

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

Received by
EPA Region 1
Hearing Clerk

_____)	
IN THE MATTER OF:)	
Siemens Industry, Inc.,)	EPA Docket No. RCRA-01-2022-0020
d/b/a Russelectric, a Siemens Business)	
99 Industrial Park Road)	
Hingham, MA 02043,)	CONSENT AGREEMENT
Respondent)	AND
Proceeding under Section 3008(a))	FINAL ORDER
Resource Conservation and Recovery)	
Act, 42 U.S.C. § 6928(a))	
_____)	

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. The U.S. Environmental Protection Agency (“EPA”), Region 1, alleges that Siemens Industry, Inc., d/b/a Russelectric, a Siemens Business (“Russelectric” or “Respondent”) has violated the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6901–6987, and the Massachusetts hazardous waste management regulations set forth at 310 C.M.R. 30.001, *et seq.* EPA Region I (“Complainant”) and Russelectric (together, the “Parties”) have agreed to settle this matter through this Consent Agreement and Final Order (“CAFO”). EPA’s procedural regulations governing administrative enforcement actions and settlements are set out in the Consolidated Rules of Practice (“Consolidated Rules”) at 40 C.F.R. Part 22. Pursuant to 40 C.F.R. § 22.13(b) of the Consolidated Rules, this CAFO simultaneously commences and concludes this action.

2. EPA has given notice of this RCRA enforcement action to the Commonwealth of

Massachusetts pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

3. The Parties have agreed that settlement of this matter is in the public interest and that entry of this CAFO without further litigation is the most appropriate means of resolving the matter.

II. BACKGROUND FACTS

4. Russelectric is a Delaware corporation that owns and operates a power control system manufacturing plant at 99 Industrial Park Road in Hingham, Massachusetts (the “Facility”).

5. On March 17, 2021, pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, and Section 104(e)(2) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”), 42 U.S.C. § 9604, EPA sent Russelectric a request for information.

6. On May 19, 2021, Russelectric responded to EPA’s request for information by providing EPA with written narrative descriptions of the Facility’s hazardous waste operations with supporting documentation.

III. ALLEGED RCRA VIOLATIONS

A. RCRA Statutory and Legal Framework

7. Pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921–6939e, EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 271, that set forth standards and requirements applicable to generators of hazardous waste and to owners and operators of facilities that treat, store, or dispose of hazardous waste (“TSDFs”).

8. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when EPA deems the state program to be equivalent to the federal program.

9. On January 24, 1985, EPA granted Massachusetts authorization to implement its base hazardous waste management program. *See* 50 Fed. Reg. 3344-01 (Jan. 24, 1985). This authorization became effective on February 7, 1985. EPA subsequently granted authorization for changes to Massachusetts's program in 1998, 1999, 2004, 2008, and 2010.

10. The Massachusetts Department of Environmental Protection ("MassDEP") administers the Massachusetts hazardous waste program through Massachusetts hazardous waste regulations codified at 310 C.M.R. 30.001, *et seq.*

11. Section 3006 of RCRA, 42 U.S.C. § 6926, provides, *inter alia*, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.

12. Pursuant to Sections 3006(g) and 3008(a) of RCRA, 42 U.S.C. §§ 6926(g) and 6928(a), EPA may enforce violations of the requirements of RCRA by issuing administrative orders to assess civil penalties and require compliance.

13. Pursuant to the Civil Penalties Inflation Adjustment Act of 1990 ("CPIAA"), as amended through the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, and the CPIAA's implementing regulations set out at 40 C.F.R. Part 19, violations of RCRA-related requirements that occurred from January 13, 2009 through November 2, 2015 are subject to penalties of up to \$37,500 per day for each violation, while violations that occur after November 2, 2015 are currently subject to penalties of up to \$76,764 per day for each violation. *See* 85 Fed. Reg. 83818, 83821 (Dec. 23, 2020).

B. General Allegations

14. Respondent is a corporation and a "person" within the meaning of Section

1004(15) of RCRA, 42 U.S.C. § 6903(15), and 40 C.F.R. § 260.10. At all times relevant to the allegations set forth in this CAFO, Respondent has been the “owner” and “operator” of the Facility as defined in 310 C.M.R. 30.010.

15. At all times relevant to the allegations set forth in this CAFO, the Facility has generated “hazardous wastes” as defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), and 310 C.M.R. 30.010.

16. From July 19, 2018 to March 17, 2021, Respondent generated hazardous waste¹ at the Facility and stored it in containers, such as a 2,500 gallon holding tank, 250-gallon totes and 55-gallon plastic closed drums, located in a chemical storage room at the Facility. Thus, at all times relevant to the allegations set forth in this CAFO, Respondent was a “generator” of hazardous wastes at the Facility as defined in 310 C.M.R. 30.010.

17. Between July 19, 2018 to March 17, 2021, Respondent accumulated more than 6,000 kilograms of hazardous waste at the Facility at numerous points. Thus, at all times relevant to the allegations set forth in this CAFO, Respondent was a “large quantity generator” of hazardous wastes at the Facility as defined in 310 C.M.R. 30.340(1).

18. Respondent has never applied for a permit for the treatment, storage, or disposal of hazardous wastes at the Facility.

19. In order to store hazardous waste for 90 days or less without obtaining a permit or obtaining interim status, Respondent’s Facility must comply with the conditions found in the applicable provisions of 310 C.M.R. 30.340(4).

C. RCRA Violations

I. Failure to Notify as Large Quantity Generator

¹ Specifically, during the relevant period, Respondent generated F006, F003, F008, F009, D001, D002, D007, D011, and D035 waste, as well as non-federal regulated wastes MA98, MA99, and R015.

20. As alleged in Paragraphs 15 through 19 of this CAFO, at all times relevant to the allegations set forth in this CAFO, Respondent qualified as a “large quantity generator” of hazardous wastes at the Facility as defined in 310 C.M.R. 30.340(1).

21. Respondent previously notified the MassDEP of its status as a “small quantity generator” of hazardous waste at the Facility on April 16, 2004. *See* 310 C.M.R. 30.351.

22. “Small quantity generators” that become “large quantity generators” are required to promptly submit a written change of status notification to MassDEP. *See* 310 C.M.R. 30.303(3)(a).

23. At all times relevant to the allegations set forth in this CAFO, Respondent failed to notify MassDEP of the fact that it had become a “large quantity generator” of hazardous waste at the Facility.

24. Accordingly, Respondent violated 310 C.M.R. 30.303(3)(a).

II. Failure to Have a Hazardous Waste Training Program

25. As alleged in Paragraphs 15 through 19 of this CAFO, at all times relevant to the allegations set forth in this CAFO, Respondent qualified as a “large quantity generator” of hazardous wastes at the Facility, as defined in 310 C.M.R. 30.340(1).

26. Large quantity generators are required to provide initial training and annual refresher training regarding hazardous waste management procedures to employees tasked with hazardous waste management, and large quantity generators are also required to maintain training plans and employee training records available on-site for inspection. *See* 310 C.M.R. 30.341(1)(a).

27. At all times relevant to the allegations set forth in this CAFO, Respondent failed to provide annual refresher training regarding hazardous waste management procedures to any of

the eleven employees tasked with hazardous waste management at the Facility, and Respondent failed to maintain records reflecting initial or annual refresher training regarding hazardous waste management procedures for those employees.

28. Accordingly, Respondent did not comply with 310 C.M.R. 30.341(1)(a), and therefore, Respondent also failed to comply with 310 C.M.R. 30.340(4)(a), which incorporates 310 C.M.R. 30.341(1)(a) by reference. By failing to comply with 310 C.M.R. 30.341(1)(a) and 310 C.M.R. 30.340(4)(a), Respondent failed to meet the accumulation conditions for generators and was required to have a permit pursuant to Section 3005 of RCRA and 310 C.M.R. 30.801. Because Respondent did not have a permit for the Facility, Respondent violated Section 3005 of RCRA and 310 C.M.R. 30.801.

III. Failure to Maintain a Complete Hazardous Waste Contingency Plan

29. As alleged in Paragraphs 15 through 19 of this CAFO, at all times relevant to the allegations set forth in this CAFO, Respondent qualified as a “large quantity generator” of hazardous wastes at the Facility, as defined in 310 C.M.R. 30.340(1).

30. Large quantity generators are required to maintain contingency plans that are designed to prevent and to minimize hazards to public health, safety, or welfare or the environment from fires, explosions, spills, or any other unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, surface water, or ground water. *See* 310 C.M.R. 30.341(1)(b)–(d); *see also* 310 C.M.R. 30.521, 30.522, 30.523.

31. At all times relevant to the allegations set forth in this CAFO, Respondent maintained an emergency action plan that outlined planned responses to various emergency scenarios at the Facility. However, Respondent’s emergency action plan did not meet the

requirements of 310 C.M.R. 30.341(1)(b)–(d), which incorporates 310 C.M.R. 30.521, 30.522, and 30.523 by reference.

32. Accordingly, Respondent did not comply with 310 C.M.R. 30.341(1)(b)–(d), and therefore, Respondent also did not comply with 310 C.M.R. 30.340(4)(a), which incorporates 310 C.M.R. 30.341(1)(b)–(d) by reference. By failing to comply with 310 C.M.R. 30.341(1)(b)–(d) and 310 C.M.R. 30.340(4)(a), Respondent failed to meet the storage conditions for generators and was required to have a permit pursuant to Section 3005 of RCRA and 310 C.M.R. 30.801. Because Respondent did not have a permit for the Facility, Respondent violated Section 3005 of RCRA and 310 C.M.R. 30.801.

IV. Failure to Submit Biennial Report

33. As alleged in Paragraphs 15 through 19 of this CAFO, at all times relevant to the allegations set forth in this CAFO, Respondent qualified as a “large quantity generator” of hazardous waste at the Facility as defined in 40 C.F.R. § 260.10 and 310 C.M.R. 30.340(1).

34. At all times relevant to the allegations set forth in this CAFO, Respondent utilized third party transport companies to transfer hazardous waste to Treatment, Storage or Disposal Facilities (“TSDFs”) for storage or disposal.

35. Large quantity generators that transfer or offer for transport any hazardous waste offsite are required to submit a Biennial Report covering activities in the previous calendar year to the Commissioner of the MassDEP on the first day of March in every even-numbered year. *See* 310 C.M.R. 30.332(1).

36. At all times relevant to the allegations set forth in this CAFO, Respondent failed to submit a Biennial Report to the Commissioner of the MassDEP.

37. Accordingly, Respondent violated 310 C.M.R. 30.332(1).

V. Failure to Conduct Weekly Inspections of Hazardous Waste Containers

38. As alleged in Paragraphs 15 through 19 of this CAFO, at all times relevant to the allegations set forth in this CAFO, Respondent qualified as a “large quantity generator” of hazardous waste at the Facility as defined in 310 C.M.R. 30.340(1).

39. Large quantity generators are required to conduct weekly inspections of containers that hold hazardous waste being accumulated for 90 days or less, record the outcome of the inspections, and retain the resulting records for at least three years. *See* 310 C.M.R. 30.342(1)(d).

40. At all times relevant to the allegations set forth in this CAFO, Respondent failed to conduct weekly inspections of the containers that held hazardous waste being accumulated for 90 days or less at the Facility. Specifically, Respondent failed to conduct weekly inspections of the 250-gallon totes and 55-gallon plastic closed drums located in a chemical storage room at the Facility.

41. Accordingly, Respondent did not comply with 310 C.M.R. 30.342(1)(d), and therefore, Respondent also did not comply with 310 C.M.R. 30.340(4)(b), which incorporates 310 C.M.R. 30.342(1)(d) by reference. By failing to comply with 310 C.M.R. 30.342(1)(d) and 310 C.M.R. 30.340(4)(b), Respondent failed to meet the storage conditions for generators and was required to have a permit pursuant to section 3005 of RCRA and 310 C.M.R. 30.801. Because Respondent did not have a permit for the Facility, Respondent violated Section 3005 of RCRA and 310 C.M.R. 30.801.

IV. GENERAL TERMS

42. The terms of this CAFO shall apply to and be binding on Complainant and on Respondent, its successors, and its assigns.

43. For the purposes of this proceeding, Respondent admits that Complainant has jurisdiction over the subject matter described in this CAFO and that the CAFO states claims upon which relief can be granted against Respondent. Respondent neither admits nor denies the factual allegations contained in Section III.C of this CAFO. Respondent waives any right to a judicial or administrative hearing or appeal regarding this CAFO, and to otherwise contest the allegations of this CAFO or to appeal the CAFO's Final Order.

44. Respondent consents to the assessment of the civil penalty set out in Section VI below. Respondent also consents to the issuance of any compliance provisions and any conditions specified in this CAFO.

45. All notices and submissions required by this CAFO shall be sent to:

For Complainant:

Christopher P. Milione
Attorney-Advisor
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code 4-3
Boston, Massachusetts 02109-3912
milione.christopher@epa.gov

For Respondent:

John McKenzie
EP North American EHS Manager
Siemens Industry, Inc.
422 Morris Ridge Dr.
Columbus, NC 28722
John.Mckenzie@Siemens.com

V. COMPLIANCE CERTIFICATION AND COMPLIANCE ORDER

46. As of the effective date of this CAFO, Respondent certifies that the Facility is in compliance with RCRA and the federal and state hazardous waste regulations promulgated

thereunder, including but not limited to the Massachusetts regulations cited in Section III above.

47. Respondent certifies that it has completed the following RCRA compliance actions at the Facility:

- a. In accordance with 310 C.M.R. 30.303(3)(a), Respondent has notified MassDEP of its status as a large quantity generator;
- b. In accordance with 310 C.M.R. 30.332(1), Respondent has taken steps to ensure that Respondent will submit a Biennial Report covering activities in the previous calendar year to the Commissioner of the MassDEP by the first day of March in every even-numbered year.

48. Respondent further certifies that it has completed the following RCRA compliance actions at the Facility or, alternatively, that it has applied for a permit for the Facility pursuant to Section 3005 of RCRA and 310 C.M.R. 30.801:

- c. In accordance with 310 C.M.R. 30.341(1)(a), Respondent has provided hazardous waste training to the Russelectric employees who are currently responsible for handling and/or managing hazardous waste, and Respondent is maintaining a copy of the relevant training plan and training records on-site;
- d. In accordance with 310 C.M.R. 30.341(1)(b)–(d), Respondent has developed and is maintaining a contingency plan for the Facility that is designed to prevent and to minimize hazards to public health, safety, or welfare, or the environment from fires, explosions, spills, or any other unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, surface water, or ground water, and Respondent has distributed the contingency plan to local police departments, local fire departments, hospitals, local boards of health, the chief

executive officer of the community, state and local emergency response teams that may be called upon to provide emergency services;

- e. In accordance with 310 C.M.R. 30.342(1)(d), Respondent has begun conducting weekly inspections of all areas where hazardous waste is accumulated for 90 days or less, and Respondent is recording those inspections in a log or summary and keeping the records of each inspection for at least three years from the date of inspection or until final closure pursuant to 310 C.M.R. 30.342(1)(g), whichever period is longer.

VI. CIVIL PENALTY

49. Respondent shall pay a civil penalty of \$121,546. EPA Region 1 has determined, consistent with statutory penalty criteria and applicable policies, that this is an appropriate settlement penalty based on the nature of the alleged violations and other relevant factors.

50. To pay the penalty, Respondent shall pay, no later than 30 days after the effective date of this CAFO, the amount of \$121,546, using any method, or combination of methods, provided on the website <http://www2.epa.gov/financial/additional-instructions-making-payments-epa>, and identifying every payment with “In the Matter of Russelectric, Docket No. RCRA-01-2022-0020.” If Respondent elects to use regular mail, a cashier’s or certified check payable to the order of the “Treasurer, United States of America,” and referencing the case name and docket number (“In the Matter of Russelectric, Docket No. RCRA-01-2022-0020”) shall be sent to the following address:

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

If Respondent sends the check via express mail, the following address shall be used:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
314-418-4087

Respondent shall send a notice of the penalty payment and a copy of the check by email

to:

Wanda I. Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code ORC 4-6
Boston, Massachusetts 02109-3912
R1_Hearing_Clerk_Filings@epa.gov

and

Christopher P. Milione
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code ORC 4-3
Boston, Massachusetts 02109-3912
milione.christopher@epa.gov

51. If Respondent fails to pay the full amount of the civil penalty by its due date, Respondent shall pay interest on the late amount pursuant to 31 U.S.C. § 3717, plus any late charges to cover the cost of processing and handling the delinquent claim. The interest on the late amount shall be calculated at the rate of the U.S. Treasury tax and loan rate, in accordance with 31 C.F.R. § 901.9(b)(2).

52. All payments made pursuant to this Section are penalties within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f), and 26 C.F.R. § 1.162-21, and

Respondent shall not use these payments in any way as, or in furtherance of, a tax deduction under federal law.

53. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), the provisions in paragraphs 46-48 above, are required to come into compliance with the law.

VII. EFFECT OF SETTLEMENT

54. This CAFO constitutes a settlement by EPA of all claims for federal civil penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), for the alleged violations set out in Section III.C of this CAFO.

55. Nothing in this CAFO shall be construed to limit the authority of EPA or the United States to undertake any action against Respondent for criminal activity, or to respond to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment. EPA reserves all rights and remedies available to it to enforce the provisions of this CAFO, RCRA and its implementing regulations and permits, and any other federal, state, or local law or regulation.

56. This CAFO shall not relieve Respondent of its obligations to comply with all applicable provisions of federal or state law, and this CAFO shall not be construed to be a ruling or determination regarding any issue related to any federal, state, or local permit. Except as provided in Paragraph 53 above, compliance with this CAFO shall not be a defense to any action subsequently commenced pursuant to environmental laws and regulations administered by EPA.

57. Each Party shall bear its own costs, disbursements, and attorneys' fees in connection with this enforcement action, and each Party specifically waives any right to recover such costs, disbursements, or fees from the other Party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

58. The Parties' undersigned representatives certify that they are fully authorized by their respective Party to enter into the terms and conditions of this CAFO and to execute and legally bind their Party to it.

59. Complainant and Respondent, by entering into this Consent Agreement, each give their respective consent to accept digital signatures hereupon. Respondent further consents to accept electronic service of the fully executed CAFO, by electronic mail, to the following address: JohnMckenzie@siemens.com. Complainant has provided Respondent with a copy of the EPA Region 1 Regional Judicial Officer's Authorization of EPA Region 1 Part 22 Electronic Filing System for Electronic Filing and Service of Documents Standing Order, dated June 19, 2020. Electronic signatures shall comply with, and be maintained in accordance with, that Order.

60. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of the Parties and approval of the Regional Judicial Officer.

61. In accordance with 40 C.F.R. § 22.31(b), the effective date of this CAFO is the date on which this CAFO is filed, either in person or electronically via email, with the Regional Hearing Clerk.

For Complainant:

Karen McGuire, Director
Enforcement and Compliance Assurance Division
EPA, Region 1

Date: _____

For Respondent:



Nikhil Avasthi
Plant Manager, Hingham
Russelectric, A Siemens Business

Date: 3/10/22

FINAL ORDER

Pursuant to 40 C.F.R. §§ 22.18(b) and (c) of the Consolidated Rules, the foregoing Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. Respondent Siemens Industry, Inc. d/b/a Russelectric, a Siemens Business is ordered comply with the terms of this CAFO and to pay the civil penalty amount specified in the manner indicated therein. The terms of the Consent Agreement shall become effective on the date that the CAFO is filed with the Regional Hearing Clerk.

LeAnn Jensen
Regional Judicial Officer
EPA, Region 1

Date: _____