

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, PA 19103

In the Matter of: :
: :
Rockland Industries, Inc. : Docket No. EPCRA-03-2010-0301
1601 Edison Highway : :
Baltimore, MD 21213 : :
: CONSENT AGREEMENT
Respondent : :
: :
Rockland Industries, Inc. : :
Rockland Bleach and Dye Works : :
1601 Edison Highway : :
Baltimore, MD 21213 : Proceeding under EPCRA § 325(c),
: 42 U.S.C. § 11045(c)
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 ("EPA" or "Complainant") and Rockland Industries, Inc. ("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) and 22.18(b)(2) and (3), this Consent Agreement and the accompanying Final Order (collectively referred to as the "CAFO") simultaneously commence and conclude this proceeding to resolve a violation of EPCRA § 313, as alleged herein, by Respondent at its facility located at 1601 Edison Highway in Baltimore, Maryland.

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, 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. Respondent shall bear its own costs and attorney's fees.

Findings of Fact and Conclusions of Law

7. Complainant has determined that Respondent has violated EPCRA Section 313 and adopts the following findings of fact and conclusions of law in accordance with Sections 22.18(b)(2) and .14(a)(2) and (3) of the Consolidated Rules of Practice.
8. Respondent is a corporation incorporated under the laws of the State of Maryland.
9. As a Maryland corporation, Respondent is a "person" as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
10. 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 and that are owned or operated by the same person.
11. Respondent owns and operates, and at the time of the violations alleged herein, owned and operated a textile manufacturing plant located at 1601 Edison Highway in Baltimore, Maryland (the "Facility").
12. Respondent's Facility is a "facility" as defined in Section 329(4) of EPCRA and 40 C.F.R. § 372.3.
13. Section 313 of EPCRA and 40 C.F.R. Part 372 require, *inter alia*, that the owner or operator of a facility that:
 - 1) has 10 or more employees;
 - 2) has a primary Standard Industrial Classification ("SIC") Code of 20 [2000] through 39 [3900] (as in effect on July 1, 1985), or, starting January 1, 1998, has an SIC code in one or more of the following categories:

- i. between 1000 and 1099, except 1011, 1081, and 1094;
- ii. between 1200 and 1299, except 1241;
- iii. 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce);
- iv. 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. §§ 6921-6939e);
- v. 5169 or 5171;
- vi. 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); and

- 3) manufactured, processed or otherwise used a toxic chemical listed in 40 C.F.R. § 372.65, in excess of the threshold quantities established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during the calendar year for which the form is required,

submit a completed toxic chemical release reporting form ("Form R") or appropriate alternative threshold report ("Form A") for each such toxic chemical to EPA and the state in which the facility is located, by July 1 of the following calendar year.

14. At the time of the violations alleged herein, Respondent employed 10 or more full-time employees at the Facility.
15. At the time of the violations alleged herein, the Facility had a primary SIC code of 2261. This SIC code falls between the primary SIC codes of 20 [2000] and 39 [3900] (as in effect on July 1, 1985).
16. For each toxic chemical listed in 40 C.F.R. § 372.65 manufactured, processed, or otherwise used by Respondent at the Facility in excess of the threshold quantity set forth in Section 313(f) of EPCRA during any calendar year, Respondent has been required by EPCRA § 313 to complete and submit to EPA and the State of Maryland by July 1 of the following calendar year either a Form R or Form A.
17. As set forth in Section 313(f)(1)(B)(iii) of EPCRA, 42 U.S.C. § 11023(f)(1)(B)(iii), and 40 C.F.R. § 372.25, the reporting threshold amount for a toxic chemical which is processed or manufactured at a facility is 25,000 pounds, except as provided in 40 C.F.R. §§ 372.27 and .28, which are inapplicable to this matter.
18. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), provides that any person who violates EPCRA § 313 shall be liable to the United States for a civil penalty.

COUNT I

19. The chemical substance ammonia is a "toxic chemical" as defined in EPCRA Section 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.

20. During 2007, the amount of ammonia “processed” by Respondent exceeded the 25,000-pound threshold quantity for reporting set forth in Section 313(f) of EPCRA and 40 C.F.R. § 372.25, as that term is defined in EPCRA § 313(b)(1)(C)(ii), 42 U.S.C. § 11023(b)(1)(C)(ii), and 40 C.F.R. § 372.3.
21. Section 313(g)(2) of EPCRA, 42 U.S.C. § 11023(g)(2), and 40 C.F.R. § 372.85(a) require the owner or operator of the facility to use readily available data or reasonable estimates of toxic chemical releases as the basis of the information reported on Form R and Form A.
22. Pursuant to EPCRA § 313(g)(2) and 40 C.F.R. § 372.85(a), Respondent was required to submit to EPA and the State of Maryland, by July 1, 2008, a completed Form R or Form A to report its releases of ammonia during calendar year 2007.
23. Respondent represents that in good faith: that it attempted to submit electronically to EPA a complete Form R to report its releases of ammonia at the Facility during 2007 on July 1, 2008 using EPA's TRI-ME Web reporting system, that it believed that it had successfully submitted the Form R at that time, and that it first learned on April 16, 2009 that its submission had failed in that the Form R for ammonia had not been received by EPA. Respondent believes that the circumstances show that its submission failed for unknown technical reasons.
24. On or about May 25, 2009, Respondent submitted to EPA a completed Form R to report its releases of ammonia at the Facility during 2007.
25. Respondent's failure to submit to EPA, by July 1, 2008, a completed Form R or Form A to report its releases of ammonia at the Facility during 2007 constitutes a violation of Section 313 of EPCRA, for which Respondent is liable for civil penalties pursuant to EPCRA Section 325(c).

COUNT II

26. The chemical substances antimony compounds are “toxic chemicals” as defined in EPCRA Section 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), and 40 C.F.R. § 372.3, and are listed in 40 C.F.R. § 372.65.
27. During 2007, the amount of antimony compounds “processed” by Respondent exceeded the 25,000-pound threshold quantity for reporting set forth in Section 313(f) of EPCRA and 40 C.F.R. § 372.25, as that term is defined in EPCRA § 313(b)(1)(C)(ii), 42 U.S.C. § 11023(b)(1)(C)(ii), and 40 C.F.R. § 372.3.
28. Section 313(g)(2) of EPCRA, 42 U.S.C. § 11023(g)(2), and 40 C.F.R. § 372.85(a) require the owner or operator of the facility to use readily available data or reasonable estimates of toxic chemical releases as the basis of the information reported on Form R and Form A.

29. Pursuant to EPCRA § 313(g)(2) and 40 C.F.R. § 372.85(a), Respondent was required to submit to EPA and the State of Maryland, by July 1, 2008, a completed Form R or Form A to report its releases of antimony compounds during calendar year 2007.
30. Respondent represents that in good faith: that it attempted to submit electronically to EPA a complete Form R to report its releases of antimony compounds at the Facility during 2007 on July 1, 2008 using EPA's TRI-ME Web reporting system, that it believed that it had successfully submitted the Form R at that time, and that it first learned on April 16, 2009 that its submission had failed in that the Form R for antimony compounds had not been received by EPA. Respondent believes that the circumstances show that its submission failed for unknown technical reasons.
31. On or about May 25, 2009, Respondent submitted to EPA a completed Form R to report its releases of antimony compounds at the Facility during 2007.
32. Respondent's failure to submit to EPA, by July 1, 2008, a completed Form R or Form A to report its releases of antimony compounds at the Facility during 2007 constitutes a violation of Section 313 of EPCRA, for which Respondent is liable for civil penalties pursuant to EPCRA Section 325(c).

COUNT III

33. The chemical substance decabromodiphenyl oxide is a "toxic chemical" as defined in EPCRA Section 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.
34. During 2007, the amount of decabromodiphenyl oxide "processed" by Respondent exceeded the 25,000-pound threshold quantity for reporting set forth in Section 313(f) of EPCRA and 40 C.F.R. § 372.25, as that term is defined in EPCRA § 313(b)(1)(C)(ii), 42 U.S.C. § 11023(b)(1)(C)(ii), and 40 C.F.R. § 372.3.
35. Section 313(g)(2) of EPCRA, 42 U.S.C. § 11023(g)(2), and 40 C.F.R. § 372.85(a) require the owner or operator of the facility to use readily available data or reasonable estimates of toxic chemical releases as the basis of the information reported on Form R and Form A.
36. Pursuant to EPCRA § 313(g)(2) and 40 C.F.R. § 372.85(a), Respondent was required to submit to EPA and the State of Maryland, by July 1, 2008, a completed Form R or Form A to report its releases of decabromodiphenyl oxide during calendar year 2007.
37. Respondent represents that in good faith: that it attempted to submit electronically to EPA a complete Form R to report its releases of decabromodiphenyl oxide at the Facility during 2007 on July 1, 2008 using EPA's TRI-ME Web reporting system, that it believed that it had successfully submitted the Form R at that time, and that it first learned on April 16, 2009 that its submission had failed in that the Form R for decabromodiphenyl oxide had not been received by EPA. Respondent believes that the circumstances show that its submission failed

for unknown technical reasons.

38. On or about May 25, 2009, Respondent submitted to EPA a completed Form R to report its releases of decabromodiphenyl oxide at the Facility during 2007.
39. Respondent's failure to submit to EPA, by July 1, 2008, a completed Form R or Form A to report its releases of decabromodiphenyl oxide at the Facility during 2007 constitutes a violation of Section 313 of EPCRA, for which Respondent is liable for civil penalties pursuant to EPCRA Section 325(c).

Civil Penalty

40. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **THREE THOUSAND DOLLARS (\$3,000.00)**, 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 the parties, signed by the Regional Administrator or 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 as described in this CAFO, Respondent must pay such civil penalty no later than sixty (60) calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent.
41. The aforesaid settlement amount is based upon Complainant's consideration of the facts and circumstances of this case 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). Complainant has also considered the Adjustment of Civil Penalties for Inflation, 40 C.F.R. Part 19. The settlement in this proceeding is consistent with the provisions and objectives of EPCRA § 313 and 40 C.F.R. Part 372.
42. Payment of the civil penalty amount assessed in paragraph 40, 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 Respondent's name and address, and the Docket Number of this action, *i.e.*, EPCRA-03-2010-0301;
 - 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

Contact: Craig Steffen (513-487-2091) or Eric Volck (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: John Schmid (202-874-7026) or REX (1-866-234-5681)

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/payment_instructions.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:

Jessica O'Neill
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
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

43. 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 shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

44. 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 sixty (60) 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).
45. 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.
46. A late payment penalty of six percent (6%) 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). The late payment penalty on any portion of the civil penalty that remains delinquent for more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
47. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty assessed in this CAFO.

Certifications

48. 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.

Other Applicable Laws

49. 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

50. This Consent Agreement and the accompanying Final Order resolve only EPA's civil claims for the specific violations of EPCRA § 313 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 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 CAFO, following its filing with the Regional Hearing Clerk.

Scope of Settlement

51. 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

52. 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

53. 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

54. 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 violation alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

For Respondent:

Date: 6/24/10

By: Mark Berman
Mark Berman
Chairman and CEO
Rockland Industries, Inc.

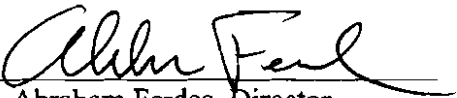
For Complainant:

Date: 6/29/10

By: Jessica O'Neill
Jessica O'Neill
Assistant Regional Counsel

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

Date: 6/30/10

By: 
Abraham Ferdas, Director
Land and Chemicals Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, PA 19103**

In the Matter of:	:	
	:	
Rockland Industries, Inc.	:	Docket No. EPCRA-03-2010-0301
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Baltimore, MD 21213	:	
	:	CONSENT AGREEMENT
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	:	
Rockland Industries, Inc.	:	
Rockland Bleach and Dye Works	:	
1601 Edison Highway	:	
Baltimore, MD 21213	:	Proceeding under EPCRA § 325(c),
	:	42 U.S.C. § 11045(c)
Facility	:	


FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Rockland Industries, Inc., 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.

Based on the representations of the parties in the attached Consent Agreement, the civil penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986)* (August 10, 1992) and the provisions and objectives of EPCRA. **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, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **Three Thousand Dollars (\$3,000.00)** and comply with the terms and conditions of the Consent Agreement.

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: 6/30/10


Renee Sarajian
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, PA 19103

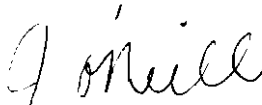
In the Matter of: :
: :
Rockland Industries, Inc. : Docket No. EPCRA-03-2010-0301
1601 Edison Highway :
Baltimore, MD 21213 :
: CERTIFICATE OF SERVICE
Respondent :
: :
Rockland Industries, Inc. :
Rockland Bleach and Dye Works :
1601 Edison Highway :
Baltimore, MD 21213 : Proceeding under EPCRA § 325(c),
: 42 U.S.C. § 11045(c)
Facility :

I certify that on the date noted below, I sent by Overnight Delivery Service, a copy of the Consent Agreement and Final Order, **In the Matter of: Rockland Industries, Inc., U.S. EPA Docket Number EPCRA-03-2010-0301**, to the persons and addresses listed below.

Mark Berman
President
Rockland Industries, Inc.
1601 Edison Highway
Baltimore, MD 21213

The original Consent Agreement and Final Order, plus one copy, were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III.

6/30/10
DATE



Jessica O'Neill
Assistant Regional Counsel
Office of Regional Counsel
EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029