

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	DOCKET NO. EPCRA-10-2025-0180
	)	
SEATTLE ARENA COMPANY, LLC,	)	CONSENT AGREEMENT
	)	
Seattle, Washington,	)	
	)	
Respondent.	)	
	)	

I. STATUTORY AUTHORITY

1.1. This Consent Agreement 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. Pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and SEATTLE ARENA COMPANY, LLC (“Respondent”) agrees to issuance of, the Final Order attached to this Consent Agreement (“Final Order”).

II. PRELIMINARY STATEMENT

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

2.2. The Director of the Enforcement and Compliance Assurance Division, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of EPCRA are 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 and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

A. Statutory and Regulatory Background

3.1 Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and 40 C.F.R. § 370.44, 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 prepare and submit an Emergency and Hazardous Chemical Inventory Form (Tier I or Tier II as described in 40 C.F.R. Part 370) to the Local Emergency Planning Committee (“LEPC”), the State Emergency Response Commission (“SERC”), and the fire department with jurisdiction over the facility. Pursuant to 40 C.F.R. § 370.45(a), the required information must be submitted annually by March 1 after the calendar year when the facility had hazardous chemicals present at or above threshold levels. The form must contain the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), covering all hazardous chemicals required by OSHA to have an MSDS that are present at the facility at any one time during the preceding year in amounts equal to or exceeding 10,000

pounds or, in the case of an Extremely Hazardous Substance (“EHS”), in amounts equal to or exceeding 500 pounds or the Threshold Planning Quantity (“TPQ”), whichever is lower.

3.2 Under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), “facility” means all buildings, equipment, structures, and other stationary items which 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).

3.3 Under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), “person” means, *inter alia*, any corporation.

3.4 Under Section 329(5) of EPCRA, 42 U.S.C. § 11049(5), “hazardous chemical” has the meaning given to such term by Section 311(e), 42 U.S.C. § 11021(e), of EPCRA. Section 311(e) of EPCRA, 42 U.S.C. § 11049(e), defines “hazardous chemical” as the meaning given to such term by 29 C.F.R. § 1910.1200(c), which defines “hazardous chemical” as any chemical which is classified as a physical hazard or a health hazard, a simple asphyxiant, combustible dust, pyrophoric gas, or hazard not otherwise classified.

3.5 The OSHA Hazard Communication Standard (“OSHA Standard”), 29 C.F.R. § 1910.1200(b), requires employers to provide information to their employees about hazardous chemicals to which they are exposed by means of, *inter alia*, an MSDS. The section applies to any chemical which is known to be present in the workplace in such a manner that employees may be exposed under normal conditions of use or in a foreseeable emergency.

3.6 Anhydrous ammonia and sulfuric acid are defined as hazardous chemicals under the OSHA Standard.

3.7 The OSHA Standard requires an MSDS to be prepared, or available, for anhydrous ammonia and sulfuric acid.

3.8 Ammonia and sulfuric acid are listed in Appendices A and B of 40 C.F.R. Part 355 and is, therefore, an Extremely Hazardous Substance under 40 C.F.R. § 370.66.

3.9 Ammonia has a TPQ of 500 pounds, as specified in Appendices A and B of 40 C.F.R. Part 355.

3.10 Sulfuric acid has a TPQ of 1,000 pounds as specified in Appendices A and B of 40 C.F.R. Part 355, therefore, in accordance with 40 C.F.R. § 370.10(a)(1), the threshold quantity for submitting an Emergency and Hazardous Chemical Inventory Form for sulfuric acid is 500 pounds (the lower of 500 pounds for an EHS and 1,000 pounds, the TPQ for sulfuric acid).

B. General Allegations

3.11 Respondent is a “person” as that term is defined under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

3.12 At all times relevant to the allegations set forth herein, Respondent was the owner and operator of a facility located at 334 1st Avenue North, Seattle, Washington (“Facility”).

3.13 The Facility is a "facility" as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

3.14 Respondent produced, used or stored anhydrous ammonia and sulfuric acid at the Facility.

3.15 At all times relevant to this Consent Agreement, Respondent had EHSs, anhydrous ammonia and sulfuric acid, present at the Facility in an amount equal to or greater than the TPQs of 500 pounds.

3.16 At all times relevant to this Consent Agreement, and for the purposes of submitting an Emergency and Hazardous Chemical Inventory Form under Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and 40 C.F.R. § 370.44, the Washington State Department of Ecology was the SERC, and the Seattle Fire Department was the LEPC and fire department with jurisdiction over the facility.

3.17 As a result of the information obtained by EPA and subsequent investigation, Complainant has determined that Respondent has violated the reporting requirements of Section 312 of EPCRA, 42 U.S.C. § 11022(a) and 40 C.F.R. §§ 370.44 and 370.45.

C. Violations

Count 1: Failure to Timely File EPCRA § 312 Tier II Inventory Report with the LEPC and the fire department for Calendar Year 2023.

3.18 During calendar year 2023, Respondent stored greater than 500 pounds of anhydrous ammonia at the Facility.

3.19 During calendar year 2023, Respondent stored greater than 500 pounds of sulfuric acid at the Facility.

3.20 Respondent failed to timely submit the Emergency and Hazardous Chemical Inventory Form for anhydrous ammonia and sulfuric acid to the LEPC and the fire department for calendar year 2023, as required by 40 C.F.R. §§ 370.44 and 370.45. The 2023 Tier II

Emergency and Hazardous Chemical Inventory Form was submitted to the LEPC and fire department on November 6, 2024.

3.21 Respondent violated Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. § 370.45 by failing to timely submit an Emergency and Hazardous Chemical Inventory Form for ammonia and sulfuric acid to the LEPC and the fire department for calendar year 2023 by March 1, 2024.

Count 2: Failure to File EPCRA § 312 Tier II Inventory Report with the SERC for Calendar Year 2022.

3.22 During calendar year 2022, Respondent stored greater than 500 pounds of anhydrous ammonia at the Facility.

3.23 During calendar year 2022, Respondent stored greater than 500 pounds of sulfuric acid at the Facility.

3.24 Respondent failed to submit the Emergency and Hazardous Chemical Inventory Form for anhydrous ammonia and sulfuric acid to the SERC for calendar year 2022, as required by 40 C.F.R. §§ 370.44 and 370.45.

3.25 Respondent violated Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. § 370.45 by failing to submit an Emergency and Hazardous Chemical Inventory Form for ammonia and sulfuric acid to the SERC for calendar year 2022 by March 1, 2023.

Count 3: Failure to Timely File EPCRA § 312 Tier II Inventory Report with the LEPC and the Fire Department for Calendar Year 2022.

3.26 During calendar year 2022, Respondent stored greater than 500 pounds of anhydrous ammonia at the Facility.

3.27 During calendar year 2022, Respondent stored greater than 500 pounds of sulfuric acid at the Facility.

3.28 Respondent failed to submit the Emergency and Hazardous Chemical Inventory Form for anhydrous ammonia and sulfuric acid to the LEPC and the fire department for calendar year 2022, as required by 40 C.F.R. §§ 370.44 and 370.45.

3.29 Respondent violated Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. § 370.45 by failing to submit an Emergency and Hazardous Chemical Inventory Form for ammonia and sulfuric acid to the LEPC and fire department for calendar year 2022 by March 1, 2023.

Count 4: Failure to Timely File EPCRA § 312 Tier II Inventory Report with the SERC, LEPC and fire department for Calendar Year 2021.

3.30 During calendar year 2021, Respondent stored greater than 500 pounds of anhydrous ammonia at the Facility.

3.31 During calendar year 2021, Respondent stored greater than 500 pounds of sulfuric acid at the Facility.

3.32 Respondent failed to submit the Emergency and Hazardous Chemical Inventory Form for anhydrous ammonia and sulfuric acid to the SERC, the LEPC, and the fire department for calendar year 2021, as required by 40 C.F.R. §§ 370.44 and 370.45.

3.33 Respondent violated Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. § 370.45 by failing to submit an Emergency and Hazardous Chemical Inventory Form for ammonia and sulfuric acid to the SERC, LEPC and fire department for calendar year 2021 by March 1, 2022.

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. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 325(b) of EPCRA, 42 U.S.C. § 11045(b). After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$53,550 (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 shall be paid by any of the electronic methods specified at: www.epa.gov/financial/makepayment and in accordance with instructions provided at that webpage. Respondent must note on the payment its name and the docket number of this action.

4.6. Concurrently with payment, Respondent must serve copies of proof of payment to the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 10
Via electronic mail to:
R10_RHC@epa.gov

Ryan Bowsby
U.S. Environmental Protection Agency, Region 10
Via electronic mail to:
bowsby.ryan@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 receipt or confirmation of payment method, 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.

4.7. If Respondent fails to timely pay any portion of the Assessed Penalty, the entire unpaid balance of the Assessed Penalty and all 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. Interest begins to accrue from the effective date of the Final Order attached herein. If the Assessed Penalty is not paid in full within 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 Internal Revenue Service ("IRS") standard underpayment rate applicable on the effective date of the Final Order and non-variable throughout the period of nonpayment.

b. Handling Charges. Pursuant to 31 U.S.C. § 3717(e)(1), Respondent will be assessed a charge to cover EPA's costs of processing and handling overdue debts.

c. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be assessed monthly on all debts, including any portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than 90 days. Nonpayment shall be calculated as of the date the underlying penalty first becomes past due.

4.9. The Assessed Penalty and 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. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the IRS annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide

EPA with sufficient information to enable it to fulfill these obligations, Respondent shall complete the following actions, as applicable.

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>.
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN.
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Division at Henderson.Jessica@epa.gov, within 30 days after the effective date of the Final Order. EPA recommends encrypting IRS Form W-9 email correspondence.
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Center with Respondent’s TIN, via email, within five days of Respondent’s receipt of a TIN issued by the IRS.

4.11. 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.

4.12. 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. By signing this consent agreement, Respondent 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.

4.15. By signing this Consent Agreement, Respondent 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.

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

4.17. 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.

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

DATED:

FOR RESPONDENT:

STEVE MATTSON, EVP and General Manager
Seattle Arena Company, LLC

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-10-2025-0180

SEATTLE ARENA COMPANY, LLC,

FINAL ORDER

Seattle, Washington,

Respondent.

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated 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: SEATTLE ARENA COMPANY, LLC, Docket No.: EPCRA-10-2025-0180**, 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:

Lauren Gates
U.S. Environmental Protection Agency
Office of General Counsel
1200 Pennsylvania Avenue Northwest (MC2333A)
Washington, D.C. 20460

gates.lauren@epa.gov

Kevin Melsby
Vice President, Arena Events and Operations
Seattle Arena Company, LLC
224 1st Avenue North
Seattle, Washington 98109

kmelsby@climatepledgearena.com

Regional Hearing Clerk
EPA Region 10