

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

This form was originated by: A.J. D'Angelo DEC 21 2011
Name of Contact person *Date*

in the Office of Regional Counsel (3RC30) at (215) 814-2480
Office *Phone number*

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS Administrative Order/Consent Agreement FMD COLLECTS PAYMENT
 SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt This is a modification

Name of Company making payment: Essroc Cement Corporation

The Total Dollar Amount of Receivable: Eighty-Two Thousand Dollars (\$82,000.00)
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number EPCRA-03-2012-0052

The Site-Specific Superfund Acct. Number _____

The Designated Regional/HQ Program Office Land & Chemicals Division, Toxics Programs Branch (3LC61)

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
Name of Contact *Date*

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

- | | |
|--|---|
| 1. Rosemarie Pacheco Environmental Enforcement Section Lands Division, Room 130044 1425 New York Avenue, N.W. Washington, D.C. 20005 | 2. Originating Office (ORC) 3. Designated Program Office |
|--|---|

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

- | | |
|--|------------------------------|
| 1. Originating Office 3. Regional Hearing Clerk | 2. Designated Program Office |
|--|------------------------------|

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

A.J. D'Angelo (3RC30)
Sr. Asst. Regional Counsel

Direct Dial: (215) 814-2480
Fax: (215) 814-2603

Heather Russel
U.S. Environmental Protection Agency
Cincinnati Finance Management Center (CFMC)
26 W. Martin Luther King Drive
Cincinnati, OH 45268

DEC 21 2011

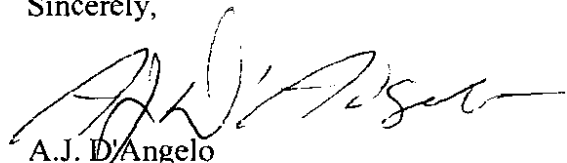
Re: Essroc Cement Corporation
Docket No. EPCRA-03-2012-0052

Dear Heather:

Please find enclosed hard copies of an Administrative Penalty Order (Consent Agreement and Final Order with Certificate of Service) and of the associated EARCNF form in the above-referenced matter.

The Final Order calls for the Respondent, Essroc Cement Corporation to pay a civil penalty of \$82,000.00 no later than thirty (30) calendar days after the date on which the CAFO is mailed or hand-delivered to them. When payment is made, I would appreciate if you could provide me with proof of payment documentation, which you can send to me via e-mail at "dangelo.aj@epa.gov".

Sincerely,



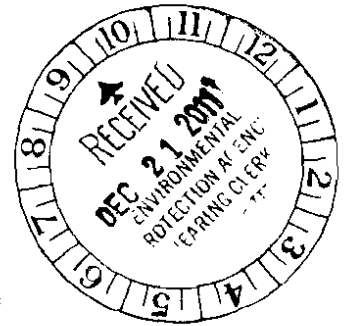
A.J. D'Angelo
Sr. Assistant Regional Counsel

Enclosures

cc: **Lydia Guy**
Regional Hearing Clerk (3RC00)

Craig Yussen
Toxics Programs Branch (3LC61)

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III



In the Matter of:

Essroc Cement Corporation
3251 Bath Pike
Nazareth, PA 18064,

Docket No. EPCRA-03-2012-0052

Respondent.

Essroc Cement Corporation
Nazareth Plant I
3938 Easton Nazareth Highway
Nazareth, PA 18064

Proceeding Under Section 325(c) of
EPCRA, 42 U.S.C. § 11045(c)

and

Essroc Cement Corporation
Nazareth Plant III
401 West Prospect Street
Nazareth, PA 18064,

Facility.

CONSENT AGREEMENT

Preliminary Statement

This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant"), and Essroc Cement Corporation ("Respondent"), pursuant to Sections 313 and 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. §§ 11023 and 11045(c), the regulations implementing EPCRA Section 313, as set forth at 40 C.F.R. Part 372, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and 22.18(b)(3), this Consent Agreement and the accompanying Final Order (collectively, "CAFO") simultaneously commences and concludes this proceeding against Respondent to resolve violations of EPCRA § 313, 42 U.S.C. § 11023, as alleged herein, by Respondent at its facility located in Nazareth, Pennsylvania.

General Provisions

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Except as provided in Paragraph 1, immediately above, Respondent neither admits nor denies the specific factual allegations and legal conclusions set forth in this CAFO.
3. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
4. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
6. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

Findings of Fact and Conclusions of Law

7. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2), Complainant adopts the following findings of fact and conclusions of law.
8. EPCRA Section 313(a), 42 U.S.C. § 11023(a), requires subject owners or operators of any facility that, in any calendar year, manufactures, processes or otherwise uses a toxic chemical listed under EPCRA Section 313(c), 42 U.S.C. § 11023(c), in quantities exceeding a regulatory threshold established under EPCRA Section 313(f), 42 U.S.C. § 11023(f), to complete and submit a toxic inventory report (*i.e.*, "Form R" or "Form A") for each such listed toxic chemical. Pursuant to EPCRA Section 313(a), 42 U.S.C. § 11023(a), each required Form R or Form A must include the information required under Section 313(g) of EPCRA, 42 U.S.C. § 11023(g), and must be submitted to EPA and to the designated State agency by July 1 of the year following the year for which such toxic inventory report is required.
9. EPCRA Section 313(b), 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.22 provide, in relevant part, that a facility which meets the following criteria for a calendar year is a covered facility for that calendar year and must report under 40 C.F.R. § 372.30: (a) the facility has 10 or more full-time employees; (b) the facility is in a Standard Industrial Classification ("SIC") (as in effect on January 1, 1987) major group or industrial code listed in 40 C.F.R. § 372.23(a), for which the corresponding North American Industrial Classification System ("NAICS") (as in effect on January 1, 2007, for reporting year 2008 and thereafter) subsector and industry codes are listed in 40 C.F.R. § 372.23(b) and (c) by virtue of the fact that the facility is a multi-establishment complex where all establishments have primary SIC major

group or industry codes listed in 40 C.F.R. § 372.23(a), or primary NAICS subsector or industry codes listed in 40 C.F.R. § 372.23(b) or (c); and (c) the facility manufactured (including 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 375.28.

10. 40 C.F.R. § 372.30(a) provides, in relevant part, that for each toxic chemical known by the owner or operator to be manufactured (including imported), processed, or otherwise used in excess of an applicable threshold quantity in 40 C.F.R. § 372.25, § 372.27, or § 372.28 at its covered facility for a calendar year, the owner or operator must submit to EPA and to the State in which the facility is located a completed EPA Form R (EPA Form 9350-1) in accordance with the instructions referred to in 40 C.F.R. Part 372, Subpart E.
11. 40 C.F.R. § 372.30(c) provides that: “[a] covered facility may consist of more than one establishment. The owner or operator of such a facility at which a toxic chemical was manufactured (including imported), processed, or otherwise used in excess of an applicable threshold may submit a separate Form R for each establishment or for each group of establishments within the facility to report the activities involving the toxic chemical at each establishment or group of establishments, provided that activities involving that toxic chemical at all the establishments within the covered facility are reported. If each establishment or group of establishments files separate reports then for all other chemicals subject to reporting at that facility they must also submit separate reports. However, an establishment or group of establishments does not have to submit a report for a chemical that is not manufactured (including imported), processed, otherwise used, or released at that establishment or group of establishments.”
12. 40 C.F.R. § 372.30(d) provides, in relevant part, that: “[e]ach report under this section for activities involving a toxic chemical that occurred during a calendar year at a covered facility must be submitted on or before July 1 of the next year.
13. EPCRA Section 329(7), 42 U.S.C. § 11049(7), defines “person” to include any corporation.
14. Respondent is incorporated in the Commonwealth of Pennsylvania and is a “person” as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
15. EPCRA Section 329(4), 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3 define “facility” to mean “all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and which are owned and operated by the same person (or by and person which controls, is controlled by, or under common control with such person).” Pursuant to 40 C.F.R. § 372.3, “[a] facility may contain more than one establishment.”
16. 40 C.F.R. § 372.3 defines “establishment” to mean “an economic unit, generally at a single physical location, where business is conducted or where services or industrial operations are performed.”

17. During calendar years 2006, 2007 and 2008, and at the time of the violations alleged herein, Respondent, as part of its cement manufacturing activities, owned and operated buildings, equipment, structures, and other stationary items on contiguous or adjacent sites, including a clinker production plant located at 3938 Easton Nazareth Highway, Nazareth, PA 18064 (hereinafter "Nazareth Plant I") and a grinding, milling and packaging plant located at 401 West Prospect Street, Nazareth, PA 18064 (hereinafter "Nazareth Plant III").
18. At all times herein relevant, Nazareth Plant I and Nazareth Plant III each was an "establishment" within the 40 C.F.R. § 372.3 definition and meaning of that term.
19. At all times herein relevant, Respondent was the owner and operator of a multi-establishment complex, within the meaning of 40 C.F.R. § 372.22(b)(2), comprised of buildings, equipment, structures, and other stationary items on contiguous or adjacent sites, including the Nazareth Plant I establishment and the Nazareth Plant III establishment (hereinafter collectively referred to as the "Facility").
20. During each of calendar years 2006, 2007 and 2008, and at all times herein relevant, Respondent employed 10 or more full-time employees at the Facility.
21. During calendar years 2006, 2007 and 2008, all establishments at the Facility had a primary SIC major group or industry code listed in 40 C.F.R. § 372.23(a) (*i.e.*, SIC 3241 - Cement, Hydraulic, Major Group 32) for which the corresponding NAICS subsector and industry code, for reporting year 2008, is listed in 40 C.F.R. § 372.23(b) (*i.e.*, NAICS 327 - Nonmetallic Mineral Product Manufacturing).
22. The Respondent's Facility is a "facility" as defined in EPCRA Section 329(4), 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3 and a "covered facility" within the meaning of 40 C.F.R. §§ 372.22 and 372.30(c), for purposes of toxic chemical release reporting.

Count I – Lead (2006)

23. The allegations of Paragraphs 1 through 22 of this Consent Agreement are incorporated herein by reference.
24. "Lead" is a "toxic chemical" as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10) and 40 C.F.R. § 372.3, and is listed in 40 C.F.R. § 372.65.
25. As provided in Section 313(f)(2) of EPCRA, 42 U.S.C. § 11023(f)(2), and as set forth in 40 C.F.R. § 372.28, the reporting threshold amount for lead which is processed at a facility is 100 pounds.
26. Respondent processed lead at the Nazareth Plant I establishment within the Facility and at the Nazareth Plant III establishment within the Facility during the 2006 calendar year.
27. Respondent processed more than 100 pounds of lead at the Facility during the 2006 calendar year.

28. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), and 40 C.F.R. §§ 372.28 and 372.30, Respondent was required to submit to the Administrator and to the Commonwealth of Pennsylvania (hereinafter, "the Commonwealth"), by July 1 of 2007, a completed EPA Form R (EPA Form 9350-1) (*i.e.*, a completed Form R for the entire Facility or a completed Form R for each establishment or group of establishments contained within the Facility) for the lead processed at the Facility during calendar year 2006.
29. Pursuant to 40 C.F.R. § 372.30(c), Respondent elected to submit to the Administrator and to the Commonwealth separate Form Rs to report its activities involving the toxic chemical lead that it processed at each establishment contained within the Facility during calendar year 2006.
30. On or about June 29, 2007, Respondent submitted to the Administrator and to the Commonwealth a Form R for the toxic chemical lead that it processed at the Plant I establishment of the Facility during calendar year 2006.
31. On or about September 8, 2010, Respondent submitted to the Administrator and to the Commonwealth a Form R for the toxic chemical lead that it processed at the Plant III establishment of the Facility during calendar year 2006.
32. Respondent's Form R submission for the toxic chemical lead that it processed at the Plant III establishment of the Facility during calendar year 2006, as referenced in the preceding paragraph, was not submitted to the Administrator or to the Commonwealth by July 1, 2007, as required pursuant to 40 C.F.R. § 372.30(c) and (d).
33. Respondent failed to submit to the Administrator and to the Commonwealth one completed Form R for the entire Facility or separate completed Form Rs for each establishment or group of establishments contained within the Facility by July 1, 2007 for the toxic chemical lead that Respondent processed at the Facility during calendar year 2006, as required pursuant to of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.28 and 372.30.
34. Respondent's failure to submit to the Administrator and to the Commonwealth one completed Form R for the entire Facility or separate completed Form Rs for each establishment or group of establishments contained within the Facility by July 1, 2007 for the toxic chemical lead that Respondent processed at the Facility during calendar year 2006 constitutes one violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.28 and 372.30.

Count II – Lead (2007)

35. The allegations of Paragraphs 1 through 34 of this Consent Agreement are incorporated herein by reference.
36. Respondent processed lead at the Nazareth Plant I establishment within the Facility and at the Nazareth Plant III establishment within the Facility during the 2007 calendar year.

37. Respondent processed more than 100 pounds of lead at the Facility during the 2007 calendar year.
38. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), and 40 C.F.R. §§ 372.28 and 372.30, Respondent was required to submit to the Administrator and the Commonwealth, by July 1 of 2008, a completed EPA Form R (EPA Form 9350-1) (*i.e.*, a completed Form R for the entire Facility or a completed Form R for each establishment or group of establishments contained within the Facility) for the lead processed at the Facility during calendar year 2007.
39. Pursuant to 40 C.F.R. § 372.30(c), Respondent elected to submit to the Administrator and to the Commonwealth separate Form Rs to report its activities involving the toxic chemical lead that it processed at each establishment contained within the Facility during calendar year 2007.
40. On or about June 20, 2008, Respondent submitted to the Administrator and to the Commonwealth a Form R for the toxic chemical lead that it processed at the Plant I establishment of the Facility during calendar year 2007.
41. On or about August 24, 2010, Respondent submitted to the Administrator and to the Commonwealth a Form R for the toxic chemical lead that it processed at the Plant III establishment of the Facility during calendar year 2007.
42. Respondent's Form R submission for the toxic chemical lead that it processed at the Plant III establishment of the Facility during calendar year 2007, as referenced in the preceding paragraph, was not submitted to the Administrator or to the Commonwealth by July 1, 2008, as required pursuant to 40 C.F.R. § 372.30(c) and (d).
43. Respondent failed to submit to the Administrator and to the Commonwealth one completed Form R for the entire Facility or separate completed Form Rs for each establishment or group of establishments contained within the Facility by July 1, 2008 for the toxic chemical lead that Respondent processed at the Facility during calendar year 2007, as required pursuant to of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.28 and 372.30.
44. Respondent's failure to submit to the Administrator and to the Commonwealth one completed Form R for the entire Facility or separate completed Form Rs for each establishment or group of establishments contained within the Facility by July 1, 2008 for the toxic chemical lead that Respondent processed at the Facility during calendar year 2007 constitutes one violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.28 and 372.30.

Count III – Lead (2008)

45. The allegations of Paragraphs 1 through 44 of this Consent Agreement are incorporated herein by reference.

46. Respondent processed lead at the Nazareth Plant I establishment within the Facility and at the Nazareth Plant III establishment within the Facility during the 2008 calendar year.
47. Respondent processed more than 100 pounds of lead at the Facility during the 2008 calendar year.
48. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), and 40 C.F.R. §§ 372.28 and 372.30, Respondent was required to submit to the Administrator and the Commonwealth, by July 1 of 2009, a completed EPA Form R (EPA Form 9350-1) (*i.e.*, a complete Form R for the entire Facility or a completed Form R for each establishment or group of establishments contained within the Facility) for the lead processed at the Facility during calendar year 2008.
49. Pursuant to 40 C.F.R. § 372.30(c), Respondent elected to submit to the Administrator and to the Commonwealth separate Form Rs to report its activities involving the toxic chemical lead that it processed at each establishment contained within the Facility during calendar year 2008.
50. On or about June 29, 2009, Respondent submitted to the Administrator and to the Commonwealth a Form R for the toxic chemical lead that it processed at the Plant I establishment of the Facility during calendar year 2008.
51. On or about August 24, 2010, Respondent submitted to the Administrator and to the Commonwealth a Form R for the toxic chemical lead that it processed at the Plant III establishment of the Facility during calendar year 2008.
52. Respondent's Form R submission for the toxic chemical lead that it processed at the Plant III establishment of the Facility during calendar year 2008, as referenced in the preceding paragraph, was not submitted to the Administrator or to the Commonwealth by July 1, 2009, as required pursuant to 40 C.F.R. § 372.30(c) and (d).
53. Respondent failed to submit to the Administrator and to the Commonwealth one completed Form R for the entire Facility or separate completed Form Rs for each establishment or group of establishments contained within the Facility by July 1, 2009 for the toxic chemical lead that Respondent processed at the Facility during calendar year 2008, as required pursuant to Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.28 and 372.30.
54. Respondent's failure to submit to the Administrator and to the Commonwealth one completed Form R for the entire Facility or separate completed Form Rs for each establishment or group of establishments contained within the Facility by July 1, 2009 for the toxic chemical lead that Respondent processed at the Facility during calendar year 2008 constitutes one violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.28 and 372.30.

Civil Penalty

55. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), provides that any person who violates § 313 of EPCRA, 42 U.S.C. § 11023, shall be liable to the United States for a civil penalty of up to \$25,000 per violation. Pursuant to the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, as revised (73 Fed. Reg. 75340-46 (December 11, 2008)), violations of Section 313 of EPCRA, 42 U.S.C. § 11023, which occurred between March 16, 2004 and January 12, 2009, are subject to an increased statutory maximum penalty of \$32,500 per violation and the maximum inflation-adjusted statutory penalty for violations occurring after January 12, 2009 is increased to \$37,500 per violation.
56. In settlement of EPA's claims for civil monetary penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **Eighty-Two Thousand Dollars (\$82,000.00)**, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO, fully executed by all parties, signed by the Regional Administrator or his designee, the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent.
57. The civil penalty set forth in the preceding paragraph is based on a number of factors, including, but not limited to, the facts and circumstances of this case, the statutory factors set forth in Section 325(b)(1)(C) of EPCRA, 42 U.S.C. § 11045(b)(1)(C), and the penalty criteria set forth in EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986)* (August 10, 1992), as amended. Complainant has also considered the Adjustment of Civil Penalties for Inflation, 40 C.F.R. Part 19, the June 6, 2006 memorandum by Acting EPA Toxics and Pesticides Enforcement Division Director Stephanie P. Brown entitled *Penalty Policy Supplements Pursuant to the 2004 Civil Monetary Inflation Adjustment Rule* ("Brown Memorandum") and the November 16, 2009 memorandum by EPA Waste and Chemical Enforcement Division Director Rosemarie A. Kelley *Adjusted Penalty Policy Matrices Based on the 2008 Civil Monetary Penalty Inflation Adjustment Rule* ("Kelley Memorandum"). The settlement in this proceeding is consistent with the provisions and objectives of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.
58. Respondent shall pay the civil penalty amount assessed in Paragraph 56, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 59, 60, 61 and 62, below, by either cashier's check, certified check, or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, EPCRA-03-2012-0052;
 - b. All checks shall be made payable to "United States Treasury";

- c. All payments made by check and sent by regular mail shall be addressed to:

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

Customer service contact: 513-487-2105

- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1028

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No. 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: 866-234-5681

- h. On-Line Payment Option:

WWW.PAY.GOV/paygov/

Enter **sfo 1.1** in the search field. Open and complete the form.

- i. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

- j. Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO.

A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

A.J. D'Angelo
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy
Regional Hearing Clerk
U.S. EPA, Region III (3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

59. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment as specified herein shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
60. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
61. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
62. A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
63. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty assessed in this CAFO.

Certification

64. The individual who signs this Consent Agreement on behalf of Respondent certifies that the Facility referred to in this Consent Agreement is currently in compliance with all applicable requirements of EPCRA Section 313, 42 U.S.C. § 11023.

Other Applicable Laws

65. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

Reservation of Rights

66. This Consent Agreement and the accompanying Final Order resolve only EPA's claims for civil penalties for the specific violations of Section 313 of EPCRA, 42 U.S.C. § 11023, alleged herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in 40 C.F.R. § 22.18(c). Further, EPA reserves any rights and remedies available to it under EPCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

Scope of Settlement

67. The settlement set forth in this CAFO shall constitute full and final satisfaction of Complainant's civil claims for penalties for the specific violations alleged herein. Compliance with the CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

Parties Bound

68. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents, and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

Effective Date

69. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

Entire Agreement

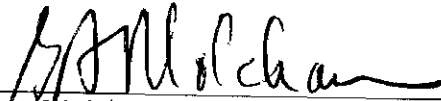
70. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

*In the Matter of:
Essroc Cement Corporation*

*Consent Agreement
Docket No. EPCRA-03-2012-0052*

For Respondent:

Date: 12/7/11


By: 
Gary Molchan
Vice President, Environmental Affairs
Essroc Cement Corporation

In the Matter of:
Essroc Cement Corporation

Consent Agreement
Docket No. EPCRA-03-2012-0052


For Complainant:

Date: 12/8/2011

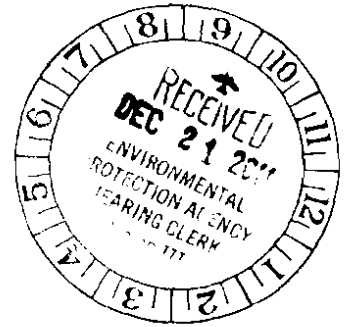
By: 
A.J. D'Angelo
Senior Assistant Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 12/9/2011

By: 
Abraham Ferdas, Director
Land and Chemicals Division

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**



In the Matter of: :
:
Essroc Cement Corporation :
3251 Bath Pike :
Nazareth, PA 18064, :

Docket No. EPCRA-03-2012-0052

Respondent. :
:
:

Essroc Cement Corporation :
Nazareth Plant I :
3938 Easton Nazareth Highway :
Nazareth, PA 18064 :

**Proceeding Under Section 325(c) of
EPCRA, 42 U.S.C. § 11045(c)**

and :
:
:

Essroc Cement Corporation :
Nazareth Plant III :
401 West Prospect Street :
Nazareth, PA 18064, :

Facility. :
:
:

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, Essroc Cement Corporation, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("*Consolidated Rules of Practice*"), 40 C.F.R. Part 22, with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

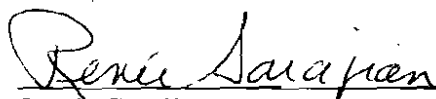
NOW, THEREFORE, PURSUANT TO Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045(c), and the *Consolidated Rules of Practice*, after having determined, based on the representations of the

Parties set forth in the Consent Agreement, that the civil penalty of Eighty-Two Thousand Dollars (\$82,000.00) agreed to therein was based upon a consideration of the statutory factors set forth in Section 325(b)(1)(C) of EPCRA, 42 U.S.C. § 11045(b)(1)(C), and the provisions and objectives of Section 313 of EPCRA, 42 U.S.C. § 11023, **IT IS HEREBY ORDERED** that Respondent pay a civil monetary penalty of Eighty-Two Thousand Dollars (\$82,000.00), in accordance with the provisions of the foregoing Consent Agreement, and comply timely with each of the additional terms and conditions thereof.

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date:

12/16/11



Renee Sarajian
Regional Judicial Officer
U.S. EPA, Region III

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

In the Matter of:

Essroc Cement Corporation
3251 Bath Pike
Nazareth, PA 18064,

Respondent.

Essroc Cement Corporation
Nazareth Plant I
3938 Easton Nazareth Highway
Nazareth, PA 18064

and

Essroc Cement Corporation
Nazareth Plant III
401 West Prospect Street
Nazareth, PA 18064,

Facility.

Docket No. EPCRA-03-2012-0052


Proceeding Under Section 325(c) of
EPCRA, 42 U.S.C. § 11045(c)

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, I caused to be hand-delivered to Ms. Lydia Guy, Regional Hearing Clerk (3RC00), U.S. EPA Region III, 1650 Arch Street, 5th Floor, Philadelphia, PA 19103-2029, the original and one copy of the foregoing Consent Agreement and of the accompanying Final Order. I further certify that on the date set forth below, I caused true and correct copies of the same to be mailed via Certified Mail, Return Receipt Requested, Postage Prepaid (Article No. 7004 2890 0000 5075 7255), to the following person at the following address:

*John M. Metzger, Esquire
Epstein, Becker & Green, P.C.
One Gateway Center
Newark, New Jersey 07102-5311
(Counsel for Respondent)*

12/21/2011
Date


A.J. D'Angelo (3RC30)
Sr. Assistant Regional Counsel
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
Tel. (215) 814-2480