



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

DT-8J

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL

RECEIPT NO. 7001 0320 0005 8910 5669

Theodore M. Antonitis, President  
Oneac Corporation  
27944 North Bradley Road  
Libertyville, Illinois 60048

In the Matter of: Oneac Corporation

Dear Mr. Antonitis:

I have enclosed the Complaint filed by the United States Environmental Protection Agency (U.S. EPA), Region 5, against Oneac Corporation under Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c), which replaces the copy sent to you on April 5, 2007. The April 5, 2007 copy was not properly filed with the Regional Hearing Clerk.

As provided in the Complaint, if you wish to request a hearing, you must do so in your answer to the Complaint. Please note that if you do not file an answer with the Regional Hearing Clerk (E-13J), U.S. EPA, Region 5, 77 West Jackson Blvd., Chicago, IL 60604 within 30 days of your receipt of this Complaint, a default order may be issued and the proposed civil penalty will become due 30 days later.

In addition, whether or not you request a hearing, you may request an informal settlement conference. If you wish to request a conference, or if you have any questions about this matter, please contact Susan Tennenbaum, Associate Regional Counsel, at (312) 886-0273.

Sincerely,

A handwritten signature in cursive script that reads "Anthony J. Restarino".

for Mardi Klevs, Chief  
Pesticides and Toxics Branch  
Waste, Pesticides and Toxics Division

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No. EPCRA-05-2007-0012</b>
	)	
<b>Oneac Corporation</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>Libertyville, Illinois,</b>	)	<b>Under Section 325(c) of the Emergency</b>
	)	<b>Planning and Community Right-to-Know</b>
<b>Respondent.</b>	)	<b>Act of 1986, 42 U.S.C. § 11045(c)</b>
<hr/>		

REGION 5  
EPCRA  
13 MAR 2007

**Complaint**

1. This is an administrative action to assess a civil penalty under Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c).
2. Complainant is, by lawful delegation, the Chief of the Pesticides and Toxics Branch, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. Respondent is Oneac Corporation, a corporation doing business in the State of Illinois.

**Statutory and Regulatory Background**

4. The U.S. EPA promulgated the Toxic Chemical Release Reporting Community Right-to-Know Rule at 40 C.F.R. Part 372 pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048.
5. Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.22 provide that the requirements of Section 313 and Part 372 apply to any facility that has 10 or more full-time employees and a Standard Industrial Classification (SIC) 3699 and that manufactures, imports, processes, or otherwise uses a toxic chemical identified at Section 313(c) and listed at 40 C.F.R. § 372.65 in an amount that exceeds the threshold for reporting, as set forth in Section 313(f) and in 40 C.F.R. § 372.28.

6. Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 require the owner or operator of a facility subject to the requirements of Section 313 and Part 372 to complete and submit to the Administrator of U.S. EPA and to the state in which the facility is located, no later than July 1, 1988 and each July 1 thereafter, a chemical release form published pursuant to Section 313(g) for each toxic chemical listed under Section 313(c) that was manufactured, processed, or otherwise used at the facility during the preceding calendar year in a quantity exceeding the threshold established by Section 313(f).

7. The U.S. EPA published the Toxic Chemical Release Inventory Reporting Form, U.S. EPA Form 9350-1 (1-88) (Form R) at 40 C.F.R § 372.85 pursuant to Section 313(g) of EPCRA, 42 U.S.C. § 11023(g).

8. All persons required to report pursuant to Section 313(b) must use Form R according to Section 313(a) of EPCRA, 42 U.S.C. § 11023(a).

9. The Administrator of U.S. EPA may prescribe regulations as may be necessary to carry out EPCRA. 42 U.S.C. § 11048.

10. Section 325(c)(1) and (3) of EPCRA, 42 U.S.C. § 11045(c)(1) and (3), authorizes the Administrator of U.S. EPA to assess a civil penalty of up to \$25,000 per day for each violation of Section 313 of EPCRA, 42 U.S.C. § 11023. The Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note (1990), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note (1996), required federal agencies to issue regulations adjusting for inflation the maximum civil penalties that can be imposed pursuant to each agency's statutes. The U.S. EPA may assess a civil penalty of up to \$32,500 per day for each violation of Section 313 that occurred after March 15, 2004, pursuant to Section 325(c)(1) and (3) of EPCRA, 42 U.S.C. § 11045(c)(1) and (3), and 40 C.F.R. Part 19.

### **General Allegations**

11. Respondent is a "person" as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
12. Respondent is a corporation "incorporated" in the State of Illinois.
13. Respondent owned or operated a facility located at 27944 North Bradley Road, Libertyville, Illinois during the calendar year 2005.
14. Respondent's facility consists of buildings, equipment and structures and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned by the same person, entity, or corporation.
15. During the calendar year 2005, Respondent employed at its facility the equivalent of at least 10 employees with total paid hours equal to or more than 20,000 hours per calendar year.
16. Respondent's facility is covered by SIC Code 3699.
17. During the calendar year 2005, Respondent manufactured and processed, as defined by 40 C.F.R. § 372.3, toxic chemicals identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65, in quantities exceeding the thresholds for reporting set forth at Section 313(f) and at 40 C.F.R. § 372.28.
18. On July 5, 2006, a representative contacted by telephone Respondent's facility to schedule an inspection.
19. On July 28, 2006, a representative of the U.S. EPA inspected Respondent's facility.

### **Count I**

20. Complainant incorporates paragraphs 1 through 19 of the Complaint as if set forth in this paragraph.

21. The reporting threshold for lead that is manufactured (including imported), processed, or otherwise used during the 2005 calendar year is 100 lbs. 42 U.S.C. § 11023(f) and 40 C.F.R. 372.28.

22. During the 2005 calendar year, Respondent's facility processed 925 lbs. of lead, CAS No. 7439-92-1.

23. Lead is a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65.

24. Section 313 of EPCRA, 42 U.S.C. § 11023, required Respondent to submit to the Administrator of U.S. EPA and to the Illinois EPA a Form R for lead for the 2005 calendar year on or before July 1, 2006.

25. Respondent failed to submit to the Administrator of U.S. EPA and to the Illinois EPA a Form R for lead for the 2005 calendar year on or before July 1, 2006.

26. On July 11, 2006, Respondent submitted to the Administrator of U.S. EPA a Form R for lead for the 2005 calendar year.

27. Respondent's failure to submit timely to the Administrator of U.S. EPA a Form R for lead for the 2005 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

#### **Proposed Penalty**

Based upon an evaluation of the facts alleged in this Complaint, Complainant proposes that the Administrator assess a civil penalty against Respondent of \$8,086 the EPCRA violations alleged in this Complaint.

Complainant has determined the proposed civil penalty according to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c). In determining the penalty amount, the U.S. EPA considered the

nature, circumstances, extent and gravity of the violations, and with respect to the Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violation, and any other matters justice required. In determining the proposed penalty in this Complaint, Complainant also considered U.S. EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990)* (August 10, 1992), a copy of which is enclosed with this Complaint.

### **Rules Governing this Proceeding**

The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (the Consolidated Rules), 40 C.F.R. Part 22, govern this proceeding to assess a civil penalty. Enclosed with the Complaint served on Respondent is a copy of the Consolidated Rules.

### **Filing and Service of Documents**

Respondent must file with the U.S. EPA Regional Hearing Clerk the original and one copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (E-13J)  
U.S. EPA, Region 5  
77 W. Jackson Blvd.  
Chicago, IL 60604

Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Susan Tennenbaum to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Ms. Tennenbaum at (312) 886-0273. Her address is:

Susan Tennenbaum (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 W. Jackson Blvd.  
Chicago, IL 60604

**Terms of Payment**

Respondent may resolve this proceeding at any time by paying the proposed penalty by sending a certified or cashier's check payable to the "Treasurer, United States of America," to:

U.S. EPA, Region 5  
P.O. Box 371531  
Pittsburgh, PA 15251-7531

Respondent must include the case name, docket number and the billing document number on the check and in the letter transmitting the check. Respondent must simultaneously send copies of the check and transmittal letter to the Regional Hearing Clerk and Susan Tennenbaum at the addresses given above, and to:

Terence Bonace (DT-8J)  
Pesticides and Toxics Enforcement Section  
U.S. EPA, Region 5  
77 W. Jackson Blvd.  
Chicago, IL 60604

**Answer and Opportunity to Request a Hearing**

If Respondent contests any material fact upon which the Complaint is based or the appropriateness of any penalty amount, or contends that it is entitled to judgment as a matter of law, Respondent may request a hearing before an Administrative Law Judge. To request a hearing, Respondent must file a written Answer within 30 days of receiving this Complaint and must include in that written Answer a request for a hearing. Any hearing will be conducted in accordance with the Consolidated Rules.

In counting the 30-day period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.

To file an Answer, Respondent must file the original written Answer and one copy with the Regional Hearing Clerk at the address specified above.

Respondent's written Answer must clearly and directly admit, deny, or explain each of the factual allegations in the Complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied. Respondent's failure to admit, deny, or explain any material factual allegation in the Complaint constitutes an admission of the allegation.

Respondent's answer must also state:

- a. The circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. The facts that Respondent disputes;
- c. The basis for opposing the proposed penalty; and
- d. Whether Respondent requests a hearing.

If Respondent does not file a written Answer within 30 calendar days after receiving this Complaint, the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the Complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order, without further proceedings,



30 days after the order becomes the final order of the Administrator of U.S. EPA under Section 22.27(c) of the Consolidated Rules.

**Settlement Conference**

Whether or not Respondent requests a hearing, Respondent may request an informal conference to discuss the facts alleged in the Complaint and to discuss settlement. To request an informal settlement conference, Respondent may contact Terence Bonace at (312) 886-3387.

Respondent's request for an informal settlement conference will not extend the 30 day period for filing a written Answer to this Complaint. Respondent may simultaneously pursue both an informal settlement conference and the adjudicatory hearing process. The U.S. EPA encourages all parties against whom it proposes to assess a civil penalty to pursue settlement through an informal conference. However, the U.S. EPA will not reduce the penalty simply because the parties hold an informal settlement conference.

4/13/07  
Date

*Anthony J. Restano*  
for Mardi Klevs, Chief  
Pesticides and Toxics Branch  
Waste, Pesticides and Toxics Division

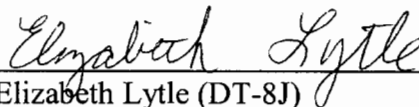
**In the Matter of:  
Oneac Corporation  
Docket No. EPCRA-05-2007-0012**

**Certificate of Service**

I certify that I filed the original and one copy of this Complaint with the Regional Hearing Clerk (E-13J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that I sent to Respondent a true copy of this Complaint by Certified Mail, Receipt No. 7001 0320 0005 8910 5669, along with a copy each of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22, and the *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990)* (August 10, 1992), addressed as follows:

Theodore M. Antonitis, President  
Oneac Corporation  
27944 North Bradley Road  
Libertyville, Illinois 60048

on this 13 day of April, 2007.



Elizabeth Lytle (DT-8J)  
Pesticides and Toxics Enforcement Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

2007 APR 13 PM 10:20

REGIONAL CLERK  
U.S. EPA, REGION 5  
CHICAGO, IL 60604