be made payable to "United States Treasury";

c. All payments made by cashier's check shall be addressed to:

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

If check is sent via overnight mail, it should be sent to:

U.S. Environmental Protection Agency
Fines and Penalties
U.S. Bank
1005 Convention Plaza
Mail Station FL-MO-C2GL
St. Louis, MO 63101

d. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"

- e. All electronic payments made through the Automated Clearinghouse (ACH) shall be directed to:

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact - Jesse White 301-887-6548
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account 310006
CTX Format

11. The Respondent shall simultaneously submit a copy of the check, or verification of wire transfer or ACH, to the following persons:

Lydia Guy (3RC00)
Regional Hearing Clerk
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

and

Alison Lecker (3RC41)
Assistant Regional Counsel
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029

12. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States, as well as a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CA/FO shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.

13. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this CA/FO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

14. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. See 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the final due date and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid.

15. A penalty charge of six (6) percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. See 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. See 31 C.F.R. § 901.9(d).

16. Failure by the Respondent to pay the penalty assessed by the Final Order in full by the final due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045. In any such collection action, the validity, amount and appropriateness of the \$1,500.00 penalty shall not be subject to review.

General Provisions

17. The provisions of the CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.

18. The CA/FO does not constitute a waiver, suspension or modification of the requirements of Section 312 of EPCRA, 42 U.S.C. § 11022, or any regulations promulgated thereunder.

19. This CA/FO resolves only those civil claims which are alleged in the Complaint. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including the Respondent in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nothing in this CA/FO shall be construed to limit the United States' authority to pursue criminal sanctions.

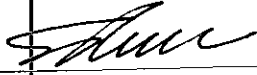
20. Each party to this action shall bear its own costs and attorney's fees.

21. By entering into this CA/FO, the Respondent does not admit any liability for the civil claims alleged in the Complaint.

In re: Chemical Equipment Labs, Inc.

EPA Docket No. EPCRA-03-2010-0308

FOR CHEMICAL EQUIPMENT LABS, INC.



SIGNATURE

11-22-10

DATE

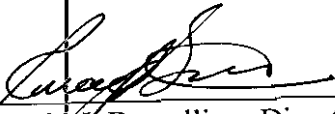
EDWARD MORGAN
Name:

Title: PRESIDENT

In re: Chemical Equipment Labs, Inc.

EPA Docket No. EPCRA-03-2010-0308

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY



Ronald J. Borsellino, Director
Hazardous Site Cleanup Division

11/29/10
DATE



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FINAL ORDER

Pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11045, and in accordance with 40 C.F.R. Part 22, and based on the representations in the Consent Agreement, having determined that the penalty agreed to in the Consent Agreement is based on a consideration of the factors set forth in Section 325 of EPCRA, 42 U.S.C. § 11045, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is ordered to comply with the terms of the referenced Consent Agreement.

In re: Chemical Equipment Labs, Inc.

EPA Docket No. EPCRA-03-2010-0308

Effective Date

This Final Order shall become effective upon the date of its filing with the Regional Hearing Clerk.

Date:

12/1/10

Renée Sarajian

Renée Sarajian
Regional Judicial Officer
EPA, Region III