



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

February 26, 2021

**VIA EMAIL**

Mr. Mark A. Foster  
President  
Riker Products, Inc.  
4901 Stickney Avenue  
Toledo, Ohio 43612

[mark.foster@rikerprod.com](mailto:mark.foster@rikerprod.com)

Re: Consent Agreement and Final Order  
In the Matter of Riker Products, Inc.  
Docket Number: EPCRA-05-2021-0004

Dear Mr. Foster:

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 February 26, 2021 with the Regional Hearing Clerk.

The civil penalty in the amount of \$48,456 is to be paid in the manner described in paragraph 51. Your check or electronic funds transfer must display the docket number, as provided above. Payment is due within 30 calendar days of the filing date.

Thank you for your cooperation in resolving this matter.

Sincerely,

CAROL  
STANIEC

Digitally signed by  
CAROL STANIEC  
Date: 2021.02.22  
09:04:05 -06'00'

Carol L. Staniec  
Enforcement Officer  
Pesticides and Toxics Compliance Section

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

<b>In the Matter of:</b>	)	<b>Docket No. EPCRA-05-2021-0004</b>
	)	
<b>Riker Products, Inc</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>Toledo, Ohio</b>	)	<b>Under Section 325(c) of the Emergency</b>
	)	<b>Planning and Community Right-to-Know</b>
<b>Respondent</b>	)	<b>Act of 1986, 42 U.S.C. § 11045(c)</b>
_____	)	

**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. The Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA), Region 5.

3. Respondent is Riker Products, Inc., a corporation doing business in the State of Ohio.

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). *See* 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 penalty specified in this CAFO, and to the terms of this CAFO.

### **Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional and factual allegations in this CAFO.
8. Respondent waives the remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to the issues of fact or law set forth in this CAFO, including its right to request a hearing as provided in 40 C.F.R. § 22.15(c), its right to seek federal judicial review of the CAFO pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-06, any right to contest the allegations in this CAFO, and its right to appeal this CAFO. Respondent also consents to the issuance of this CAFO without further adjudication.
9. Respondent certifies that it is complying with Section 313 of EPCRA, 42 U.S.C. § 11023.

### **Statutory and Regulatory Background**

10. EPA promulgated the “Toxic Chemical Release Reporting: Community Right-to-Know Rule” at 40 C.F.R. Part 372 pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048.
11. 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 Standard Industrial Classification (SIC) codes, including the major group codes 20 through 39; 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 identified at Section 313(c) of EPCRA and listed at 40 C.F.R. § 372.65 in an amount exceeding an applicable threshold quantity of that chemical listed under Section 313(f) of EPCRA and 40 C.F.R. §§ 372.25, 372.27, and 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.

12. As set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, except as provided in 40 C.F.R. §§ 372.27 and 372.28, the reporting threshold amount for a toxic chemical manufactured or processed at a facility is 25,000 pounds for calendar years including and subsequent to 1989. The reporting threshold for a toxic chemical otherwise used at a facility is 10,000 pounds for calendar years including and subsequent to 1987.

13. EPA published the Toxic Chemical Release Inventory Reporting Form, EPA Form 9350-1 (Form R) at 40 C.F.R § 372.85 pursuant to Section 313(g) of EPCRA, 42 U.S.C. § 11023(g).

14. All persons required to report pursuant to Section 313(b) of EPCRA must use Form R according to Section 313(a) of EPCRA, 42 U.S.C. § 11023(a) (“Form R”).

15. The Administrator of EPA may prescribe regulations as may be necessary to carry out EPCRA. *See* 42 U.S.C. § 11048.

16. 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 of 1990, 28 U.S.C. § 2461 note (1990), as amended by the Debt Collection Improvement Act of 1996, 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 \$58,328 per day for each violation of Section 313 of EPCRA that occurred after November 2, 2015, where penalties are assessed on or after January 13, 2020, 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.

**Factual Allegations and Alleged Violations**

17. Respondent is a corporation doing business in the State of Ohio.

18. Respondent is a “person” as that term is defined at 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 the facility located at 4901 Stickney Avenue, Toledo, Ohio 43612 (the “facility”).

20. 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.

21. 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.

22. Respondent’s facility is a “facility” as that term is defined at Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

23. Respondent’s facility is included in the North American Industry Classification System (NAICS) code 336390 (Other Motor Vehicle Parts Manufacturing). The facility has a SIC code of 3714 – Motor Vehicle Parts and Accessories, a covered SIC code as defined at Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.22.

24. On September 12, 2017, a representative of EPA inspected Respondent’s facility.

25. In response to a communication from EPA on or about August 31, 2020, Respondent filed Form R for the calendar years 2016, 2017, 2018, and 2019 on November 11, 2020.

**Count 1**

26. Complainant incorporates paragraphs 1 through 25 of the CAFO as if set forth in this paragraph.

27. During calendar year 2016, Respondent's facility processed, as that term is defined at 40 C.F.R. § 372.3, Chromium, CAS No. 7440-47-3, identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed under 40 C.F.R. § 372.65, in the amount of 30,212 pounds which is greater than 25,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

28. Respondent was required to submit to the Administrator of EPA and to Ohio a Form R for Chromium for calendar year 2016 by July 1, 2017.

29. Respondent failed to submit to the Administrator of EPA and to Ohio a Form R for Chromium for calendar year 2016 by July 1, 2017.

30. Respondent submitted Form R for Chromium to the Administrator of EPA and to Ohio on November 11, 2020 for calendar year 2016.

31. Respondent's failure to submit timely a Form R for Chromium to the Administrator of EPA and to Ohio for calendar year 2016 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

**Count 2**

32. Complainant incorporates paragraphs 1 through 25 of the CAFO as if set forth in this paragraph.

33. During calendar year 2017, Respondent's facility processed, as that term is defined at 40 C.F.R. § 372.3, Chromium, CAS No. 7440-47-3, identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed under 40 C.F.R. § 372.65, in an amount greater than 25,000

pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

34. Respondent was required to submit to the Administrator of EPA and to Ohio a Form R for Chromium for calendar year 2017 by July 1, 2018.

35. Respondent failed to submit to the Administrator of EPA and to Ohio a Form R for Chromium for calendar year 2017 by July 1, 2018.

36. Respondent submitted Form R for Chromium to the Administrator of EPA and to Ohio on November 11, 2020 for calendar year 2017.

37. Respondent's failure to submit timely a Form R for Chromium to the Administrator of EPA and to Ohio for calendar year 2017 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

### **Count 3**

38. Complainant incorporates paragraphs 1 through 25 of the CAFO as if set forth in this paragraph.

39. During calendar year 2018, Respondent's facility processed, as that term is defined at 40 C.F.R. § 372.3, Chromium, CAS No. 7440-47-3, identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed under 40 C.F.R. § 372.65, in an amount greater than 25,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

40. Respondent was required to submit to the Administrator of EPA and to Ohio a Form R for Chromium for calendar year 2018 by July 1, 2019.

41. Respondent failed to submit to the Administrator of EPA and to Ohio a Form R for Chromium for calendar year 2018 by July 1, 2019.

42. Respondent submitted Form R for Chromium to the Administrator of EPA and to Ohio on November 11, 2020 for calendar year 2018.

43. Respondent's failure to submit timely a Form R for Chromium to the Administrator of EPA and to Ohio for calendar year 2018 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

#### **Count 4**

44. Complainant incorporates paragraphs 1 through 25 of the CAFO as if set forth in this paragraph.

45. During calendar year 2019, Respondent's facility processed, as that term is defined at 40 C.F.R. § 372.3, Chromium, CAS No. 7440-47-3, identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed under 40 C.F.R. § 372.65, in an amount greater than 25,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

46. Respondent was required to submit to the Administrator of EPA and to Ohio a Form R for Chromium for calendar year 2019 by July 1, 2020.

47. Respondent failed to submit to the Administrator of EPA and to Ohio a Form R for Chromium for calendar year 2019 by July 1, 2020.

48. Respondent submitted Form R for Chromium to the Administrator of EPA and to Ohio on November 11, 2020 for calendar year 2019.

49. Respondent's failure to submit timely a Form R for Chromium to the Administrator of EPA and to Ohio for calendar year 2019 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.



**Civil Penalty**

50. Pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, Complainant determined that an appropriate civil penalty to settle this action is \$48,456. 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)* (Apr.12, 2001). For purposes of this CAFO and determining the civil penalty, each Count shall constitute a separate violation.

51. Within 30 days after the effective date of this CAFO, Respondent must pay a \$48,456 civil penalty for the EPCRA violations via one of the following methods:

a) 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

b) 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, Missouri 63101

The check must note "Riker Products, Inc." and the docket number of this CAFO.

c) electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
“D 68010727 Environmental Protection Agency”

In the comment or description field of the electronic funds transfer, state “Riker Products, Inc.” and the docket number of this CAFO.

d) ACH electronic funds transfer, payable to “Treasurer, United States of America,” and sent to:

US Treasury REX/Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 --checking

In the comment area of the electronic funds transfer, state “Riker Products, Inc.” and the docket number of this CAFO.

e) an on-line payment. To pay on-line, go to [www.pay.gov](http://www.pay.gov). Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields.

52. 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  
[r5hearingclerk@epa.gov](mailto:r5hearingclerk@epa.gov)

Carol Staniec (ECP-17J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604  
[staniec.carol@epa.gov](mailto:staniec.carol@epa.gov)  
[r5lecab@epa.gov](mailto:r5lecab@epa.gov)

Robert M. Peachey (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604  
[peachey.robert@epa.gov](mailto:peachey.robert@epa.gov)

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

54. 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. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

55. 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**

56. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: peachey.robert@epa.gov (for Complainant), and Mark.Foster@rikerprod.com (for Respondent).

57. Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal administrative civil penalties under Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), for the violations alleged in this CAFO.

58. Respondent certifies that it is now in compliance with EPCRA § 313 and its

implementing regulations.

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

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

61. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for Section 313 of EPCRA.

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

63. Nothing herein shall waive Respondent's rights to claim an article exemption relating to future submissions of Form Rs.

64. 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.

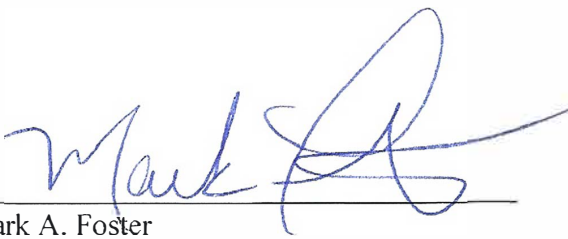
65. Each party agrees to bear its own costs and attorney's fees in this action.

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

**In the Matter of:**  
**Riker Products, Inc.**  
Docket No. **EPCRA-05-2021-0004**

**Riker Products, Inc., Respondent**

2/6/2021  
Date

  
Mark A. Foster  
President

**In the Matter of:**  
**Riker Products, Inc.**  
**Docket No. EPCRA-05-2021-0004**

**United States Environmental Protection Agency, Complainant**

02/25/2021

---

Date

MICHAEL  
HARRIS

Digitally signed by MICHAEL  
HARRIS  
Date: 2021.02.25 12:28:47 -06'00'

---

Michael D. Harris  
Director  
Enforcement and Compliance Assurance Division

**In the Matter of:**  
**Riker Products, Inc.**  
**Docket No. EPCRA-05-2021-0004**

**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.

\_\_\_\_\_  
Date

**ANN COYLE** Digitally signed by ANN COYLE  
Date: 2021.02.25 16:20:22  
-06'00'

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

**Consent Agreement and Final Order**  
**In the matter of: Riker Products, Inc.**  
**Docket Number:** EPCRA-05-2021-0004

**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number EPCRA-05-2021-0004, which was filed on February 26, 2021, in the following manner to the addressees:

Copy by email to Respondent's Representative: (Delivery Receipt Requested)	Mr. Mark A. Foster President Riker Products, Inc. 4901 Stickney Ave. Toledo, Ohio 43612 <a href="mailto:Mark.Foster@rikerprod.com">Mark.Foster@rikerprod.com</a>
Copy by email to Attorney for Respondent:	Joseph R. Durham <a href="mailto:JRDurham@eastmansmith.com">JRDurham@eastmansmith.com</a>
Copy by email to Attorney for Complainant:	Robert Peachey <a href="mailto:peachey.robert@epa.gov">peachey.robert@epa.gov</a>
Copy by email to Regional Judicial Officer:	Ann Coyle <a href="mailto:coyle.ann@epa.gov">coyle.ann@epa.gov</a>

---

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