

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, PA 19103-2029

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U.S. ENVIRONMENTAL PROTECTION AGENCY
EPA REGION III PHILA. PA

IN THE MATTER OF: :
: Docket No. EPCRA-03-2011-0186
REXNORD INDUSTRIES, LLC :
4701 W. Greenfield Avenue :
Milwaukee, WI 53214-5310 :
: Respondent :
: :
150 Johnson Drive : **CONSENT AGREEMENT**
Stuarts Draft :
Virginia 24477-3100 :
: Proceeding under
Facility. : EPCRA §§ 313 and
: 325, 42 U.S.C. §§ 11023
: and 11045
: :
:

CONSENT AGREEMENT

Preliminary Statement

This Consent Agreement is entered into by the Director, Waste and Chemicals Management Division, U. S. Environmental Protection Agency, Region III (“Complainant” or “EPA”) and Rexnord Industries, LLC (“Respondent”), pursuant to Section 325 of the Emergency Planning and Community Right to Know Act of 1986 (“EPCRA”), 42 U.S.C. § 11045, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), 40 C.F.R. Part 22.

Pursuant to Sections 22.13(b), 22.18(b)(2), and 22.18.(b)(3) of the Consolidated Rules, this Consent Agreement and attached Final Order (“CA/FO”) resolve Respondent's violations of Section 313 of EPCRA, 42 U.S.C. § 11023, and regulations promulgated thereunder concerning Respondent's obligations with respect to submitting complete and accurate information in the toxic chemical release forms it submitted to EPA and the Commonwealth of Virginia for certain toxic chemicals for the reporting years 2008 and 2009 for its facility located at 150 Johnson Drive, Stuarts Draft, Virginia (the “Facility”).

General Provisions

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CA/FO.
2. Except as provided in Paragraph 1, above, Respondent neither admits nor denies the specific factual allegations or legal conclusions set forth in this CA/FO.
3. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement, or EPA's authority to enforce this CA/FO.
4. For the purposes of this proceeding only, Respondent hereby expressly waives any right to contest the allegations set forth in this CA/FO or to appeal the Final Order.
5. Respondent consents to the issuance of this CA/FO and agrees to comply with its terms.
6. Respondent agrees not to deduct for civil taxation purposes the civil penalty to be paid in settlement of this action as specified in this CA/FO.
7. Each party to this action shall bear its own costs and attorney's fees.
8. The provisions of this CA/FO shall be binding upon Complainant, Respondent and Respondent's officers, directors, successors and assigns.
9. By signing this CA/FO, Respondent certifies, to the best of its knowledge and belief, that Respondent is currently in compliance with all applicable requirements of EPCRA Section 313, 42 U.S.C. § 11023, with respect to the Facility.

EPA's Findings of Fact and Conclusions of Law

10. In accordance with Section 22.18(b)(2) of the Consolidated Rules, Complainant adopts the following findings of fact and conclusions of law.

COUNTS I and II

11. Section 313 of EPCRA, 42 U.S.C. § 11023, requires the owner or operator of a facility that: 1) has 10 or more employees; 2) is in a primary Standard Industrial Classification ("SIC") Code 20 through 39 (as in effect on July 1, 1985); and 3) manufactured, processed or otherwise used a toxic chemical listed in 40 C.F.R.

§ 372.65 in excess of the threshold quantity established in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during the calendar year for which the form is required, to complete and submit a toxic chemical release form ("Form R") or alternate threshold report ("Form A") for each toxic chemical to EPA and the state in which the facility is located, by July 1 of the following calendar year.

12. Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3 define "facility" to mean, in relevant part, all buildings, equipment, structures and other stationary items that are located on a single site that are owned or operated by the same person.
13. Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), defines "person" to include 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.
14. Respondent Rexnord Industries, LLC, is a Delaware limited liability company which does business in Virginia.
15. Respondent is, and was at all times relevant to this CA/FO, a "person" within the meaning of Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
16. At the time of the violations alleged herein, Respondent owned and operated a "facility" as defined by 40 C.F.R. § 372.3 (hereinafter referred to as the "Facility"). Respondent manufactured equipment used in the processing of steel at the Facility. The Facility was located at 150 Johnson Drive in Stuarts Draft, Virginia.
17. Respondent had 10 or more full-time employees at the Facility during the period of violations alleged herein.
18. At the time of the violations alleged herein, Respondent's Facility had a primary SIC Code of 35 (356601).
19. Pursuant to Section 313 of EPCRA, 42 U.S.C. § 11023, Respondent was required to complete and submit a Form R or Form A for each toxic chemical listed in 40 C.F.R. § 372.65 which was manufactured, processed or otherwise used at the Facility in excess of the threshold quantity established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during the calendar year for which the form was required, to EPA and the Commonwealth of Virginia by July 1 of the following calendar year.
20. The chemical substance ammonia is a "toxic chemical" as defined by 40 C.F.R. § 372.3 and is listed in 40 C.F.R. § 372.65. The threshold quantity for a toxic

chemical which is used at a facility is 10,000 pounds for the calendar years at issue in this CA/FO, as set forth in Section 313(f)(1)(A) of EPCRA, 42 U.S.C. § 11023(f)(1)(A).

21. Respondent used more than 10,000 pounds of ammonia at the Facility during the 2007 calendar year.
22. Respondent submitted the required Form R for ammonia for the 2007 calendar year to the Administrator of EPA and to the Commonwealth of Virginia on October 28, 2009.
23. Respondent did not submit the required Form R for ammonia for the 2007 calendar year to the Administrator of EPA and to the Commonwealth of Virginia by July 1, 2008.
24. Respondent used more than 10,000 pounds of ammonia at the Facility during the 2008 calendar year.
25. Respondent submitted the required Form R for ammonia for the 2008 calendar year to the Administrator of EPA and to the Commonwealth of Virginia on October 28, 2009.
26. Respondent did not submit the required Form R for ammonia for the 2008 calendar year to the Administrator of EPA and to the Commonwealth of Virginia by July 1, 2009.
27. Respondent's late submittal of the required Form Rs for ammonia for the calendar years 2007 and 2008 to the Administrator of EPA and the Commonwealth of Virginia as set forth above constitutes two (2) separate violations of Section 313 of EPCRA, 42 U.S.C. § 11023.
28. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), provides that any person who violates Section 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.
29. Pursuant to the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, violations occurring on or after January 30, 1997 and on or before March 15, 2004 are subject to an increased statutory maximum penalty of \$27,500 per violation. Violations occurring on or after March 16, 2004 and on or before January 12, 2009 are subject to an increased statutory maximum penalty of \$32,500 per violation. Violations occurring after January 12, 2009 are subject to an increased statutory maximum penalty of \$37,500 per violation.

Civil Penalty

30. Respondent agrees to pay a civil penalty of Twenty Five Thousand Dollars in full satisfaction of all claims for civil penalties for the violations alleged in this CA/FO. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of the CA/FO. 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 CA/FO is mailed or hand-delivered to Respondent.
31. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the applicable factors set forth in Section 325 of EPCRA 325, 42 U.S.C. § 11045, and the factors set forth in the EPA Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act ("ERP"), dated August 10, 1992.
32. Payment of the civil penalty amount described in Paragraph 30. above, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
- A. All payments by Respondent shall reference its name and address, and the Docket Number of this action, *i.e.*, **EPCRA-03-2011-0186**;
 - 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 and mailed to:

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

Contact: Eric Volck, 513-487-2105
 - D. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines and 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
U.S. 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 = 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: John Schmid 202-847-7026 or REX, 1-866-234-5681

H. On-Line Payment Option:

WWW.PAY.GOV

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 the Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO (EPCRA-03-2011-0186). A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Rodney Travis Carter
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC50)
1650 Arch Street
Philadelphia, PA 19103-2029, and

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

33. 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.
34. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this CA/FO is mailed or hand-delivered to Respondent Rexnord Industries, LLC. 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 on the portion of the civil penalty not paid within THIRTY (30) CALENDAR DAYS 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).
35. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the 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.

36. A late payment penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which 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).
39. Nothing in this CA/FO shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any other provision of law.

Reservation of Rights

40. This CA/FO resolves only EPA's claims for civil penalties for the specific violations alleged in the CA/FO. 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 Section 22.18(c) of the Consolidated Rules of Practice. 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 CA/FO, following its filing with the Regional Hearing Clerk. Respondent reserves all available rights and defenses it may have to defend itself in any such action.

Full and Final Satisfaction

41. This CA/FO constitutes a full, complete and final settlement by EPA of all claims for civil penalties pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, for the specific violations alleged herein. Compliance with this CA/FO shall not be a defense to any action commenced at any time for any other violations of the federal laws and regulations administered by EPA.

Other Applicable Laws

42. Nothing in this CA/FO shall relieve Respondent of any duties otherwise imposed

on it by applicable federal, state or local law and/or regulations.

Authority to Bind the Parties

43. The undersigned certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to legally bind Respondent hereto.

Effective Date

44. This CA/FO shall become effective upon filing with the Regional Hearing Clerk.

For Respondent

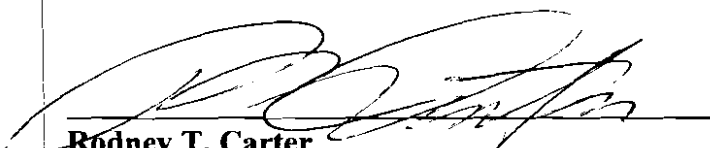
8/2/2011
Date



Peter Roder, Manager
Stuarts Draft Facility
REXNORD INDUSTRIES, LLC

For Complainant

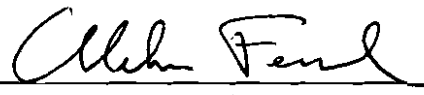
8/17/2011
Date



Rodney T. Carter
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III

After reviewing the Findings of Fact and Conclusions of Law and other pertinent matters, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, hereby recommends that the Regional Administrator or his designee, the Regional Judicial Officer, issue the attached Final Order.

8/26/11
Date



Abraham Ferdas, Director
Land and Chemicals Division (3LC00)
U.S. Environmental Protection Agency, Region III

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Philadelphia, PA 19103-2029

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TELEPHONE HEARING ROOM
 EPA REGION III PHILA. PA

IN THE MATTER OF:

REXNORD INDUSTRIES, LLC
 4701 W. Greenfield Avenue
 Milwaukee, WI 53214-5310

Respondent

150 Johnson Drive
 Stuarts Draft
 Virginia 24477-3100

Facility

:
 : **Docket No. EPCRA-03-2011-0186**
 :
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 :
 : **FINAL ORDER**
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 : Proceeding under
 : EPCRA §§ 313 and
 : 325, 42 U.S.C. §§ 11023
 : and 11045

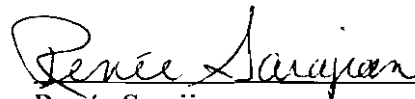
FINAL ORDER

The Director of the Land and Chemicals Division, U.S. Environmental Protection Agency- Region III (“Complainant”), and Rexnord Industries LLC (“Respondent”), 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. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW, THEREFORE, PURSUANT TO the Consolidated Rules of Practice, and having determined, based on the representations in the Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section 325 of EPCRA 325, 42 U.S.C. § 11045, IT IS HEREBY ORDERED that Respondent pay a civil penalty amount of Twenty Five Thousand Dollars (\$25,000.00) and comply with the terms and conditions of the Consent Agreement.

This **FINAL ORDER** and the accompanying **CONSENT AGREEMENT** shall become effective upon filing with the Regional Hearing Clerk.

Date: 8/31/11


 Renée Sarajian
 Regional Judicial Officer
 U.S. EPA - Region III

CERTIFICATE OF SERVICE

RECEIVED

Docket Number Docket No. EPCRA-03-2011-0186

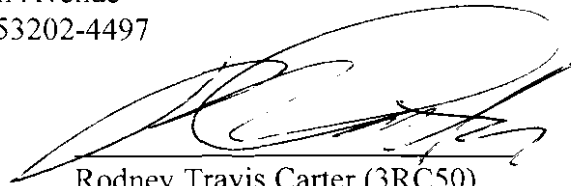
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I certify that on the date noted below, the original Consent Agreement and Final Order for this matter was hand-delivered to the Regional Hearing Clerk, EPA Region III, and that I caused true and correct copies of the Consent Agreement and Final Order to be transmitted by electronic facsimile and/or express or 1st class mail to the person(s) listed below:

Raphael F. Ramos Esq.
Quarles and Brady LLP
411 E. Wisconsin Avenue
Milwaukee, WI, 53202-4497

Date: September 1, 2011



Rodney Travis Carter (3RC50)
Senior Assistant Regional Counsel
U.S. EPA-Region III
1605 Arch Street
Philadelphia, PA 19103