



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
SAM NUNN
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA GEORGIA 30303-8960

SEP 15 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Glen Hawkins
AW North Carolina, Inc.
4112 Old Oxford Highway
Durham, North Carolina 27712

Re: AW North Carolina, Inc.
Consent Agreement and Final Order
Docket Number: EPCRA-04-2015-2013(b)

Dear Mr. Hawkins:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22. Please refer to Section V of the CAFO for penalty information and payment requirements.

To ensure proper processing, the Respondent's Name and Docket Number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts AW North Carolina, Inc., on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U. S. Environmental Protection Agency Region 4. Where used in the document "SEC" refers to the Securities and Exchange Commission.

Should you have any questions about this matter or your compliance status in the future, please contact Mr. Vinson Poole of the EPA Region 4 staff at (404) 562-9186.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony G. Toney", followed by a long horizontal flourish.

Anthony G. Toney
Chief

Chemical Safety and Enforcement Branch

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)

AW North Carolina, Inc.)

Respondent.)

Docket Number: EPCRA-04-2015-2013(b)

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045, and pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is AW North Carolina, Inc.

2. The authority to take action under Section 325 of EPCRA, 42 U.S.C. § 11045, is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under EPCRA to the Regional Administrators by EPA Delegation 22-3-A, dated May 11, 1994. The Regional Administrator, Region 4, has redelegated this authority under EPCRA to the Director, Air, Pesticides and Toxics Management Division, by EPA Region 4 Delegation 22-3-A, dated November 8, 1994. Pursuant to that delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

4. Respondent is AW North Carolina, Inc., a corporation doing business in the State of North Carolina.

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5. Respondent is a "person" and "owner and operator" of a "facility" as these terms are defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7) and Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), respectively.

6. Respondent's facility is located at 4112 Old Oxford Highway, Durham, North Carolina.

III. EPA's Allegations of Violations

7. 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 10 or more full-time employees; (b) is in a Standard Industrial Classification (SIC) major group or industry listed in 40 C.F.R. § 372.23(a) for which the corresponding North American Industry Classification System (NAICS) subsector and industry codes are listed in 40 C.F.R. §§ 372.23(b) and 372.23(c); and (c) manufactured, processed, or otherwise used a toxic chemical listed in Section 313(c) and 40 C.F.R. § 372.65, in excess of an applicable threshold quantity established under EPCRA Section 313(f) and set forth in 40 C.F.R. § 372.25, during the calendar year, to complete and submit a toxic chemical release inventory reporting Form R (EPA Form 9350-1) to the Administrator of EPA and to the State in which the 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 the preceding calendar year.

8. As set forth at EPCRA Section 313(f) and 40 C.F.R. § 372.25, the reporting threshold amount for a toxic chemical manufactured or processed at a facility is 25,000 pounds per calendar year. The reporting threshold for a toxic chemical otherwise used at a facility is 10,000 pounds.

9. Respondent has 10 or more full-time employees, as defined at 40 C.F.R. § 372.3 at its facility.

10. Respondent's facility is classified under SIC code 3714 and the NAICS code 336350.

11. Respondent's facility is classified in a covered SIC code as described at 40 C.F.R. § 372.22 and in a covered NAICS code as described at 40 C.F.R. § 372.23.

12. Lead and copper are toxic chemicals listed under EPCRA Section 313(c) and 40 C.F.R. § 372.65.

13. Respondent's facility processed both lead and copper in excess of the 25,000 pound threshold quantity established under EPCRA Section 313(f) and 40 C.F.R. § 372.25, during calendar year 2012.

14. Respondent failed to submit Form R's for both lead and copper to the Administrator of EPA and to the official designated by the Governor of the State of North Carolina by July 1 of the required reporting year.

15. Respondent violated the reporting requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, at its facility for calendar year 2012, and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

16. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$37,500 for each violation of Section 313 that occurred after January 12, 2009. Each day a violation of Section 313 continues constitutes a separate violation. Civil penalties under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), may be assessed by an Administrative Order.

IV. Consent Agreement

17. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.

18. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.

19. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

20. Respondent has agreed to undertake and complete a Supplemental Environmental Project (SEP) in accordance with Section VI of this CAFO.

21. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of EPCRA at the facility.

22. Compliance with this CAFO shall resolve the allegations of violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States other than as expressed herein. Neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for a violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

23. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of EPCRA.

V. Final Order

24. Respondent shall pay a civil penalty of **FIVE THOUSAND ONE HUNDRED EIGHTY-SIX DOLLARS (\$5,186)**, for the EPCRA violations alleged in Section III. Payment shall be paid within thirty (30) days of the effective date of this CAFO.

25. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to: "Treasurer, United States of America," to the following address:

BY MAIL

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

BY OVERNIGHT

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101
(314) 425-1818

The check shall reference on its face the name and the Docket Number of the CAFO.

26. At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Vinson Poole
U.S. EPA, Region 4
Air, Pesticides & Toxics Management Division
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Saundi Wilson
U.S. EPA, Region 4
Office of Environmental Accountability
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

27. For the purposes of state and federal income taxes, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.

VI. Supplemental Environmental Project

28. Respondent shall undertake and complete, in accordance with the approved SEP in this matter, the following Emergency Planning and Preparedness SEP within 45 days of the effective date of this CAFO. Respondent shall expend **TWENTY-EIGHT THOUSAND SIX HUNDRED NINE DOLLARS (\$28,609)** to purchase the following equipment for the Bahama Fire Department:

<u>Quantity</u>	<u>Description</u>
1	BUL-ECLLDX Bullard LDX Thermal Imager
1	BUL-ECLSRH High Heat Colorization @ 500+°
1	BUL-ECLTEMP Relative Heat Indicator, Bar Temp Display
1	BUL-ECLSRH Retractable Lanyard Strap
1	BUL-ECL320X Upgrade to 320x240 Screen Display Resolution
1	BUL-ECLETT Electronic Thermal Throttle, Low Heat Blue Colorization Control
5	1 ¾" Firefighter Hoses – 500 feet each, 50-foot sections
3	PIG Spill Response Kit Refills
3	PIG DrainBlocker Drain Covers

This CAFO shall not be construed to constitute EPA endorsement of the equipment or technology to be purchased by Respondent in connection with the SEP undertaken pursuant to this Agreement.

29. Respondent certifies that:

- a. all cost information provided to the EPA in connection with the EPA's approval of the SEP described in paragraph 28 is complete and accurate and that Respondent in good faith estimates that the cost to implement the SEP is **\$28,609**.
- b. the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO.

30. Respondent also certifies that:

- a. It is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in paragraph 28; and
- b. It has inquired of the Bahama Fire Department whether the Bahama Fire Department is a party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP and has been informed by the Bahama Fire Department that it is not a party to such a transaction.

31. Respondent further certifies that, as of the date this CAFO is signed, it is not required to perform or develop any part of the SEP by any federal, state or local law, regulation, permit or order, or by any agreement or grant, or as injunctive relief awarded in any other action in any forum. Respondent further certifies that, as of this date, it has not received and is not negotiating to receive, credit for any part of the SEP in any other enforcement action of any kind, and Respondent will not receive reimbursement for any portion of this SEP from another person or entity.

32. Respondent agrees that in order to receive credit for the SEP, it must fully and timely complete the SEP project in accordance with Paragraph 28. If Respondent does not fully and timely complete the SEP, it shall be required to pay stipulated penalties pursuant to Paragraph 33.

33. If Respondent fails to timely and fully complete any part of the Emergency Planning and Preparedness SEP in Paragraph 28, including failure to spend the minimum amount of **TWENTY-EIGHT THOUSAND SIX HUNDRED NINE DOLLARS (\$28,609)**, Respondent shall pay to the United States Treasurer, a stipulated penalty in the amount of the difference between **\$28,609** and the actual amount spent.

34. For purposes of paragraphs 32 and 33, the determination whether Respondent has fully and timely completed the SEP shall be in the sole discretion of EPA.

35. Any public statement, oral or written, by Respondent making any reference to the SEP shall include the following language:

This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental protection Agency for violation of Section 313 of the Emergency Planning and Community Right To Know Act (EPCRA).

36. No later than thirty (30) calendar days after the completion of the project in Paragraph 28, Respondent shall submit to EPA a SEP Completion Report for the SEP. The Report shall be sent to the EPCRA Enforcement Section, to the attention of Mr. Vinson Poole at the address provided above. The Report shall include the following:

(a) an affidavit from an authorized company official, attesting that the SEP has been completed or explaining in detail any failure to complete the SEP; and

(b) copies of appropriate documentation, including invoices and receipts, showing a total expenditure of **TWENTY-EIGHT THOUSAND SIX HUNDRED NINE DOLLARS (\$28,609)**, or greater, was spent on the emergency planning and preparedness equipment described in Paragraph 28.

Upon request, Respondent shall send EPA any additional documentation requested by EPA.

37. If Respondent fails to timely submit a SEP Completion Report as required by this CAFO, Respondent shall pay to the United States a stipulated penalty of **\$100** for each calendar day that the report is late.

38. Respondent shall pay any stipulated penalties that accrue under this CAFO within 15 calendar days of the receipt by Respondent of written demand from EPA for such penalties. Such penalties shall be paid in accordance with the procedures set forth in the written demand from EPA.

39. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the effective date of this CAFO if the penalty is not paid by the date required. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

40. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

41. This CAFO shall be binding upon the Respondent, its successors and assigns.

42. The following individual is authorized to receive service for EPA in this proceeding:

Verne H. George
U.S. EPA, Region 4
Air, Pesticides & Toxic Management Division
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-8988

43. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.


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VII. Effective Date


44. The effective date of this CAFO shall be the date upon which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

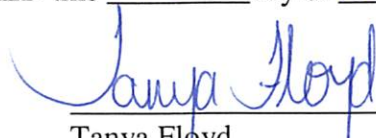
AW North Carolina, Inc.

By:  Date: 8/24/15
Name: GLEN HAWKINS (Typed or Printed)
Title: PLANT MGR (Typed or Printed)

U.S. Environmental Protection Agency

By:  Date: 8/31/15,
Beverly H. Banister
Director
Air, Pesticides and Toxics Management Division

APPROVED AND SO ORDERED this 14th day of September, 2015


Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing
Consent Agreement and Final Order, In the Matter of, AW North Carolina, Inc., Docket
Number: EPCRA-04-2015-2013(b), on the parties listed below in the manner indicated:

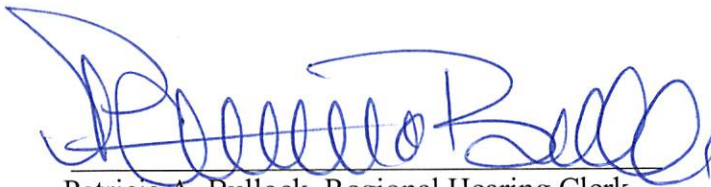
Verne H. George (Via EPA's internal mail)
U.S. EPA, Region 4
Air, Pesticides and Toxics Management Division
61 Forsyth Street
Atlanta, GA 30303

Robert Caplan (Via EPA's internal mail)
U.S. EPA Region 4
Office of Environmental Accountability
61 Forsyth Street
Atlanta, GA 30303

Glen Hawkins (Via Certified Mail - Return Receipt Requested)
AW North Carolina, Inc.
4112 Old Oxford Highway
Durham, NC 27712

Date:

9-15-15



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental
Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9511