

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

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)  
In the Matter of: ) Docket No. CAA-02-2009-1227  
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)  
Checkpoint Caribbean, Ltd., ) CONSENT AGREEMENT AND  
Sabonetas Industrial Park ) FINAL ORDER  
)  
Lot 2B, Street #1 )  
Ponce, Puerto Rico 00732 )  
Respondent. ) Under Section 113(d) of the Clean Air Act,  
) 42 U.S.C. § 7413(d)  
)  
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U.S. ENVIRONMENTAL  
PROTECTION AGENCY-Region 2  
2010 SEP 29 PM 1:49  
REGIONAL HEARINGS

**I. PRELIMINARY STATEMENT**

Complainant, the United States Environmental Protection Agency ("EPA"), Region 2, and Respondent, Checkpoint Caribbean, Ltd., by their undersigned representatives, hereby consent and agree as follows:

- 1) EPA initiated this proceeding for the assessment of civil penalties pursuant to Section 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d), by issuing an Administrative Complaint, Docket No. CAA-02-2009-1227 (hereinafter, "Complaint"), against Respondent on September 30, 2009.
- 2) Respondent is the owner and/or operator of a facility located in Sabonetas Industrial Park, Lot 2B, Street #1, Ponce, Puerto Rico 00732, hereinafter referred to as the "Facility".
- 3) The Complaint charged Respondent with one count for violations of Section 112(r)(7) of the Clean Air Act, 42 U.S.C. § 7412(r)(7), and the regulations promulgated thereunder at 40 C.F.R. Part 68, for failure to fully comply with the requirements for a risk management plan at the Facility.
- 4) Respondent hereby certifies that it has fulfilled all reporting obligations for the violations cited in the Complaint.
- 5) Respondent admits the jurisdictional allegations set forth in the Complaint.
- 6) Pursuant to Section 113(d) of the Act, and taking into consideration the nature of the violations and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is eighty six thousand two hundred and thirty dollars (\$86,230.00).
- 7) Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the assessment of the civil penalty cited in the foregoing paragraph.

- 8) Respondent agrees to pay eighty six thousand two hundred and thirty dollars (\$86,230.00) as a civil penalty for the count alleged in the Complaint and set forth in Paragraph 3, above, by cashier's or certified check payable to the "Treasurer, United States of America." The check shall be identified with a notation of the name and docket number of this case (set forth in the caption on the first page of this document) and shall be sent to:

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

A copy of each check and the transmittal letter shall be sent to each of the following:

Elizabeth Leilani Davis  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
290 Broadway, 17th Floor  
New York, New York 10007

and

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16th Floor  
New York, New York 10007.

Respondent agrees to make such payment on or before forty five (45) calendar days after the date of signature of the Final Order at the end of this document (hereinafter referred to as the "due date").

- a) Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for appropriate enforcement, including collection of the amount set forth in this Paragraph, plus allowable interest and such other penalties as provided for in this Consent Agreement.
- b) Further, if payment is not received on or before the due date, Respondent agrees to the assessment of interest, at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, Respondent agrees to pay a late payment handling charge of \$15 for each thirty (30) day period (or any portion thereof) following the due date in which the balance remains unpaid.
- c) Respondent also agrees to pay a quarterly non-payment penalty for each calendar quarter during which such nonpayment persists, pursuant to

Section 113(d)(5) of the Clean Air Act, 42 U.S.C. § 7413(d)(5). This quarterly non-payment penalty will be imposed for each calendar quarter during which such non-payment persists. The quarterly nonpayment penalty is 10% of the aggregate amount of penalties and quarterly nonpayment penalties which are unpaid as of the beginning of such quarter.

- 9) The penalties and interest specified in Paragraph 8, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Commonwealth or federal taxes.

## **II. GENERAL PROVISIONS**

- 10) Respondent neither admits nor denies the factual allegations contained in the Complaint. Respondent waives any right to contest the allegations contained in the Complaint and/or to appeal the Final Order accompanying this Consent Agreement.
- 11) Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions between EPA staff and the Regional Administrator or Deputy Regional Administrator of EPA Region 2, and further waives the right to be served with and to reply to any memorandum or communication addressed by EPA staff to the Regional Administrator or Deputy Regional Administrator, where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.
- 12) This Consent Agreement and Final Order 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. Nothing in this Consent Agreement and Final Order is intended to nor shall be construed to operate in any way to resolve any criminal liability of Respondent. Compliance with this Consent Agreement and Final Order shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations. Full and complete satisfaction of the requirements of this Consent Agreement and Final Order shall resolve Respondent's liability for federal civil penalties for the violations alleged in the Complaint.
- 13) Each party to this action shall bear its own costs and attorney fees.
- 14) The person signing below on behalf of Respondent hereby certifies that he or she is fully authorized by Respondent to execute this Consent Agreement on behalf of Respondent and to legally bind Respondent to this Consent Agreement in accordance with all of the terms and conditions contained herein.
- 15) The Director of the Emergency and Remedial Response Division of EPA Region 2 has been delegated the authority to sign the Consent Agreement in this action, and the Regional Administrator of EPA Region 2 has been delegated the authority to sign the Final Order in this action.

- 16) Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by any EPA employee, in lieu of service made by the EPA Region 2 Regional Hearing Clerk.

Consent Agreement In the Matter of Checkpoint Caribbean, Ltd.  
Docket No. CAA-02-2009-1227

For Respondent  
Checkpoint Caribbean Ltd.:

*Luis F. Scler*  
Signature

Date: *OCT 24/2010*

*LUIS F. SCLER*  
Name (Printed or Typed)

*PRESIDENT*  
Title (Printed or Typed)

Consent Agreement In the Matter of Checkpoint Caribbean, Ltd.  
Docket No. CAA-02-2009-1227

For Complainant  
U.S. Environmental Protection Agency:



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Walter Mugdan, Director  
Emergency and Remedial Response  
Division, Region 2

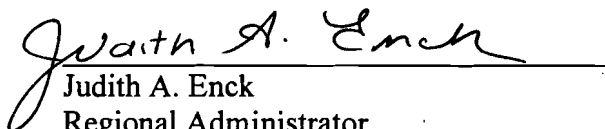
Date: 9/1/2010

In the Matter of Checkpoint Caribbean Ltd., Docket No. CAA-02-2009-1227

**FINAL ORDER**

The Consent Agreement In the Matter of Checkpoint Caribbean Ltd., Docket No. CAA-02-2009-1227, signed on behalf of Respondent Checkpoint Caribbean Ltd. and the Environmental Protection Agency, is hereby approved, incorporated herein, and issued by U.S. EPA, as a Final Order. The effective date of this Final Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.

9/7/2010  
Date

  
\_\_\_\_\_  
Judith A. Enck  
Regional Administrator  
U.S. EPA, Region 2

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

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Checkpoint Caribbean, Ltd., )  
Sabonetas Industrial Park )  
) Administrative Consent Agreement and  
) Final Order under Section 113(d) of the  
) Clean Air Act, 42 U.S.C. § 7413(d)  
)  
Lot 2B, Street #1 )  
Ponce, Puerto Rico 00732 )  
)  
Respondent. )  
-----X

**CERTIFICATION OF SERVICE**

I certify that the foregoing Consent Agreement and Final Order has been sent this day in the following manner to the addresses listed below:

Original and one copy by hand delivery to:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16th floor  
New York, New York 10007-1866

Copy by certified mail to:

Checkpoint Caribbean, Ltd.  
P.O. Box 7283  
Ponce, Puerto Rico 00732-7283

Date: 9/9/10

Name: Rayetta Martin

Title: Secretary

Address: 290 Broadway, 17th Fl,  
New York, NY 10007