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EPA -- REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:)	
)	
General Biodiesel, Inc.)	Docket No. EPCRA-10-2013-0036
)	
Seattle, Washington)	CONSENT AGREEMENT AND FINAL
)	ORDER
)	
Respondent.)	
)	
)	
)	
)	

I. AUTHORITY

1.1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 325 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11045.

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who in turn has redelegated this authority to the Regional Judicial Officer.

1.3. Pursuant Section 325 of EPCRA, and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22,

EPA hereby issues and General Biodiesel, Inc. (“Respondent”) hereby agrees to issuance of the Final Order contained in Part V of this CAFO.

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18, issuance of this CAFO commences this proceeding, which will conclude when the Final Order contained in Part V of this CAFO becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 has been delegated the authority to sign consent agreements between EPA and the party against whom an administrative penalty for violations of Section 312 of EPCRA is proposed to be assessed pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045.

2.3. Respondent owns and operates a facility in Seattle, Washington, located at 6333 1st Avenue South (the “Facility”).

2.4. The Facility converts primarily used cooking oil into biodiesel and glycerin.

2.5. A concise statement of the factual basis for alleging violations of EPCRA, together with specific references to the provisions of the statutes and implementing regulations Respondent is alleged to have violated, appears in Part III of this CAFO.

III. ALLEGATIONS

3.1. Respondent is a corporation incorporated in the State of Washington.

3.2. Under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), “person” means, among other things, any corporation.

3.3. Under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), “facility” means all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled, or under common control with, such person).

3.4. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and its implementing regulations at 40 C.F.R. Part 370 require the owner or operator of a facility, which is required by the Occupational Safety and Health Administration (“OSHA”) to prepare or have available a material safety data sheet (“MSDS”) for a hazardous chemical, to submit a completed Emergency and Hazardous Chemical Inventory Form (Tier I or Tier II as described in 40 C.F.R. Part 370) to the state emergency response commission (“SERC”), the local emergency planning committee (“LEPC”), and the fire department with jurisdiction over the facility by March 1, 1988, and annually thereafter. The form must contain the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), covering all hazardous chemicals present at the facility at any one time during the preceding year in amounts equal to or exceeding 10,000 pounds and all extremely hazardous chemicals present at the facility at any one time in amounts equal to or greater than 500 pounds or the threshold planning quantity (“TPQ”) designated by EPA at 40 C.F.R. Part 355, Appendices A and B, whichever is lower.

3.5. Under OSHA regulations at 29 C.F.R. § 1910.1200, employers must provide information, including MSDSs, about hazardous chemicals to which their employees may be exposed.

3.6. Methyl Oleate, Glycerol, Yellow Grease, Methanol, and Sulfuric Acid are Hazardous Chemicals as defined under 29, C.F.R. § 1900.1200(c).

3.7. OSHA requires Respondent to prepare, or have available, an MSDS for Methyl Oleate, Glycerol, Yellow Grease, Methanol, and Sulfuric Acid.

3.8. Methyl Oleate, Glycerol, Yellow Grease, and Methanol each have a TPQ of 10,000 pounds as provided in 40 C.F.R. § 370.10(a)(2).

3.9. Sulfuric Acid is listed as an "extremely hazardous substance" under Section 302 of EPCRA, 42 U.S.C. § 11002. Sulfuric Acid has a TPQ of 1000 pounds, as provided in 40 C.F.R. Part 355, Appendix A.

3.10. During at least one period of time during each of the calendar years from 2009 to 2010, Methyl Oleate, Glycerol, Yellow Grease, Methanol, and Sulfuric Acid were each present at the Facility in an amount equal to or greater than their respective TPQs.

3.11. Respondent did not submit to the SERC, LEPC, and the fire department an Emergency and Hazardous Chemical Inventory Form including Methyl Oleate, Glycerol, Yellow Grease, Methanol, and Sulfuric Acid for calendars year 2009 and 2010.

3.12. Under Section 325 of EPCRA, 42 U.S.C. § 11045, EPA may assess a civil penalty for each day of violation of Section 312 of EPCRA, 42 U.S.C § 11022.

IV. CONSENT AGREEMENT

4.1. Respondent admits the jurisdictional allegations contained in Part III of this CAFO.

4.2. Respondent neither admits nor denies the specific factual allegations contained in Part III of this CAFO.

4.3. Respondent expressly waives any rights to contest the allegations and to appeal the Final Order contained herein.

4.4. The provisions of this CAFO shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.5. Except as provided in Paragraph 4.9., below, each party shall bear its own costs in bringing or defending this action.

4.6. Based on Respondent's willingness to settle this matter without litigation, the nature of the violations, and other relevant factors, and in accordance with Section 325 of EPCRA, 42 U.S.C. § 11045, and the *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*, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$62,985.

4.7. Respondent consents to the issuance of the Final Order recited herein and to payment of the penalty cited in Paragraph 4.6. according to the schedule in Attachment A of this CAFO.

4.8. Payment under this CAFO shall be made by cashier's check or certified check payable as indicated and mailed to the addresses below:

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

Respondent shall note on the check the title and docket number of this case. Respondent also may make the penalty payment by wire transfer or credit card in accordance with instructions provided by EPA. Respondent shall submit a photocopy of the checks, or documentation of the wire transfer described above to:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Suite 900
1200 Sixth Avenue, Mail Stop ORC-158
Seattle, Washington 98101

Suzanne Powers
U.S. Environmental Protection Agency
Region 10
Washington Operations Office
300 Desmond Drive S.E., Suite 102
Lacey, Washington 98503

4.9. Should Respondent fail to pay the penalty assessed by this CAFO by its due dates, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Should such a failure to pay occur, Respondent may be subject to a civil action under EPCRA Section 325(f), 42 U.S.C. § 11045(f), to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below.

a. Interest. Any unpaid portion of the assessed penalty shall bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the

effective date of the Final Order set forth in Part V, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order.

b. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the assessed penalty is more than 30 days past due.

c. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the assessed penalty that is more than 90 days past due, which nonpayment penalty shall be calculated as of the date the underlying penalty first becomes past due.

4.10. The penalty described in Paragraph 4.6., including any additional costs incurred under Paragraph 4.9., represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.


4.11. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

4.12. Respondent represents that it is duly authorized to execute this CAFO and that the party signing this CAFO on its behalf is duly authorized to bind Respondent to the terms of this CAFO.

4.13. Compliance with all the terms and conditions of this CAFO shall result in full settlement and satisfaction of all claims for penalties alleged in Section III above.

STIPULATED AND AGREED:

FOR GENERAL BIODIESEL, INC.


Signature
Print Name: JEFF HAAS

Dated: 11-30-12

Title: CEO - GENERAL BIODIESEL

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10


Edward J. Kowalski, Director
Office of Compliance and Enforcement

Dated: 12-5-12

V. FINAL ORDER

5.1. The terms of the foregoing Consent Agreement are hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ordered to comply with the terms of settlement contained in the Consent Agreement.

5.2. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to EPCRA for the particular violations alleged in Part III, above. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the Act and regulations and permits issued thereunder.

This Final Order shall become effective upon filing.

SO ORDERED this 10th day of December, 2012.



Thomas M. Jahnke
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 10

ATTACHMENT A

PAYMENT SCHEDULE FOR GENERAL BIODIESEL

<u>Payment Due Day</u>	<u>Principal</u>	<u>Interest</u>	<u>Total Payment Due</u>
1st Payment within 30 days of Settlement:	2,000	0	2,000
2nd Payment - 1 year after Settlement (2013)	2,000	610	2,610
3rd Payment - 2 years after Settlement (2014)	2,000	590	2,590
4th Payment - 3 years after Settlement (2015)	28,492	570	29,062
5th Payment - 4 years after Settlement (2016)	<u>28,493</u>	285	<u>28,778</u>
	62,985		65,040


JEFF HAAS

CEO

GENERAL BIODIESEL

11.30.12

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of General Biodiesel, Inc., Docket No.:EPCRA-10-2013-0036**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

Robert Hartman, Esquire
U.S. Environmental Protection Agency
1200 Sixth Avenue, ORC-158
Suite 900
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Jeff Haas
CEO
General Biodiesel
6333 1st Avenue South
Seattle, Washington 98108

DATED this 12th day of Dec., 2012



Signature

Candace H. Smith
Regional Hearing Clerk
EPA Region 10

