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U.S. EPA, REGION IX  
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7 UNITED STATES  
8 ENVIRONMENTAL PROTECTION AGENCY  
9 REGION IX

10 In the matter of: ) Docket No. EPCRA-09-2011-~~0047~~  
11 )  
12 Rogers Corporation, ) CONSENT AGREEMENT  
AND FINAL ORDER  
13 Respondent. ) pursuant to 40 C.F.R. §§ 22.13(b),  
22.18(b)(2), and 22.18(b)(3)  
14 )

15 I. CONSENT AGREEMENT

16 The United States Environmental Protection Agency, Region IX ("EPA"), and Rogers  
17 Corporation (the "Respondent") agree to settle this matter and consent to the entry of this  
18 Consent Agreement and Final Order ("CAFO").

19 A. AUTHORITY AND PARTIES

20 1. This is a civil administrative action brought under Section 325(c) of the Emergency  
21 Planning and Community Right-To-Know Act ("EPCRA"), 42 U.S.C. § 11045(c), for  
22 assessment of a civil administrative penalty against Respondent for its failure to submit timely,  
23 complete and correct Toxic Chemical Release Inventory Forms for calendar years 2006, 2007,  
24 and 2008 in violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and the implementing  
25 regulations set forth at 40 C.F.R. Part 372.

26 2. Complainant is the Director of the Communities and Ecosystems Division in EPA,  
27 Region IX (the "Complainant"). Pursuant to EPA Delegation Order Number 22-3-A, dated May  
28 11, 1994, the Administrator of EPA has delegated the authority to file this action under EPCRA

1 to the Regional Administrator of EPA, Region IX, and pursuant to EPA Regional Order Number  
2 R1260.14B, dated May 19, 2005, the Regional Administrator re-delegated that authority to  
3 Complainant.

4 **B. STATUTORY AND REGULATORY BASIS**

5 3. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048, EPA  
6 promulgated regulations on February 16, 1988 (53 Fed. Reg. 4525), setting forth requirements for  
7 the submission of information relating to the release of toxic chemicals under EPCRA Section  
8 313. These regulations, as amended, are presently codified at 40 C.F.R. Part 372.

9 4. Sections 313(a) and (b) of EPCRA, 42 U.S.C. §§ 11023(a) and (b), and 40 C.F.R.  
10 §§ 372.22 and 372.30, provide that the owner or operator of a facility must submit to EPA and  
11 the State in which the facility is located a chemical release form published under Section 313(g)  
12 of EPCRA for each toxic chemical or toxic chemical category listed under Section 313(c) of  
13 EPCRA and 40 C.F.R. § 372.65 that it manufactured, processed or otherwise used if: (i) the  
14 facility has ten or more full-time employees; (ii) the facility is in North American Industry  
15 Classification System Code 334419 or 335122; and (iii) the facility manufactured, processed or  
16 otherwise used during the calendar year the listed toxic chemical or toxic chemical category in  
17 excess of the threshold quantity established under Section 313(f) of EPCRA and 40 C.F.R. §  
18 372.25.

19 5. Pursuant to Section 313(g) of EPCRA, 42 U.S.C. § 11023(g), EPA published a  
20 uniform Toxic Chemical Release Inventory Form (hereinafter referred to as a "Form R") for  
21 facilities that are subject to the reporting requirements of Section 313. Sections 313(a) and (b) of  
22 EPCRA, 42 U.S.C. §§ 11023(a) and (b), and 40 C.F.R. § 372.30(d), provide that each Form R for  
23 activities involving a toxic chemical or toxic chemical category that occurred during a calendar  
24 year must be submitted on or before July 1 of the next year.

25 **C. ALLEGED VIOLATIONS**

26 6. Respondent is a corporation and therefore fits within the definition of a "person," as  
27 provided in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).  
28

1           7. At all times relevant to this matter, Respondent owned and operated a facility (the  
2 “Roosevelt Facility”) in the business of manufacturing copper-clad laminate materials for the  
3 printed circuits industry, located at 100 S. Roosevelt Avenue in Chandler, Arizona, that fits  
4 within the definition of a “facility,” as provided in Section 329(4) of EPCRA, 42 U.S.C.  
5 § 11049(4).

6           8. At all times relevant to this matter, Respondent owned and operated a facility (the  
7 “Dobson Facility”) in the business of manufacturing specialty materials for the flexible circuits  
8 industry, located at 100 N. Dobson Road in Chandler, Arizona, that fits within the definition of a  
9 “facility,” as provided in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

10          9. At all times relevant to this matter, the Roosevelt and Dobson Facilities each had 10 or  
11 more “full-time employees,” as that term is defined at 40 C.F.R. § 372.3.

12          10. At all times relevant to this matter, the Roosevelt Facility was in North American  
13 Industry Classification System Code 334419, and the Dobson Facility was in North American  
14 Industry Classification System Code 335122.

15          11. During the calendar year 2006, Respondent “processed,” as that term is defined in 40  
16 C.F.R. § 372.3, approximately 82,500 pounds of barium compounds, a toxic chemical category  
17 listed under 40 C.F.R. § 372.65, at the Roosevelt Facility. This quantity exceeded the 25,000  
18 pound threshold for reporting “processing” of that toxic chemical category established under  
19 Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

20          12. During the calendar year 2007, Respondent “processed,” as that term is defined in 40  
21 C.F.R. § 372.3, approximately 43,000 pounds of barium compounds, a toxic chemical category  
22 listed under 40 C.F.R. § 372.65, at the Roosevelt Facility. This quantity exceeded the 25,000  
23 pound threshold for reporting “processing” of that toxic chemical category established under  
24 Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

25          13. During the calendar year 2008, Respondent “processed,” as that term is defined in 40  
26 C.F.R. § 372.3, approximately 62,600 pounds of barium compounds, a toxic chemical category  
27 listed under 40 C.F.R. § 372.65, at the Roosevelt Facility. This quantity exceeded the 25,000  
28 pound threshold for reporting “processing” of that toxic chemical category established under

1 Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

2 14. During the calendar year 2006, Respondent "otherwise used," as that term is defined  
3 in 40 C.F.R. § 372.3, approximately 11,162 pounds of methyl isobutyl ketone, a toxic chemical  
4 listed under 40 C.F.R. § 372.65, at the Dobson Facility. This quantity exceeded the 10,000  
5 pound threshold for reporting "otherwise use" of that toxic chemical established under Section  
6 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

7 15. Respondent was required to submit a Form R for barium compounds to EPA and the  
8 State of Arizona for calendar year 2006 for the Roosevelt Facility on or before July 1, 2007.

9 16. Respondent was required to submit a Form R for barium compounds to EPA and the  
10 State of Arizona for calendar year 2007 for the Roosevelt Facility on or before July 1, 2008.

11 17. Respondent was required to submit a Form R for barium compounds to EPA and the  
12 State of Arizona for calendar year 2008 for the Roosevelt Facility on or before July 1, 2009.

13 18. Respondent was required to submit a Form R for methyl isobutyl ketone to EPA and  
14 the State of Arizona for calendar year 2006 for the Dobson Facility on or before July 1, 2007.

15 19. Respondent failed to timely submit the Form Rs required of it to EPA and the State  
16 of Arizona for calendar years 2006, 2007, and 2008 for the Roosevelt and Dobson Facilities and  
17 thus violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

18 20. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and the Civil Monetary Penalty  
19 Inflation Adjustment Rule, 40 C.F.R. Part 19, provide that any person who violates any  
20 requirement of Section 313 shall be liable to the United States for a civil penalty in an amount  
21 not to exceed (1) \$32,500 for each such violation that occurred after March 15, 2004 but on or  
22 before January 12, 2009, and (2) \$37,500 for each such violation that occurred on or after  
23 January 12, 2009. Under the Enforcement Response Policy for Section 313 of EPCRA, dated  
24 August 10, 1992, and the Civil Monetary Penalty Inflation Adjustment Rule, the four violations  
25 cited above would merit an unadjusted, gravity-based civil penalty of EIGHTY-NINE  
26 THOUSAND, EIGHT HUNDRED DOLLARS (\$89,800) given the nature, circumstances, and  
27 extent of the violations alleged.

1 D. RESPONDENT'S ADMISSIONS

2 21. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding,  
3 Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over  
4 Respondent; (ii) admits the specific factual allegations contained in Section I.C of this CAFO;  
5 (iii) consents to any and all conditions specified in this CAFO and to the assessment of the civil  
6 administrative penalty under Section I.E of this CAFO; (iv) waives any right to contest the  
7 allegations contained in this CAFO; and (v) waives the right to appeal the proposed Final Order  
8 contained in this CAFO.

9 E. AUDIT POLICY

10 22. EPA's final policy statement on *Incentives for Self-Policing: Discovery, Disclosure,*  
11 *Correction and Prevention of Violations*, 65 Federal Register 19618 (April 11, 2000) (the "Audit  
12 Policy") has several important goals, including encouraging greater compliance with the laws and  
13 regulations which protect human health and the environment and reducing transaction costs  
14 associated with violations of the laws EPA is charged with administering. If certain specified  
15 criteria are met, reductions in gravity-based penalties of up to 100% are available under the Audit  
16 Policy. These criteria are: (1) systematic discovery of the violation(s) through an environmental  
17 audit or compliance management system; (2) voluntary disclosure; (3) prompt disclosure; (4)  
18 discovery and disclosure independent of government or third party plaintiff; (5) correction and  
19 remediation; (6) prevent recurrence; (7) no repeat violations; (8) other violations excluded; and  
20 (9) cooperation.

21 23. Complainant has determined that Respondent has satisfied all of the criteria under the  
22 Audit Policy and thus qualifies for the elimination of civil penalties in this matter. Accordingly,  
23 the civil penalty assessed in this matter is ZERO DOLLARS (\$0).

24 24. Complainant's finding that Respondent has satisfied the criteria of the Audit Policy is  
25 based upon documentation that Respondent has provided to establish that it satisfies these  
26 criteria. Complainant and Respondent agree that, should any material fact upon which  
27 Complainant relied in making its finding subsequently prove to be other than as represented by  
28 Respondent, this CAFO may be voided in whole or in part.

1 F. CERTIFICATION OF COMPLIANCE

2 25. In executing this CAFO, Respondent certifies that (1) it has now fully completed and  
3 submitted to EPA all of the required Toxic Chemical Release Inventory Forms in compliance  
4 with Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated thereunder;  
5 and (2) it has complied with all other EPCRA requirements at all facilities under its control.

6 G. RETENTION OF RIGHTS

7 26. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's  
8 liabilities for federal civil penalties for the violations and facts specifically alleged in Section I.C  
9 of this CAFO. Nothing in this CAFO is intended to or shall be construed to resolve: (i) any civil  
10 liability for violations of any provision of any federal, state, or local law, statute, regulation, rule,  
11 ordinance, or permit not specifically alleged in Section I.C of this CAFO; or (ii) any criminal  
12 liability. EPA specifically reserves any and all authorities, rights, and remedies available to it  
13 (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address  
14 any violation of this CAFO or any violation not specifically alleged in Section I.C of this CAFO.

15 27. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's  
16 duties to comply with all applicable federal, state, and local laws, regulations, rules, ordinances,  
17 and permits.

18 H. ATTORNEYS' FEES AND COSTS

19 28. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in  
20 this proceeding.

21 I. EFFECTIVE DATE

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

25 J. BINDING EFFECT

26 30. The undersigned representative of Complainant and the undersigned representative of  
27 Respondent each certifies that he or she is fully authorized to enter into the terms and conditions  
28 of this CAFO and to bind the party he or she represents to this CAFO.

1 31. The provisions of this CAFO shall apply to and be binding upon Respondent and its  
2 officers, directors, employees, agents, trustees, servants, authorized representatives, successors,  
3 and assigns.

4  
5 FOR RESPONDENT ROGERS CORPORATION:

6  
7 8/15/11  
8 DATE



MICHAEL D. BESSETTE  
Vice President  
Rogers Corporation  
100 South Roosevelt Avenue  
Chandler, AZ 85226-3415

9  
10  
11 FOR COMPLAINANT EPA:

12  
13 9/02/11  
14 DATE



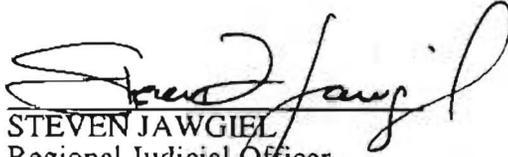
ENRIQUE MANZANILLA  
Director, Communities and Ecosystems Division  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, California 94105

1 II. FINAL ORDER

2 EPA and Rogers Corporation having entered into the foregoing Consent Agreement,

3 IT IS HEREBY ORDERED that this CAFO (Docket No. EPCRA-09-2011-20 1) be  
4 entered, and Respondent shall comply with the terms and conditions set forth in the Consent  
5 Agreement.

6  
7  
8 09/11/11  
9 DATE

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STEVEN JAWGIEL  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region IX

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Expedited Settlement Agreement against **Rogers Corporation (Docket #: EPCRA-09-2011- 201 )** was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

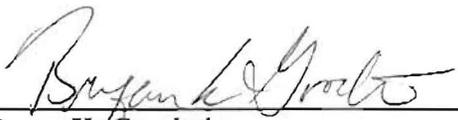
A copy was mailed via CERTIFIED MAIL to:

Michael D. Bessette  
Vice President  
Rogers Corporation  
100 South Roosevelt Avenue  
Chandler, AZ 85226-3415

**CERTIFIED MAIL NUMBER:** 7007-3020-0000-9807-0746

An additional copy was hand-delivered to the following U.S. EPA case attorney:

Edgar Coral, Esq.  
Office of Regional Counsel  
U.S. EPA, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

  
\_\_\_\_\_  
Bryan K. Goodwin  
Regional Hearing Clerk  
U.S. EPA, Region IX

\_\_\_\_\_  
Date 9/12/11



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105-3901

Certified Mail No. 7007 3020 0000 9807 0746  
Return Receipt Requested

Re: EPCRA-09-2011-0011

Date SEP 12 2011

Michael D. Bessette  
Vice President  
Rogers Corporation  
100 South Roosevelt Avenue  
Chandler, AZ 85226-3415

Dear Mr. Bessette:

Enclosed please find your copy of the fully executed Consent Agreement and Final Order Pursuant to 40 C.F.R. Sections 22.13 and 22.18 which contains the terms of the settlement reached as a result of your voluntary disclosure under EPA's *Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations* (EPA Audit Policy). Your completion of all actions enumerated in the Consent Agreement and Final Order will close this case. If you have any questions, please contact Patricia Maravilla at (415) 947-4177.

Sincerely,

A handwritten signature in black ink, appearing to read "Enrique Manzanilla".

Enrique Manzanilla, Director  
Communities and Ecosystems Division

Enclosure