

EXPEDITED PENALTY ACTION  
AND CONSENT AGREEMENT  
DOCKET NO. EPCRA-03-2017-0026  
Level 1 Fasteners, Inc.  
Huntington, WV

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 ARCH STREET  
PHILADELPHIA, PA 19103-2029

REGIONAL HEARING & CLEAN  
EPA REGION III, PHILA. PA

2017 APR 27 PM 2:01

RECEIVED

RESPONDENT

Mr. Ted Bourdelais  
Level 1 Fasteners, Inc.  
777 10<sup>th</sup> Avenue West  
Huntington, WV 25701

FACILITY

Mr. Ted Bourdelais  
Level 1 Fasteners, Inc.  
777 10<sup>th</sup> Avenue West  
Huntington, WV 25701

On December 1, 2015, an inspection by the United States Environmental Protection Agency (“EPA”) was conducted at the Respondent’s facility known as Level 1 Fasteners, Inc. at 777 10<sup>th</sup> Avenue West, in Huntington, West Virginia to determine compliance with the Emergency Planning and Community Right-to-Know Act (“EPCRA”) regulations promulgated at 40 C.F.R. Part 370 under Section 312 of EPCRA, 42 U.S.C. § 11022, (the “Act”). The EPA representative found that Respondent had violated the regulations by failing to comply with the specific regulatory requirements noted on the attached EPCRA Inspection Findings, Alleged Violations and Proposed Penalty Form (the “Form”), which is hereby incorporated by reference.

The parties enter into this Expedited Penalty Action and Consent Agreement (“Consent Agreement”) to settle the civil violations set forth above for a penalty of **\$5,000.00** which was calculated in accordance with the February 10, 2016 “Changes to the Final Policy for Expedited Settlements Addressing Violations of Section 312 of the Emergency Planning and Community Right-to-Know Act”. This Consent Agreement commences and concludes this action pursuant to Sections 22.13(b), and 22.18(b)(2), and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. §§ 22.13(b), and 22.18(b)(2), and (3). This Expedited Penalty Action and Consent Agreement is being entered into by the EPA Region III, by its duly delegated official, the Director, Hazardous Site Cleanup Division, and by Respondent pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §11045, and by 40 C.F.R. § 22.13(b).

The settlement is subject to the following terms and conditions:

EPA hereby finds the Respondent is subject to the Emergency Planning and Community Right-to-Know Act regulations and has violated the regulations as further described in the Form.

The Respondent consents to the assessment of the penalty stated above. Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that the violations set forth in the EPCRA Inspection Findings, Alleged Violations and Proposed Penalty Form have been corrected. The Respondent agrees that it shall, within 15 calendar days of receipt of an executed copy of this Consent Agreement, make payment of **\$5,000.00** in one of two forms: 1) electronic funds transfer (“EFT”) or 2) a cashier’s check or certified check payable to the “Environmental Protection Agency”, with the Docket Number, located at the top right-hand corner of the Consent Agreement referenced on the check.

**EXPEDITED PENALTY ACTION  
AND CONSENT AGREEMENT  
DOCKET NO. EPCRA-03-2017-0026  
Level 1 Fasteners, Inc.  
Huntington, WV**

Payment of the penalty amount by EFT 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"

Payment of the penalty amount by regular  
US Postal Service shall be sent via  
certified mail to:

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

Payment of the penalty amount by overnight  
mail (FedEx or other non-US Postal Service  
express mail) shall be sent to:

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

The Respondent shall also send a copy of the EFT confirmation or check via certified mail to:

Theresa Gallagher, EPCRA Enforcement Coordinator  
U.S. Environmental Protection Agency, Region III  
Oil and Prevention Branch (3HS61)  
1650 Arch Street  
Philadelphia, PA 19103-2029

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

The payment made pursuant to this Consent Agreement is a penalty within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. §162(f), and, therefore, Respondent shall not claim it as a tax deductible expenditure for purposes of federal, state or local law.

This Consent Agreement resolves only the federal civil penalty claims for the specific violations alleged in the attached EPCRA Inspection Findings, Alleged Violations and Proposed Penalty Form. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the Act, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Consent Agreement, following its filing with the Regional Hearing Clerk.

**EXPEDITED PENALTY ACTION  
AND CONSENT AGREEMENT  
DOCKET NO. EPCRA-03-2017-0026  
Level 1 Fasteners, Inc.  
Huntington, WV**

Respondent neither admits nor denies the allegations set forth in the Form, but agrees that jurisdiction has been established for this Consent Agreement. Also, upon EPA's final approval of the Consent Agreement, Respondent expressly waives its right to contest the allegations, to a hearing, and to appeal this Order under Section 325 of EPCRA, 42 U.S.C. § 11045. Moreover, in entering into this Consent Agreement, the Respondent agrees to bear its own costs and attorney's fees related to this Expedited Penalty Action.

If Respondent does not sign and return this Consent Agreement as presented within 45 days of the date of its receipt, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Form.

**ACCEPT THE PROPOSED PENALTY**

I/we consent to the proposed penalty.

**DECLINE THE PROPOSED PENALTY**

I/we decline the proposed penalty. If you choose to decline this proposed penalty, you may be subject to formal enforcement action and, in that event, will have an opportunity to a hearing related to any subsequent penalty assessment.

**COST OF COMPLIANCE**

Respondent certifies that it has expended \$ 100.00 (2,225, Sept 14/15 - 4/15/17) to correct the alleged violations and to come into compliance.

**EFFECTIVE DATE**

This Consent Agreement will be effective upon filing with the Regional Hearing Clerk.

The undersigned representative of Respondent certifies that he or she is fully authorized by Respondent to execute this Expedited Penalty Action and Consent Agreement and to legally bind the party whom he or she represents thereto.

**Respondent**

Signature John Bourdais Date 3-6-2017

Name and Title (print) JOHN M. BOURDAIS, PRESIDENT

**EXPEDITED PENALTY ACTION  
AND CONSENT AGREEMENT  
DOCKET NO. EPCRA-03-2017-0026  
Level 1 Fasteners, Inc.  
Huntington, WV**

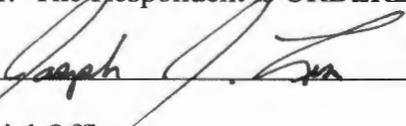
**SIGNATURE BY COMPLAINANT:**

  
\_\_\_\_\_  
Date 4/20/17  
Karen Melvin, Director  
Hazardous Site Cleanup Division

**FINAL ORDER**

Pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11045, and in accordance with the Consolidated Rules of Practice, 40 C.F.R. Part 22, and having relied upon the representations of the parties set forth in the Consent Agreement, I have determined that the penalty assessed herein is based on a consideration of the factors set forth in 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.

THEREFORE, the foregoing Consent Agreement is hereby approved and incorporated by reference into the Final Order. The Respondent is ORDERED to pay the civil penalty as set forth in the Consent Agreement.

  
\_\_\_\_\_  
Date April 27, 2017  
Joseph J. Lisa  
Regional Judicial Officer

**Emergency Planning and Community Right-to-Know Act (EPCRA)**  
**Inspection Findings, Alleged Violations and Proposed Penalty Form**

**DOCKET NO: EPCRA-03-2017-0026**

**This Expedited Penalty Action is issued to:**

Level 1 Fasteners, Inc.  
777 10<sup>th</sup> Avenue West  
Huntington, WV 25701

EPA alleges that Respondent violated Section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations of 40 C.F.R. Part 370, Subpart C, by failing to timely submit complete and accurate Tier II Reports for the years 2012, 2013, and 2014 to the State Emergency Response Commission (SERC), the Local Emergency Planning Committee (LEPC) and the local Fire Department. Specifically, Respondent failed to submit Tier II Reports for its facility located at 777 10<sup>th</sup> Avenue West, Huntington, WV for the presence of 1,101 pounds of Nitric Acid and between 1,201 and 2,402 pounds of Sulfuric Acid during the calendar years of 2012, 2013, and 2014. The settlement amount was based on a consideration of the factors set forth in 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.

**Penalty.....\$5,000.00**

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

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

2017 APR 27 PM 2:37

RECEIVED

In the Matter of:	)	EPA Docket No.:
	)	EPCRA-03-2017-0026
Level 1 Fasteners, Inc.	)	
777 10 <sup>th</sup> Avenue West	)	
Huntington, West Virginia 25701	)	
	)	
Respondent,	)	Proceedings under Sections 312 and
	)	325 of the Emergency Planning and
Level 1 Fasteners, Inc.	)	Community Right-to-Know Act, 42
777 10 <sup>th</sup> Avenue West	)	U.S.C. §§ 11022 and 11045.
Huntington, West Virginia 25701	)	
	)	
	)	
Facility.	)	
	)	

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of Complainant's, the United States Environmental Protection Agency's, Expedited Settlement Agreement with the Regional Hearing Clerk, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that true and correct copies of the Expedited Settlement Agreement, were sent to:

Via certified mail, return receipt requested

**Mr. Ted Bourdelais**  
**Level 1 Fasteners, Inc.**  
**777 10<sup>th</sup> Avenue West**  
**Huntington, West Virginia 25701**

4/27/17  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Perry Pandya (3HS61)