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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

IN THE MATTER OF:	**Docket No.** EPCRA-9-2007- 0007
Rogers Corporation 2225 West Chandler Boulevard Chandler, AZ Respondent.	**CONSENT AGREEMENT AND FINAL ORDER PURSUANT TO 40 C.F.R. SECTIONS 22.13 and 22.18**

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action initiated 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. Complainant is the United States Environmental Protection Agency, Region IX. Respondent is Rogers Corporation, a corporation organized under the laws of the state of Massachusetts.

2. This CA/FO, pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b), simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent violated Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021 and 11022, and their implementing regulations.

B. STATUTORY AND REGULATORY FRAMEWORK

3. Section 311 of EPCRA, 42 U.S.C. § 11021(a), and 40 C.F.R. 370.21, provide that the owner or operator of a facility is required to submit a Material Safety Data Sheet ("MSDS"), or an alternative MSDS reporting list, to the Local Emergency Planning Committee ("LEPC"), the State Emergency Response Commission ("SERC"), and the fire department with jurisdiction over the facility for each hazardous chemical present at the facility according to the minimum threshold schedule provided in paragraph (b) of 40 C.F.R. § 370.20.

4. Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. § 370.25, require the owner or operator of a facility that is required to prepare or have available an MSDS for a hazardous chemical under Occupational Safety and Health Act of 1970 ("OSHA"), 29 U.S.C. § 651 *et seq.*, to submit an annual emergency and hazardous chemical inventory form ("Inventory Form") if hazardous chemicals are present at the facility during the preceding calendar year in quantities above the threshold levels established in 40 C.F.R. § 370.20(b). The Inventory Form must be submitted by March 1 of each year to the SERC, the LEPC, and the fire department having jurisdiction over the facility.

C. GENERAL ALLEGATIONS

5. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), authorizes EPA to assess civil penalties for any violation of Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021 and 11022.

6. The Administrator of EPA has delegated enforcement authority under EPCRA to the Regional Administrators by EPA delegation 22-3-A, dated May 11, 1994. The Regional Administrator, EPA Region IX, in turn, has delegated the authority to enforce EPCRA §§ 302, 303, 304, 311, 312, 322, and 323 to the Director of the Superfund Division with delegation R9 1290.18.

7. Respondent manufactures and markets specialty polymer and electronic materials for targeted applications, focused on communication and computer markets, at 2225 West Chandler Boulevard, in Maricopa County, Chandler, AZ (the "Facility").

8. On or before December 31, 2005, Respondent produced, used, or distributed Barium Titanate, Chemical Abstract Service Registry ("CAS") Number 12047-27-7, at the Facility.

9. In 2005 a daily average of 26,310 pounds (lbs.) of Barium Titanate was present at the Facility.

10. In a letter dated August 14, 2006, Respondent voluntarily disclosed to EPA that it had not submitted an MSDS for Barium Titanate, or an Inventory Form including Barium Titanate for the calendar year 2005, as required by Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021 and 11022.

11. The Arizona SERC is comprised of members from state agencies with roles in hazardous material emergency management, Arizona's 15 LEPCs, as well as representatives from local government and industry.

12. The Maricopa County LEPC is the LEPC with jurisdiction over the Facility.

13. The City of Chandler Fire Department is the fire department having jurisdiction over the Facility.

14. On August 11, 2006, Respondent submitted an alternative MSDS reporting list, and an Inventory Form containing information on Barium Titanate used at the Facility during calendar year 2005 to the Arizona SERC, the Maricopa County LEPC, and the City of Chandler Fire Department.

D. ALLEGED VIOLATIONS

COUNT I

(Failure to Timely Submit MSDS)

15. Paragraphs 1 through 14 above are incorporated herein by this reference as if they were set forth here in their entirety.

16. The Facility is a "facility" as defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

17. At all times relevant to this CA/FO, Respondent has been the owner or operator of the Facility.

18. At all times relevant to this CA/FO, Respondent has been a "person" as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

19. Respondent is required to prepare or have available an MSDS under 29 C.F.R. § 1910.1200(g) because it is engaged in a business where chemicals are either used or distributed, or are produced for use or distribution.

20. As of December 2005, Respondent used Barium Titanate, at the Facility in quantities above the applicable thresholds established in 40 C.F.R. § 370.20(b).

21. Respondent's failure to submit MSDS information for Barium Titanate present at the facility to the SERC, the LEPC, and the fire department within three months after receipt of the Barium Titanate at the facility in an amount exceeding the threshold established at 40 C.F.R. § 370.20(b), is a violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

COUNT II

(Failure to Timely Submit Annual Chemical Inventory Forms)

22. Paragraphs 1 through 21 above are incorporated herein by this reference as if they were set forth here in their entirety.

23. Barium Titanate is a "hazardous chemical" as defined in Section 312(c) of EPCRA, 42 U.S.C. § 11022(c).

24. Respondent's failure to include Barium Titanate on the Inventory Form containing information on hazardous chemicals present at the Facility during calendar year 2005 to the SERC, the LEPC, and the appropriate fire department on or before March 1 of 2006 is a violation of Section 312 of EPCRA, 42 U.S.C. § 11022.

E. CIVIL PENALTY

25. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), as adjusted by the Debt Collection Improvement Act of 1996, *see* 40 C.F.R. Part 19, authorizes a civil penalty of up to $27,500 per day for each day a violation of EPCRA occurs after January 30, 1997.

For violations that occur on or after March 15, 2004, a civil administrative penalty of $32,500 per day is authorized.

26. Under EPA's Final Policy Statement on *Incentives for Self-Policing: Discovery, Disclosures, Correction and Prevention of Violations*, 65 Fed Reg 19618, ("Audit Policy"), effective May 11, 2000, EPA has the discretion to eliminate or substantially reduce the gravity component of a penalty if it determines that a respondent has satisfied the nine conditions set forth in the Audit Policy.

27. The nine conditions a respondent must satisfy under the Audit Policy are: (1) systematic discovery of the violation through an environmental audit or a compliance management system; (2) voluntary discovery; (3) prompt disclosure; (4) discovery and disclosure independent of government or third party plaintiff; (5) correction and remediation; (6) prevention of recurrence; (7) no repeat violations; (8) other violations excluded; and (9) cooperation.

28. Regulated entities deemed by EPA to have satisfied the nine conditions in the Audit Policy may not face any gravity-based civil penalties. If the regulated entity meets all but the first condition (Systematic Discovery), EPA may reduce the gravity-based penalties by 75%. EPA reserves the right to collect any economic benefit realized as a result of the violation disclosed.

29. EPA has concluded that Respondent has, as described herein, satisfied the nine conditions outlined in the audit policy and therefore will not face gravity-based civil penalties.

30. Systematic Discovery of the Violation Through an Environmental Audit or a Compliance Management System. Respondent discovered the violations as the result of a routine, regularly scheduled environmental audit conducted at Rogers Corporation, on July 27,

2006. The audit was done pursuant to Rogers Corporation's environmental health and safety self-audit program, to determine compliance with applicable environmental laws and regulations.

31. Voluntary Discovery. Respondent's discovery of the violations was voluntary and did not result from any legally mandated monitoring or sampling requirement prescribed by statute, regulation, permit, judicial or administrative order, or consent agreement.

32. Prompt Disclosure. Respondent fully disclosed the violations to EPA within 21 days after it discovered the violations had, or may have, occurred. The violations were discovered on July 27, 2006, and were reported to EPA in a letter dated August 14, 2006.

33. Discovery and Disclosure Independent of Government or Third Party Plaintiff. Respondent discovered and disclosed the violations to EPA prior to any federal, state, or local agency inspection or investigation, notice of citizen suit, the filing of a third-party complaint, the reporting of the violations by a "whistle-blower," or imminent discovery by a regulatory agency.

34. Correction and Remediation. Respondent submitted the MSDS, and the revised Inventory Form for calendar year 2005, to the Arizona SERC, the Maricopa County LEPC, and the City of Chandler Fire Department, on August 14, 2006. The disclosed violations did not cause any environmental or human harm.

35. Prevent Recurrence. Respondent has told EPA that it plans to take the following steps to prevent a recurrence of any violation of Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021 and 11022: Respondent will refine its chemical inventory system and retrain staff responsible for purchasing chemicals to ensure entry of all chemicals into its chemical inventory system.

36. No Repeat Violations. Respondent has not had any other occurrence of these specific violations at the Facility within the past three years or at any other facility owned or operated by Respondent within the past five years.

37. Other Violations Excluded. The violations did not result in serious actual harm, present an imminent and substantial endangerment to public health or the environment, or violate the specific terms of any judicial or administrative order or consent agreement.

38. Cooperation. Respondent has fully cooperated with EPA in determining the applicability of the Audit Policy.

39. In signing this CA/FO, Respondent certifies under penalty of law that the information submitted to EPA in the letter dated August 14, 2006, disclosing violations of EPCRA Sections 311 and 312, 42 U.S.C. §§ 11021 and 11022, and the information in paragraphs 30-38 of this CA/FO are based upon true, accurate, and complete information that the signatory can verify personally, or regarding which the signatory has inquired of the person or persons directly responsible for gathering the information.

40. EPA has determined that the violations resulted in an insignificant amount of economic benefit.

41. For the reasons set forth above, all penalties based on the gravity of the violations and the savings of economic costs related to the failure to timely submit MSDS and a revised Inventory Form are waived.

F. ADMISSIONS AND WAIVERS

42. For purposes of this proceeding, Respondent admits the jurisdictional allegations above, and agrees that the EPA Administrator and Region IX Administrator have jurisdiction

and authority over the subject matter of the action commenced in this CA/FO and over Respondent pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, and 40 C.F.R. §§ 22.4 and 22.34. Respondent consents to and agrees not to contest EPA's jurisdiction and authority to enter into and issue this CA/FO and to enforce its terms. Further, Respondent will not contest EPA's jurisdiction and authority to compel compliance with this CA/FO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CA/FO.

43. Respondent admits any allegations of fact or law set forth in Section C and D of this CA/FO. Respondent hereby waives any rights it may have to contest the allegations set forth in this CA/FO and waives any rights it may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in this CA/FO, including without limitation a hearing pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045. Respondent hereby consents to the issuance of this CA/FO without adjudication and waives any rights it may have to appeal the Final Order attached to this Consent Agreement and made part of this CA/FO.

G. PARTIES BOUND

44. This CA/FO shall apply to and be binding upon Respondent and its agents, successors, and assigns and upon all persons acting under or for Respondent. This CA/FO shall constitute full settlement of the violations alleged herein.

45. No change in ownership or corporate, partnership, or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.

46. The undersigned representative of Respondent hereby certifies that he or she is fully authorized by Respondent to enter into this CA/FO, to execute it, and to legally bind Respondent to it.

H. PAYMENT OF CIVIL PENALTY

47. Because EPA has concluded that Respondent has, as described herein, satisfied all nine conditions set forth in the Audit Policy, Complainant has not sought gravity-based penalties for the violations alleged.

48. Based on Complainant's determination that any economic benefit derived from the violations was insignificant, Complainant has not sought to collect any economic benefit penalty for the violations alleged.

49. Complainant and Respondent hereby consent to the assessment of a civil penalty in the amount of ZERO DOLLARS ($0) in settlement of the violations set forth in Section D above. This CA/FO constitutes a settlement of the civil and administrative penalty claims of the United States for the violations of Sections 311 and 312 of EPCRA specifically alleged in Section D above.

50. The effect of the settlement described above is conditional upon the accuracy of Respondent's representations to EPA as memorialized in paragraphs 30-38 of this CA/FO and Respondent's self-disclosure dated August 14, 2006.

I. RESERVATION OF RIGHTS

51. EPA expressly reserves all rights and defenses that it may have.

52. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable, including without limitation, the right to require Respondent to perform tasks in addition to those required by this CA/FO and the right to assess penalties under Section 325 of EPCRA, 42 U.S.C. § 11045, or take other appropriate action, in the event that Respondent fails to comply with any of the requirements of this CA/FO.

53. This CA/FO shall not be construed as a covenant not to sue, a release, waiver, or limitation of any rights, remedies, powers, or authorities, civil or criminal that EPA has under EPCRA or any other statutory, regulatory, or common law enforcement authority of the United States, except as otherwise set forth herein.

54. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted, except as they relate to Respondent's liability for federal civil penalties for the specific alleged violations set forth in Section D of this CA/FO.

55. This CA/FO is not intended to be, nor shall it be construed as, a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, state, or federal permits.

56. Notwithstanding compliance with the terms of this CA/FO, Respondent is not released from liability, if any, for the costs of any response actions taken by EPA. EPA reserves its right to seek reimbursement from Respondent for any response costs incurred by the United States that may result or arise from the alleged counts set forth in Section D.

J. OTHER CLAIMS

57. Nothing in this CA/FO shall constitute or be construed as a release from any other claim, cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

K. MISCELLANEOUS

58. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.

59. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

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

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

IT IS SO AGREED,

5-31-07
Date

Michael Bessette
Vice President
Durel Division
Rogers Corporation

6/14/07
Date

for Keith Takata
Director
Superfund Division
United States Environmental Protection Agency,
Region IX

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (EPA Docket No. EPCRA-9-2007- 0007) be entered and that Respondent pay a civil penalty in the amount of ZERO DOLLARS ($0).

06/29/07
Date

Steven Jawgiel
Regional Judicial Officer
United States Environmental Protection Agency,
Region IX

CERTIFICATE OF SERVICE

Docket No. EPCRA-9-2007- 0007

I hereby certify that the original copy of the foregoing Consent Agreement and Final Order, with the Docket number referenced above, has been filed with the Region 9 Hearing Clerk and that a copy was sent by certified mail, return receipt requested, to:

Jeffrey S. Stewart
Manager, Corporate Environmental -
Health & Safety Engineering, West
Rogers Corporation
100 N. Dobson Road
Chandler, AZ 85224

June 29, 2007
Date

Danielle E. Carr
Danielle Carr
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
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