

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 9  
BEFORE THE ADMINISTRATOR

FILED

2008 MAY 27 AM 8:44

U.S. EPA, REGION IX  
REGIONAL HEARING CLERK

1 \_\_\_\_\_ )  
2 **IN THE MATTER OF:** )

3 **Rockford Corporation** )

**DOCKET NO. EPCRA-09-2007-0029**

4 \_\_\_\_\_ )  
5 **RESPONDENT** )

**CONSENT AGREEMENT AND  
FINAL ORDER**

6 **CONSENT AGREEMENT**

7 WHEREAS, the Director of the Communities and Ecosystems  
8 Division, United States Environmental Protection Agency ("EPA"),  
9 Region 9 ("Complainant"), and the Rockford Corporation

10 ("Rockford" or "Respondent"), the Parties herein, seek to settle  
11 all issues pertaining to the above-referenced matter and consent  
12 to the entry of this Consent Agreement and Final Order ("CAFO");

13 NOW THEREFORE, without trial or other actual litigation of  
14 the issues or any adjudication of relevant facts and in order to  
15 avoid disruption of orderly business activity and the expense of  
16 protracted and costly litigation, the Parties consent to the  
17 entry of, and agree to comply with the terms of, this CAFO.

- 18 1. Complainant has been duly delegated to sign this consent  
19 agreement memorializing this settlement.
- 20 2. On September 28, 2007, Complainant filed a Complaint and  
21 Notice of Opportunity for Hearing, and contemporaneously  
22 with this CAFO, Complainant filed a First Amended Complaint  
23 and Notice of Opportunity for Hearing ("Amended Complaint"),  
24 against Rockford for the assessment of administrative civil  
25 penalties pursuant to Section 325(c) of the Emergency  
26 Planning and Community Right-to-Know Act of 1986 ("EPCRA"),  
27 42 U.S.C. § 11045(c), and the Consolidated Rules of Practice  
28 Governing the Administrative Assessment of Civil Penalties,  
40 C.F.R. Part 22.

3. In the Amended Complaint, Complainant alleges that Rockford violated Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated thereunder, by failing to file timely Toxic Chemical Release Inventory Forms with respect to lead processed by a facility owned and operated by Rockford.

**I. RESPONDENT'S ADMISSIONS**

4. Without trial or litigation of the issues or any adjudication of the facts set forth in this CAFO, Respondent (i) admits that Complainant has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in the Amended Complaint; (iii) waives any right to contest the allegations in the Amended Complaint; and (iv) waives the right to appeal the proposed Final Order contained in this CAFO.

**II. PENALTY ASSESSMENT**

5. In settlement of the violations and facts specifically alleged in the Amended Complaint, and in consideration of the statutory penalty factors set forth in Section 325 of EPCRA and in EPA's EPCRA Section 313 Enforcement Response Policy, dated August 10, 1992 ("EPCRA ERP"), Respondent shall pay a civil administrative penalty of **FORTY-SIX THOUSAND THREE HUNDRED DOLLARS (\$46,300)** within (30) calendar days after the effective date of this CAFO. Payment shall be made by electronic fund transfer ("EFT") or cashier's or certified check payable to the "Treasury, United States of America." Payment by EFT Respondent shall

be transferred to the following address:

1 Federal Reserve Bank of New York  
2 ABA = 021030004  
3 Account = 68010727  
4 SWIFT address = FRNYUS33  
5 33 Liberty Street  
6 New York NY 10045  
7 Field Tag 4200 of the Fedwire message should read,  
8 "D 68010727 Environmental Protection Agency"

9 Payment by cashier's or certified check shall be sent by  
10 certified mail, return receipt requested, to the following  
11 address:  
12

13 US Environmental Protection Agency  
14 Fines and Penalties  
15 Cincinnati Finance Center  
16 PO Box 979077  
17 St. Louis, MO 63197-9000

18 6. The check shall note the case title and docket number.

19 Concurrent with the delivery of payment, Respondent shall  
20 send a copy of the transfer or check to the following  
21 addresses:  
22

23 Russell Frazer  
24 Enforcement Officer  
25 Communities and Ecosystems Division (CED-4)  
26 U.S. Environmental Protection Agency  
27 Region 9  
28 75 Hawthorne Street  
San Francisco, CA 94105

Brian P. Riedel  
Assistant Regional Counsel (ORC-2)  
U.S. Environmental Protection Agency  
Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Regional Hearing Clerk (ORC-1)  
U.S. Environmental Protection Agency  
Region 9

75 Hawthorne Street  
San Francisco, CA 94105

- 1  
2  
3  
4  
5  
6  
7  
8  
9  
10
7. Payment of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent's federal, state, or local taxes.
8. In the event that the full assessed penalty in this case is not postmarked on or before its due date, Respondent shall immediately pay the full assessed penalty, along with stipulated penalties in the amount of fifty thousand dollars (\$50,000), plus interest and costs as allowed by law.

11 **III. PAYMENT PROVISIONS**

- 12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28
9. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if it is not paid by the last date required. 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)(1). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys fees. In addition, a non-payment penalty charge of 6 percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge

on the debt will accrue from the date the penalty payment becomes due and is not paid. 40 C.F.R. § 13.11(b) and (c).

**IV. RESERVATION OF RIGHTS**

10. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts specifically alleged in the Amended Complaint. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in the Amended Complaint; or (ii) any criminal liability. In addition to any other authority, right, or remedy available to EPA, EPA specifically reserves any and all authorities, rights, and remedies available to it to address any violation of this CAFO or any violation not specifically alleged in the Amended Complaint.
11. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinance, and permits.

**V. COMPLIANCE CERTIFICATION**

12. By executing this Consent Agreement, Respondent certifies that the Facility, referenced in the Amended Complaint, is in full compliance with the requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, and is in compliance with all

1 other EPCRA requirements at all facilities within  
2 Respondent's control.

3 **VI. ATTORNEYS FEES AND COSTS**

4 13. Each party shall bear its own attorneys fees, costs, and  
5 disbursements incurred in this proceeding, except as  
6 provided for elsewhere in this Consent Agreement.

7 **VII. EFFECTIVE DATE**

8 14. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b),  
9 this CAFO shall be effective on the date that the Final  
10 Order contained in this CAFO, having been approved and  
11 issued by either the Regional Judicial Officer or Regional  
12 Administrator, is filed.

13 **VIII. BINDING EFFECT**

14 15. The undersigned representative of Complainant and the  
15 undersigned representative of Respondent each certifies that  
16 he or she is fully authorized to enter into the terms and  
17 conditions of this CAFO and to bind the party he or she  
18 represents to this CAFO.

19 16. The provisions of this CAFO shall apply to and be binding  
20 upon Respondent and its officers, directors, employees,  
21 agents, trustees, servants, authorized representatives,  
22 successors, and assigns.

23 **IX. MISCELLANEOUS**

24 17. This document constitutes the result of a "prior violation"  
25 as that term is used in EPA's EPCRA ERP.  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

FOR THE UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 9:



Date: 16 MAY 08

~~JEFF SCOTT~~ Acting Director  
~~ENRIQUE MANZANILLA~~  
Communities and Ecosystems Division  
U.S. Environmental Protection Agency  
Region 9  
75 Hawthorne Street  
San Francisco, California 94105

FOR ROCKFORD CORPORATION:



Date: 2/5/08

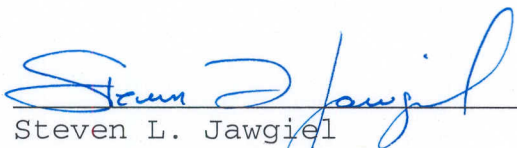
Name Mark Matson  
Title Vice President of Global Operations

FINAL ORDER

1  
2 EPA Region 9 and Rockford Corporation, having entered into  
3 the foregoing Consent Agreement,

4 IT IS HEREBY ORDERED that this Consent Agreement and Final  
5 Order (Docket No. EPCRA-09-2007-0029) be entered, and Respondent  
6 shall comply with the terms of the foregoing Compliance  
7 Agreement.

8  
9  
10 Date: 05/26/08

  
11 Steven L. Jawgiel  
12 Regional Judicial Officer  
13 United States Environmental  
14 Protection Agency, Region 9  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



CERTIFICATE OF SERVICE

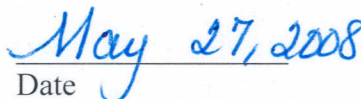
I certify that the original fully executed Consent Agreement and Final Order ("CAFO"), Docket Number EPCRA-09-2007-0029, was filed this day with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, California, 94105, and that a true and correct copy of the CAFO was sent to Respondent at the following address:

Mr. Mark Matson  
Vice President of Operations  
Rockford Corporation  
600 South Rockford Drive  
P.O. Box 1860  
Tempe, AZ 85280-1860

Certified Mail No: 7003 3110 0006 1997 3705



Danielle Carr  
Regional Hearing Clerk  
Region IX, EPA  
Office of Regional Counsel



Date