

42 U.S.C. § 11045, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of EPCRA is proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of EPCRA together with the specific provisions of EPCRA and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

3.1. Under Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. §§ 372.22 and 372.30, the owner or operator of a facility covered by Section 313 must submit annually, no later than July 1 of each year, a Toxic Chemical Release Inventory Reporting Form, EPA Form 9350-1 (“Form R”) for each toxic chemical referenced in Section 313(c) of EPCRA and listed in 40 C.F.R. § 372.65 that was manufactured, imported, processed, or otherwise used during the preceding calendar year in quantities exceeding the established toxic chemical threshold specified in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. §§ 372.25, 372.27, and 372.28.

3.2. The regulations at 40 C.F.R. Part 372 set forth the definitions and requirements for submission of information relating to the release of toxic chemicals under Section 313 of EPCRA.

3.3. Under 40 C.F.R. § 372.22, a facility that meets each of the following criteria in a calendar year is a covered facility for that calendar year and must report under 40 C.F.R. § 372.30 by July 1 of the following year:

- a. The facility has ten or more full-time employees;

b. The facility is in a Standard Industrial Classification (“SIC”) major group or industry code or North American Industry Classification System (“NAICS”) code listed in 40 C.F.R. §§ 372.22(b) and 372.23; and

c. The facility manufactured, imported, processed, or otherwise used a toxic chemical in excess of an applicable threshold quantity of that chemical set forth in 40 C.F.R. §§ 372.25, 372.27, or 372.28.

3.4. The toxic chemicals which are subject to the reporting requirement of 40 C.F.R. § 372.30 are listed in 40 C.F.R. § 372.65.

3.5. Under the Pollution Prevention Act of 1990 (“PPA”), Section 6607, 42 U.S.C. § 13106, a facility subject to the Form R reporting requirements of EPCRA § 313 is required to include a toxic chemical source reduction and recycling report with each annual filing.

3.6. Pursuant to the reporting requirements of Section 6607 of the PPA, a facility subject to the Form R reporting requirements must indicate the total quantity of a toxic chemical that was, among other things, released into the environment due to a one-time event not associated with production processes. 42 U.S.C. § 13106(b)(7). Such information is reported in Section 8.8 of the Form R, where reporters are required to “enter the total quantity of the EPCRA Section 313 chemical disposed of or released directly into the environment or sent off-site for recycling, energy recovery, treatment, or disposal during the reporting year due to,” among other things, “other one-time events not associated with normal or routine production processes.”

3.7. Chlorine is a chemical category listed in 40 C.F.R. § 372.65. The threshold quantity for chlorine reporting is 25,000 pounds manufactured, processed, or otherwise used for each year, as set forth in 40 C.F.R. § 372.25.

3.8. Respondent is the owner and operator of a facility located at 803 Mill Road, Lewiston, Idaho 83501 (“Facility”).

3.9. During calendar years 2019 and 2020 the Facility had over ten full-time employees.

3.10. The Facility operates under NAICS code 322110, which is included in the list of covered industry codes under 40 C.F.R. § 372.23.

3.11. The Facility manufactured, processed, or otherwise used chlorine in excess of the threshold quantity during calendar years 2019 and 2020.

3.12. Respondent timely filed a Form R with EPA for chlorine for calendar years 2019 and 2020.

3.13. Respondent’s Form R for chlorine for calendar years 2019 and 2020 reported releases in Form R Section 8.1 instead of reporting the Facility’s one-time releases not associated with normal or routine production processes in Form R Section 8.8.

3.14. Respondent therefore violated EPCRA Section 313(a), 42 U.S.C. § 11023(a); PPA Section 6607, 42 U.S.C. § 13106; and 40 C.F.R. § 372.30, by failing to submit an accurate Form R for chlorine for these years.

3.15. Under Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$69,733 for each such violation. In accordance with Section 325(c)(3) of EPCRA, 42 U.S.C. § 11045(c)(3), each day a violation of Section 313 of EPCRA, 42 U.S.C. § 11023 continues constitutes a separate violation.

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$45,000 (the “Assessed Penalty”).

4.4. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.

4.5. Payments under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: www.epa.gov/financial/makepayment. Payments made by check must be payable to the order of “Treasurer, United States of America” and delivered to the following address:

*Address format for standard delivery
(no delivery confirmation requested):*

U.S. Environmental Protection Agency
P.O. Box 979078
St. Louis, MO 63197-9000

*Address format for signed receipt confirmation
(FedEx, DHL, UPS, USPS certified, registered,
etc):*

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, MO 63045

Respondent must note on the check the title and docket number of this action.

4.6. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10
R10_RHC@epa.gov

Elizabeth Walters
U.S. Environmental Protection Agency
Region 10
walters.elizabeth@epa.gov

4.7. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of the Assessed Penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action under Section 325(f)(1) of EPCRA, 42 U.S.C. § 11045(f)(1), to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below.

4.8. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, Respondent shall also be responsible for payment of the following amounts:

a. Interest. Pursuant to 31 U.S.C. § 3717(a)(1), any unpaid portion of the Assessed Penalty shall bear interest at the rate established by the Secretary of the Treasury from the effective date of the Final Order contained herein, 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 contained herein.

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 shall be calculated as of the date the underlying penalty first becomes past due.

4.9. The Assessed Penalty, including any additional costs incurred under Paragraph 4.8, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.10. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.11. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violation(s) alleged in Part III, and is currently in compliance with all applicable EPCRA requirements at each of the facilities under its control.

4.12. Except as described in Paragraph 4.8, each party shall bear its own costs and attorneys' fees in bringing or defending this action.

4.13. For the purposes of this proceeding, Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in this Consent Agreement and to appeal the Final Order.

4.14. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

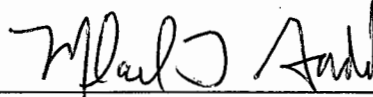
4.15. Respondent consents to the issuance of any specified compliance or corrective action order, to any conditions specified in this consent agreement, and to any stated permit action.

4.16. The above provisions in Part IV are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

February 26, 2024

FOR RESPONDENT:



MICHAEL GADD, Senior Vice President, General Counsel, and Corporate Secretary
Clearwater Paper Corporation

FOR COMPLAINANT:

EDWARD J. KOWALSKI, Director
Enforcement & Compliance Assurance Division
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

| | | |
|------------------------------|---|-------------------------------|
| In the Matter of: |) | DOCKET NO. EPCRA-10-2024-0033 |
| |) | |
| Clearwater Paper Corporation |) | FINAL ORDER |
| |) | |
| Lewiston, Idaho, |) | |
| |) | |
| Respondent. |) | |
| |) | |

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has re delegated this authority to the Regional Judicial Officer in EPA Region 10.

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

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under EPCRA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order 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 Final Order does not waive, extinguish, or otherwise affect Respondent’s obligations to comply with all applicable provisions of EPCRA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

IT IS SO ORDERED.

Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Clearwater Paper Corporation, Docket No.: EPCRA-10-2024-0033**, was filed with the Regional Hearing Clerk and that a true and correct copy was served on the date specified below to the following addressees via electronic mail:

Emma Yip
U.S. Environmental Protection Agency
Region 10, Mail Stop 11-C07
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101

Yip.emma@epa.gov

Michael Gadd, Senior Vice President, General Counsel, and Corporate Secretary
Clearwater Paper Corporation
601 West Riverside, Suite 1100
Spokane, Washington 99201

michael.gadd@clearwaterpaper.com

Wade Foster
Stoel Rives LLP
101 S. Capitol Boulevard, Suite 1900
Boise, Idaho 83702

Wade.foster@stoel.com

Regional Hearing Clerk
EPA Region 10