FILED
Sep 25, 2026
10:36 am
U.S. EPA REGION 4
HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 4

In the Matter of: B & B Concrete Co., Inc., Respondent.	Docket No. EPCRA-04-2026-2002(b)

CONSENT AGREEMENT

I. NATURE OF ACTION

1. This is an administrative penalty assessment proceeding brought under Section 325 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11045 (EPCRA or the Act) and Sections 22.13(b) and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.

2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.

3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without Respondent's admission of violation or adjudication of any issues of law or fact herein.

II. PARTIES

4. Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA), Region 4, who has been delegated the authority on behalf of the Administrator of the EPA to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 325 of EPCRA, 42 U.S.C. § 11045.

5. Respondent is B & B Concrete Co., Inc., a corporation doing business in the State of Mississippi. This proceeding pertains to Respondent's facility located at 130 North Industrial Road, Tupelo, Mississippi, 38801 (Facility).

III. GOVERNING LAW

6. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 372.30, provide that the owner or operator of a facility that (a) has 10 or more full-time employees; (b) is in a Standard Industrial Classification (SIC) major group or industry listed in 40 C.F.R. § 372.23(a) for which the corresponding North American Industry Classification System (NAICS) subsector and industry codes are listed in 40 C.F.R. §§ 372.23(b) and 372.23(c); and (c) manufactured, processed, or otherwise used a toxic chemical listed in Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and 40 C.F.R. § 372.65, in excess of an applicable threshold quantity established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f) and set forth in 40 C.F.R. § 372.25, during the calendar year, shall complete and submit a toxic chemical release inventory reporting Form R (EPA Form 9350-1) to the Administrator of the EPA and to the State in which the facility is located, by July 1 for the preceding calendar year for each toxic chemical known by the owner or operator to be manufactured, processed, or otherwise used in quantities exceeding the established threshold quantity during the preceding calendar year.

7. "Full-time employee" means 2,000 hours per year of full-time equivalent employment. A facility calculates the number of full-time employees by totaling the hours worked during the calendar year by all employees, including contract employees, and dividing that total by 2,000 hours. 40 C.F.R. § 372.3.

8. As set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, the reporting threshold amount for a toxic chemical manufactured or processed at a facility is 25,000 pounds per calendar year. The reporting threshold for a toxic chemical otherwise used at a facility is 10,000 pounds. Notwithstanding 40 C.F.R. § 372.25 or 40 C.F.R. § 372.27, lower reporting thresholds for chemicals of special concern are set forth in 40 C.F.R. § 372.28.

9. Lead is a toxic chemical listed under Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and 40 C.F.R. § 372.65 and a chemical of special concern under 40 C.F.R. § 372.28, with a reporting threshold of 100 pounds.

10. Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. Part 370, provide that the owner or operator of any facility that is required to prepare or have available a Material Safety Data Sheet (MSDS) or a Safety Data Sheet (SDS) for hazardous chemicals under the Occupational Safety and Health Act of 1970 (OSHA) and regulations promulgated under OSHA, shall submit to the Local Emergency Planning Committee (LEPC), the State Emergency Response Commission (SERC), and the fire department with jurisdiction over the facility a completed Emergency and Hazardous Chemical Inventory Form (Tier I or Tier II), pursuant to 40 C.F.R. § 370.40, containing the required information for hazardous chemicals present at the facility at any one time in the calendar year in amounts equal to or greater than 10,000 pounds and containing the required information for extremely hazardous substances (EHS) present at the facility at any one time in amounts equal to or greater than the threshold planning quantity (TPQ) or 500 pounds,

whichever is less, by March 1 for the preceding calendar year. In 2012, the applicable OSHA regulation at 29 C.F.R. § 1910.1200(g) was revised to change the name of Material Safety Data Sheet (MSDS) to Safety Data Sheet (SDS). The pertinent EPCRA regulation found at 40 C.F.R. § 370.30(a)(1) requires that either an MSDS or SDS be submitted, or that a list of chemicals be submitted to the LEPC, SERC and fire department.

11. Calcium Nitrate, Diesel Oil, Fly Ash, Limestone, and Portland Cement are hazardous chemicals as defined by Section 329(5) of EPCRA, 42 U.S.C. § 11049(5), and 29 C.F.R. § 1910.1200(c).

12. The owner or operator of a facility is required under 29 C.F.R. §1910.1200(g) to prepare or have available an MSDS or SDS for Calcium Nitrate, Diesel Oil, Fly Ash, Limestone, and Portland Cement.

13. "Facility" means all buildings, equipment, structures, and other stationary items which are located on a single or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with, such person). Section 329(4) of EPCRA, 42 U.S.C. § 11049(4). A facility may include more than one establishment. 40 C.F.R. § 372.3. Facility includes manmade structures, as well as all natural structures in which chemicals are purposefully placed or removed through human means such that it functions as a containment structure for human use. 40 C.F.R. § 370.66.

14. "Person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or interstate body. Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

15. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and 40 C.F.R. Part 19, the EPA may assess a civil penalty for each violation of Section 313 and 312 of EPCRA, 42 U.S.C. §§ 11023 and 11022. Civil penalties under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), may be assessed by administrative order.

IV. FINDINGS OF FACTS

16. Respondent has 10 or more full-time employees, as defined at 40 C.F.R. § 372.3, at its Facility.

17. Respondent's Facility is classified under the covered SIC code 3273 and NAICS code 327320, as described at 40 C.F.R. §372.22 and 40 C.F.R. §372.23.

18. Respondent's Facility processed Lead in excess of the 100-pound threshold quantity for the chemical established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28, during calendar year 2022.

19. Respondent failed to submit a Form R for Lead to EPA and to the State of Mississippi for calendar year 2022 by July 1, 2023.

20. Respondent is required under 29 C.F.R. §1910.1200(g) to prepare or have available an MSDS for hazardous chemicals under OSHA for Calcium Nitrate, Diesel Oil, Fly Ash, Limestone, and Portland Cement.

21. At some time during calendar years 2022 and 2023, Calcium Nitrate, Diesel Oil, Fly Ash, Limestone, and Portland Cement were present at the Facility in an amount equal to or greater than 10,000 pounds.

22. Respondent failed to submit a completed Emergency and Hazardous Chemical Inventory Form for Calcium Nitrate, Diesel Oil, Fly Ash, Limestone, and Portland Cement to the SERC, LEPC, and fire department with jurisdiction over the Facility for calendar years 2022 and 2023 by March 1 of the following calendar years.

V. ALLEGED VIOLATIONS

23. Respondent is a "person" and is the owner and operator of the Facility which is a "facility," as those terms are defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), during the relevant period described herein.

24. Respondent violated the reporting requirements of Section 313 of EPCRA by failing to submit the required Form R for Lead for calendar year 2022 by July 1, 2023, and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

25. Respondent violated the reporting requirements of Section 312 of EPCRA by failing to submit the required Emergency and Hazardous Chemical Inventory Form for Calcium Nitrate, Diesel Oil, Fly Ash, Limestone, and Portland Cement for calendar years 2022 and 2023 by March 1 of the following calendar years and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

VI. STIPULATIONS

26. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

27. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

    (a) admits that EPA has jurisdiction over the subject matter alleged in this CAFO;

    (b) neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;

    (c) consents to the assessment of a civil penalty as stated below;

    (d) consents to the conditions specified in this CAFO;

    (e) waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and

    (f) waives its rights to appeal the Final Order accompanying this CAFO.

28. For the purpose of this proceeding, Respondent:

(a) agrees that this CAFO states a claim upon which relief may be granted against Respondent;

(b) acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;

(c) waives any rights it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;

(d) by executing this CAFO, certifies to the best of its knowledge that Respondent is currently in compliance with all relevant requirements of the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected;

(e) waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO;

(f) agrees to comply with the terms of this CAFO; and

(g) 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 CAFO.

29. In accordance with 40 C.F.R. § 22.5, the individuals named in the certificate of service are authorized to receive service related to this proceeding and the Parties agree to receive service by electronic means.

VII. TERMS OF PAYMENT

30. Respondent agrees to a civil penalty in the amount of **$33,601.00** ("Assessed Penalty"), to be paid within thirty (30) calendar days after the Effective Date of this CAFO.

31. 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.

32. When making a payment, Respondent shall:

(a) Identify every payment with Respondent's name and the docket number of this CAFO, EPCRA-04-2026-2002(b),

(b) Concurrently with any payment or within 24 hours of any payment, serve proof of such payment to the following persons:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
r4_regional_hearing_clerk@epa.gov

Tony Spann, Case Development Officer
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
spann.tony@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, 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.

33. 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 any portion of the Assessed Penalty per this CAFO, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts.

(a) Interest. Interest begins to accrue from the Effective Date. If the Assessed Penalty is paid in full within thirty (30) calendar days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) calendar 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.

(b) Handling Charges. Respondent will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this CAFO, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) calendar-day-period after the Effective Date. Additional handling charges will be assessed every thirty (30) calendar 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.

(c) 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) calendar days.

34. 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 CAFO, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

(a) Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.

(b) 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.

(c) 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.

(d) Request that the Attorney General bring a civil action in the appropriate district court to recover the amount assessed, in addition to the amounts described above, pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045(f)(1).

35. 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.

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

VIII. EFFECT OF CAFO

37. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

38. Full payment of the civil penalty, as provided in Section VII (Terms of Payment) shall satisfy the requirements of this CAFO; but, shall not in any case 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. 40 C.F.R. § 22.18(c).

39. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.

40. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.

41. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.

42. The provisions of this CAFO shall apply to and be binding upon Respondent and its successors and assigns. Respondent shall direct its officers, directors, employees, agents, trustees, and authorized representatives to comply with the provisions of this CAFO.

43. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.

44. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.

45. By signing this Consent Agreement, the Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.

46. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.

47. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

48. EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to EPA. If such false or inaccurate material was provided, EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

49. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

50. It is the intent of the Parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

IX. EFFECTIVE DATE

51. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

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Complainant and Respondent will Each Sign on Separate Pages

The foregoing Consent Agreement in the matter of **B & B Concrete Co., Inc.**, Docket No. **EPCRA-04-2026-2002(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Signature

September 16th, 2026
Date

Printed Name: Charlie R. White

Title: Director of Safety, Environmental, & Human Resources

Address: PO Box 407 Tupelo, MS 38802-0407

The foregoing Consent Agreement in the matter of B & B Concrete Co., Inc., Docket No. **EPCRA-04-2026-2002(b),** is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

KIMBERLY BINGHAM

Digitally signed by KIMBERLY BINGHAM
Date: 2026.09.18 12:10:01 -04'00'

_____

for Keriema S. Newman
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: **B & B Concrete Co., Inc.,** Respondent.	Docket No. **EPCRA-04-2026-2002(b)** FINAL ORDER

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified and incorporated by reference into this Final Order in accordance with 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.

The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED.

MICHELE WETHERINGTON Digitally signed by MICHELE WETHERINGTON Date: 2026.09.23 14:38:59 -04'00'

Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, in the Matter of **B & B Concrete Co., Inc.**, Docket No. **EPCRA-04-2026-2002(b)**, were filed and copies of the same were emailed to the Parties as indicated below.

Via email to all Parties at the following email addresses:

To Respondent: Charlie White, Director of Safety, Environmental, & HR
B & B Concrete Co., Inc.
cwhite@bbconcrete.com
130 North Industrial Road
Tupelo, Mississippi 38801
(662) 842-6312

To EPA: Tony Spann, Case Development Officer
spann.tony@epa.gov
(404) 562-8971

John Sheesley, Attorney-Adviser
sheesley.john@epa.gov
(404) 562-8139

SHANNON RICHARDSON Digitally signed by SHANNON RICHARDSON Date: 2026.09.25 10:39:42 -04'00'

Shannon L. Richardson, Regional Hearing Clerk
r4_regional_hearing_clerk@epa.gov