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U.S. EPA REGION 1

HEARING CLERK

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

In the matter of)

Professional Contract Sterilization, Inc.)

Respondent.)

Proceeding under Section 325(c) of the)
Emergency Planning and Community)
Right-to-Know Act, 42 U.S.C. § 11045(c))

Docket No: EPCRA-01-2025-0013

**CONSENT AGREEMENT
AND FINAL ORDER**

CONSENT AGREEMENT

The United States Environmental Protection Agency, Region 1 (“EPA” or “Complainant”), alleges that Professional Contract Sterilization, Inc. (“Respondent”) violated the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. §§ 11001 - 11050, and the federal regulations promulgated thereunder.

Complainant and Respondent (together, the “Parties”) agree that settlement of this matter is in the public interest and that entry of this Consent Agreement and Final Order (“CAFO”) without further litigation is the most appropriate means of resolving this matter. Pursuant to 40 C.F.R. § 22.13(b) of EPA’s Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), set out at 40 C.F.R. Part 22, Complainant and Respondent agree to simultaneously commence and settle this action by the issuance of this CAFO.

Therefore, before any hearing, and without adjudication of any issue of fact or law, the Parties agree to comply with the terms of this CAFO as follows:

I. STATUTORY AND REGULATORY AUTHORITY

1. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048, EPA promulgated Toxic Chemical Release Reporting: Community Right-to-Know regulations at 40 C.F.R. Part 372.

2. Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), requires owners or operators of a facility covered by a rule or determination under Section 313(b) of EPCRA to submit annually, no later than July 1 of each year, a Toxic Chemical Release Inventory Reporting Form, EPA Form 9350-1 (hereinafter, “Form R”) for each toxic chemical listed under 40 C.F.R. § 372.65 that was manufactured, processed, or otherwise used during the preceding calendar year in quantities exceeding the toxic chemical thresholds established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. §§ 372.25 and 372.28. If the owner or operator determines that the alternative reporting threshold specified in 40 C.F.R. § 372.27 applies, the owner or operator may submit an alternative threshold certification statement that contains the information required under 40 C.F.R. § 372.95 (the alternative threshold certification statement is also known as “Form A”). Each Form R or Form A (hereinafter, referred to together as “TRI Forms”) must be submitted to EPA and a designated state authority.

3. Under EPCRA Section 313(b)(1), 42 U.S.C. § 11023(b)(1), the reporting requirements of Section 313 of EPCRA apply to owners and operators of facilities that have ten or more full-time employees and that are in Standard Industrial Classification Codes 20 through 39 (as in effect on July 1, 1985), as reclassified into NAICS codes and listed in 40 C.F.R. § 372.23, and that manufactured, processed, or otherwise used a listed toxic chemical listed under subsections (c) and (d) in a calendar year over the thresholds established in subsection (f).

4. Under EPCRA Section 313(b)(2), 42 U.S.C. § 11023(b)(2), the EPA Administrator has the discretionary authority to extend TRI reporting requirements beyond those

facilities identified in Section 313(b)(1) to include other facilities that manufacture, process, or otherwise use a toxic chemical above the activity thresholds in Section 313(f), 42 U.S.C.

§ 11023(f), based on the chemical's toxicity, the facility's proximity to other facilities that release the chemical or to population centers, the history of releases of the chemical at the facility, or other factors the Administrator deems appropriate.

5. Pursuant to this authority, the EPA Administrator signed a determination on December 16, 2021 that extended TRI reporting requirements to 29 facilities for ethylene oxide. 86 Fed. Reg. 73764 (Dec. 28, 2021). Of the 29 facilities, 16 facilities, including the Respondent's, were additionally required to submit TRI reports for ethylene glycol. This discretionary authority extended TRI reporting requirements to facilities identified by the Administrator if they manufacture, process, or otherwise use the TRI toxic chemical over the respective activity threshold over the course of a year, regardless of the facility's industry sector or number of full-time employee-equivalents.

6. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended through 2016 ("FCPIAA"), and the FCPIAA's implementing regulations as promulgated and updated by EPA at 40 C.F.R. Part 19 (most recently at 90 Fed. Reg. 1378 (January 8, 2025)), together authorize the assessment of civil administrative penalties of up to \$71,545 for each violation of Section 313 of EPCRA that occurs after November 2, 2015. Pursuant to Section 325(c)(3) of EPCRA, 42 U.S.C. § 11045(c)(3), each day that an EPCRA Section 313 violation continues constitutes a separate violation.

II. GENERAL ALLEGATIONS

7. Respondent is a corporation organized under the laws of the State of Massachusetts. Respondent is, therefore, a "person" as defined by 42 U.S.C. § 11049(7).

8. Respondent operates a commercial sterilization or fumigation facility at 40 Myles Standish Boulevard, Taunton, Massachusetts (the “Facility”). Thus, Respondent operates a “facility,” as defined by 42 U.S.C. § 11049(4) and 40 C.F.R. § 372.3.

9. On October 1, 2021, EPA sent a letter to provide notice to Respondent of EPA’s intent to apply the TRI reporting requirements to the Facility for ethylene oxide and ethylene glycol, and to provide an opportunity for Respondent to respond before any final action was taken.

10. On December 16, 2021, the EPA Administrator signed a determination under EPCRA Section 313(b)(2), 42 U.S.C. § 11023(b)(2), that extended TRI reporting requirements for ethylene oxide and ethylene glycol to the Facility, as well as to several other facilities. 86 Fed. Reg. 73764 (Dec. 28, 2021).

11. On December 30, 2021, Respondent received EPA’s EPCRA Section 313(b)(2) Determination Letter dated December 23, 2021 (“Determination Letter”) extending TRI reporting requirements to the Facility for ethylene oxide and ethylene glycol.

12. Accordingly, the requirements of 42 U.S.C. § 11023(b)(2) apply to the Facility.

III. VIOLATIONS

Count 1: Failure to Timely Submit TRI Form For Ethylene Oxide for Calendar Year 2022

13. During calendar year 2022, Respondent otherwise used ethylene oxide, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities greater than the 10,000-pound threshold amount established for EPCRA TRI reporting by 40 CFR § 372.25.

14. Respondent was required to submit to EPA a TRI Form for ethylene oxide for calendar year 2022 on or before July 1, 2023 pursuant to EPA’s Determination Letter, Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. §§ 372.22 (c) and (d), 372.30 (a) and (d).

15. Respondent submitted its TRI Form for ethylene oxide for calendar year 2022 on August 30, 2024.

16. Accordingly, Respondent failed to submit a TRI Form for ethylene oxide for calendar year 2022 to EPA on or before July 1, 2023.

17. Respondent's failure to timely submit its 2022 TRI Form for ethylene oxide violated Section 313 of EPCRA and 40 C.F.R. Part 372.

Count 2: Failure to Timely Submit TRI Form For Ethylene Glycol for Calendar Year 2022

18. During calendar year 2022, Respondent manufactured ethylene glycol at the Facility in quantities greater than the 25,000-pound threshold amount established for EPCRA TRI reporting by 40 CFR § 372.25.

19. Respondent was required to submit to EPA a TRI Form for ethylene glycol for calendar year 2022 on or before July 1, 2023 pursuant to EPA's Determination Letter and Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. §§ 372.22 (c) and (d), 372.30 (a) and (d).

20. Respondent submitted a TRI Form for ethylene glycol for calendar year 2022 on August 30, 2024.

21. Accordingly, Respondent failed to submit a TRI Form for ethylene glycol for calendar year 2022 to EPA on or before July 1, 2023.

22. Respondent's failure to timely submit its 2022 TRI Form for ethylene glycol violated Section 313 of EPCRA and 40 C.F.R. Part 372.

Count 3: Failure to Timely Submit TRI Form For Ethylene Oxide for Calendar Year 2023

23. During calendar year 2023, Respondent otherwise used ethylene oxide, a toxic chemical listed under 40 C.F.R. § 372.65(a), at the Facility in quantities greater than the 10,000-pound threshold amount established for EPCRA TRI reporting by 40 CFR § 372.25.

24. Respondent was required to submit to EPA a TRI Form for ethylene oxide for calendar year 2023 on or before July 1, 2024 pursuant to Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. §§ 372.22 (c) and (d), 372.30 (a) and (d).

25. Respondent submitted a TRI Form for ethylene oxide for calendar year 2023 on August 30, 2024.

26. Accordingly, Respondent failed to submit a TRI Form for ethylene oxide for calendar year 2023 to EPA on or before July 1, 2024.

27. Respondent's failure to timely submit its 2023 TRI Form for ethylene oxide violated Section 313 of EPCRA and 40 C.F.R. Part 372.

Count 4: Failure to Timely Submit TRI Form For Ethylene Glycol for Calendar Year 2023

28. During calendar year 2023, Respondent manufactured ethylene glycol at the Facility in quantities greater than the 25,000-pound threshold amount established for EPCRA TRI reporting by 40 CFR § 372.25.

29. Respondent was required to submit to EPA a TRI Form for ethylene glycol for calendar year 2023 on or before July 1, 2024 pursuant to Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. §§ 372.22 (c) and (d), 372.30 (a) and (d).

30. Respondent submitted a TRI Form for ethylene glycol for calendar year 2023 on August 30, 2024.

31. Accordingly, Respondent failed to submit a TRI Form for ethylene glycol for calendar year 2023 to EPA on or before July 1, 2024.

32. Respondent's failure to timely submit its 2023 TRI Form for ethylene glycol violated Section 313 of EPCRA and 40 C.F.R. Part 372.

IV. TERMS OF SETTLEMENT

33. Respondent certifies that it has corrected the alleged violations cited in this CAFO and will operate its Facility in compliance with Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated thereunder at 40 C.F.R. Part 372.

34. Respondent admits, for the purposes of this proceeding, that Complainant has jurisdiction over the subject matter alleged in this CAFO and that this CAFO states claims upon which relief may be granted against Respondent. Respondent waives any defenses it might have as to jurisdiction and venue.

35. Respondent waives its right to a judicial or administrative hearing on any issue of law or fact set forth in this CAFO and waives its right to appeal the Final Order. By signing this consent agreement, Respondent additionally waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

36. Without admitting or denying the facts and violations alleged in Section III of this CAFO, Respondent consents to the terms and issuance of this CAFO and agrees to the payment of the civil penalty set forth herein. The provisions of this CAFO shall be binding on Respondent and Respondent's officers, directors, agents, employees, successors, and assigns.

37. Pursuant to the relevant factors for penalties issued pursuant to Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), and taking into account any such matters as justice may require, Complainant has determined that it is fair and proper that Respondent pays a total civil penalty amount of \$21,021 to resolve the violations alleged in Section III of this CAFO.

38. Respondent agrees to pay a civil penalty in the amount of \$21,021 (“Assessed Penalty”) within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk (“Filing Date”).

39. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

40. When making a payment, Respondent shall:

- i. Identify every payment with the Respondent’s name (i.e., “Professional Contract Sterilization, Inc.”) and the docket number of this Agreement, EPCRA-01-2025-0013.
- ii. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Wanda Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
Via electronic mail to:
rl_hearing_clerk_filings@epa.gov

and

Jaegun Lee, Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
Via electronic mail to:
Lee.Jaegun@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

41. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.

- i. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS standard underpayment rate; any lower rate would fail to provide Respondent adequate incentive for timely payment.
- ii. Handling Charges. Respondent will be assessed a monthly charge to cover EPA’s costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until

the unpaid portion of the Assessed Penalty, as well as any accrued interest, penalties, and other charges are paid in full.

- iii. Late Payment Penalty. A late payment penalty of six percent (6%) per annum will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Filing Date.

42. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following:

- i. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14;
- ii. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
- iii. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- iv. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

43. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R.

§ 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

44. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

45. The civil penalty under this CAFO and any interest, nonpayment penalties, and other charges paid pursuant to any penalty collection action arising from this CAFO shall represent penalties assessed by EPA within the meaning of 26 U.S.C. § 162(f) and shall not be deductible for purposes of federal, state, or local taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

46. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 325(c) of EPCRA for the violations specifically alleged in Section III of this CAFO. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations. This CAFO in no way relieves Respondent or its employees of any criminal liability. Nothing in this CAFO shall be construed to limit the authority of the United States to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public.

47. Nothing in this CAFO shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions if Respondent is in violation

of this CAFO or continues to be in violation of the statutes and regulations upon which the allegations in this CAFO are based, or if Respondent violates any other applicable provision of federal, state, or local law.

48. Each of the undersigned representatives of the Parties certifies that he or she is fully authorized by the party responsible to enter into the terms and conditions of this CAFO and to execute and legally bind that Party to it.


49. Complainant and Respondent, by entering into this CAFO, each give their respective consent to accept digital signatures hereupon. Respondent further consents to accept electronic service of the full executed CAFO, by electronic mail, to the following address: jmarsh@jwmarshlaw.com. Respondent understands that this e-mail address may be made public when the CAFO and Certificate of Service are filed and uploaded to a searchable database. 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.

50. Except as described in paragraphs 41 and 42 above, the parties shall bear their own costs and fees in this action, including attorney's fees, and specifically waive any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.


51. 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.

52. 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 RESPONDENT PROFESSIONAL CONTRACT STERILIZATION, INC.:



Gary Cranston
President
Professional Contract Sterilization, Inc.



Date

FOR COMPLAINANT U.S. ENVIRONMENTAL PROTECTION AGENCY:

James Chow, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 1

Dated via electronic signature

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 Professional Contract Sterilization, Inc. is ordered to pay the civil penalty amount specified in the Consent Agreement in the manner indicated therein. The terms of the Consent Agreement shall become effective on the date that the CAFO is filed, either in person or electronically via email, with the Regional Hearing Clerk.

LeAnn Jensen
Regional Judicial Officer
EPA Region 1

Dated via electronic signature