

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

IN THE MATTER OF:

Interlectric Corporation

Respondent

Interlectric Corporation  
1401 Lexington Avenue  
Warren, PA 16365

Facility.

:  
: Docket No. EPCRA-03-2009-0246

:  
: **CONSENT AGREEMENT**

:  
: Proceeding under EPCRA §§ 313 and 325,  
: 42 U.S.C. §§ 11023 and 11045

**CONSENT AGREEMENT**

**Preliminary Statement**

This Consent Agreement is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant") and Interlectric Corporation ("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") will simultaneously commence and conclude this proceeding to resolve Respondent's violations of Section 313 of EPCRA, 42 U.S.C. §§ 11022, and regulations promulgated thereunder concerning Respondent's obligations with respect to submitting toxic chemical release reports as required by 40 C.F.R. Part 372, for certain specified toxic chemicals for the reporting years 2004-2007 for its facility located at 1401 Lexington Avenue, Warren, PA 16365 ("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 and conclusions of law set forth in this CA/FO.
3. Respondent agrees not to contest the U.S. Environmental Protection Agency's jurisdiction with respect to the execution this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CA/FO.
4. For the purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this CA/FO or to appeal the Final Order accompanying this Consent Agreement.
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. Respondent 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 Consent Agreement, Respondent certifies that the Facility covered by this CA/FO is currently in compliance with all applicable requirements of EPCRA Section 313, 42 U.S.C. § 11023.
10. This CA/FO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed herein.
11. The effective date of this Consent Agreement and the accompanying Final Order is the date upon which the Final Order, after signature by the Regional Administrator of EPA, Region III, or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

## EPA's Findings of Fact and Conclusions of Law

12. 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 - VI

- a. Section 313 of EPCRA, 42 U.S.C. § 11023, requires the owner or operator of a facility that: 1) has 10 or more full-time employees; 2) is in a primary Standard Industrial Classification (“SIC”) Code 20 through 39 (as in effect on July 1, 1985) or other SIC or industry code as set forth in 40 C.F.R. § 372.22(b); 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.
- b. 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.
- c. Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), defines “person” to include any corporation.
- d. Respondent is a Pennsylvania corporation.
- e. 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).
- f. Respondent owned and operated a “facility”, as that term is defined at Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3, located at 1401 Lexington Avenue, Warren, PA 16365 (“Facility”), at the time of the violations alleged herein.
- g. Respondent had 10 or more full-time employees at the Facility during the period of violations alleged herein.
- h. Respondent's Facility had a primary SIC Code of 3641 at the time of the violations alleged herein.

- i. 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 State of Pennsylvania by July 1 of the following calendar year.
- j. “Mercury” is a toxic chemical as defined by 40 C.F.R. § 372.3 and is listed in 40 C.F.R. § 372.65.
- k. “Lead” and “lead compounds” are toxic chemicals as defined by 40 C.F.R. § 372.3 and are listed in 40 C.F.R. § 372.65.
- l. 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.
- m. 40 C.F.R. § 372.28 creates lower reporting thresholds for chemicals of special concern. These chemicals are listed in 40 C.F.R. § 372.28(a)(1). Mercury is listed in 40 C.F.R. § 372.28(a)(1) as a chemical of special concern, and its reporting threshold is set at 10 pounds. Lead is listed in 40 C.F.R. § 372.28(a)(1) as a chemical of special concern, and the reporting threshold is set at 100 pounds for lead.
- n. Respondent processed more than 10 pounds of mercury at its Facility in the 2004, 2005, and 2006 calendar years.
- o. Respondent processed more than 100 pounds of lead compounds at its Facility in the 2004, 2005, and 2006 calendar years.
- p. Respondent failed to submit the required Form R or Form A for the toxic chemical mercury processed at its Facility to the Administrator of EPA and the Commonwealth of Pennsylvania by July 1, 2005, July 1, 2006, and July 1, 2007, for the 2004, 2005 and 2006 calendar years, respectively.
- q. Respondent failed to submit the required Form R or Form A for the toxic chemical lead processed at its Facility to the Administrator of EPA and the Commonwealth of Pennsylvania by July 1, 2005, July 1, 2006, and July 1, 2007, for the 2004, 2005 and 2006 calendar years, respectively.
- r. Respondent’s failure to submit the required Form Rs or Form As for mercury and lead to the Administrator of EPA and the Commonwealth of Pennsylvania by July

1, 2005, July 1, 2006, and July 1, 2007, as described in Paragraphs 12.p. and 12.q., constitutes six separate violations of Section 313 of EPCRA, 42 U.S.C. § 11023.

- s. 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.
- t. Pursuant to the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, as revised (64 Fed. Reg. 7121 (February 13, 2004)), violations of Section 313 of EPCRA, 42 U.S.C. § 11023, occurring after January 30, 1997, and before March 16, 2004, are subject to an increased statutory maximum penalty of \$27,500 per violation, and violations occurring after March 15, 2004, are subject to an increased statutory maximum penalty of \$32,500 per violation.

### **Civil Penalty**

- 13. In settlement of EPA's civil claims for penalties for the violations alleged in this CA/FO, Respondent consents to the assessment of a civil penalty of **Eighteen Thousand and Eighty-Six Dollars (\$18,086.00)** and to perform the Supplemental Environmental Projects ("SEP") for purchase and installation of a combination mercury dispenser and vacuum system as described in Paragraphs 17 - 36 of this CA/FO, in full satisfaction of all claims EPA has for civil penalties for the violations alleged in Paragraph 12 of the CA/FO. Respondent agrees to pay the above-mentioned civil penalty in accordance with Paragraphs 15 and 16, below. Such civil penalty shall become due and payable immediately upon Respondents 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, as described in Paragraph 16, below, Respondent must pay such civil penalty no later than THIRTY (30) CALENDAR DAYS after the date on which a true and correct copy of the signed and executed CA/FO is mailed or hand-delivered to Respondent.
- 14. The aforesaid settlement is based upon a consideration of the factors set forth in Section 325 of EPCRA, 42 U.S.C. § 11045, and the Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act ("ERP"), dated August 10, 1992.
- 15. Payment of the civil penalty amount described in Paragraph 13, above, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
  - a. All payments by Respondents shall reference their names and addresses, and the Docket Number of this action, i.e., EPCRA-03-2009-0246;

- 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 & 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 680107027 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

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](http://www.epa.gov/ocfo/finservices/make_a_payment.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:

Natalie L. Katz  
Senior 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

16. 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.
  - a. 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. 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 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).
  - b. 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.
  - c. 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).

#### **Supplemental Environmental Project**

17. Respondent shall complete the following Supplemental Environmental Project which the parties agree is intended to secure significant environmental or public health protections. Not later than 12 months after the execution of this CA/FO, Respondent shall complete the purchase and installation of a combination mercury dispenser and vacuum system ("the SEP") to reduce Respondent's use of mercury at the Facility and to reduce the amount of mercury to be disposed.
18. The mercury dispenser and vacuum system is described in the SEP Statement of Work , which is attached here to as Attachment A and made a part of this CA/FO.



19. Respondent shall begin operating the mercury dispenser and vacuum system no later than thirty days (30) after it is installed and shall operate the mercury dispenser and vacuum system for at least 24 months.
20. Respondent's total expenditure for the purchase and installation of the combination mercury dispenser and vacuum system shall not be less than SIXTY SEVEN THOUSAND EIGHT HUNDRED AND TWENTY-ONE DOLLARS AND TWENTY-FIVE CENTS (\$67,821.25) as documented and approved by EPA pursuant to Paragraphs 22 - 27.
21. Respondent hereby certifies that, as of the date of this Consent Agreement, Respondent is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop the SEP by any other agreement, grant or as injunctive relief in this or any other case. Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP or any portion thereof.

#### **SEP Installation Report**

22. Respondent shall submit a SEP Installation Report to EPA no later than SIXTY (60) DAYS after the purchase and installation of the combination mercury dispenser and vacuum system. The SEP Installation Report shall have the following information:
  - a. A detailed description of the purchase and installation of the mercury dispenser and vacuum system, along with the date Respondent began operating the system;
  - b. A description of any problems encountered and the solution thereto;
  - c. An itemization of costs incurred in purchasing and installing the combination mercury dispenser and vacuum system as of the date of the SEP Installation Report, documented by copies of purchase orders and receipts or cancelled checks; and
  - d. Certification as set forth in Paragraph 41 of this CA/FO that the mercury dispenser and vacuum system has been purchased and installed pursuant to the provisions of this CA/FO.
23. Failure to submit the SEP Installation Report required by Paragraph 22 above, shall be a violation of this CA/FO and Respondent shall become liable for additional penalties pursuant to Paragraphs 34-36 below.
24. Respondent shall maintain for inspection by EPA the original records pertaining to the costs incurred and expenditures made for the purchase and installation of the mercury

dispenser and vacuum system, such as purchase orders, receipts, and/or cancelled checks, for a period of one year following EPA's issuance of a "Letter of Remittance Upon Satisfaction of Settlement Conditions" pursuant to Paragraph 45. Respondent shall also maintain non-financial records, such as work orders and work reports, documenting the actual implementation and/or performance of the SEP for a period of one year following EPA's issuance of a "Letter of Remittance Upon Satisfaction of Settlement Conditions" pursuant to Paragraph 45.

### **EPA Review of SEP Installation Report**

25. Following receipt of the SEP Installation Report, EPA will do one of the following:
  - a. If EPA determines that the purchase and installation of the mercury dispenser and vacuum system was conducted in accordance with the terms of this CA/FO and in compliance with all applicable federal, state and local laws and regulations, EPA will issue a written notification to Respondent accepting the SEP Installation Report ("Notice of SEP Installation Report Acceptance") and approving those SEP expenses which EPA agrees Respondent incurred pursuant to this SEP (hereinafter "Approved SEP Expenditures").
  - b. If EPA determines that the combination mercury dispenser and vacuum system was not purchased and/or installed in accordance with the terms of this CA/FO or in compliance with all applicable federal, state and local laws and regulations within the time provided for the purchase and/or installation of the SEP set forth herein, or the SEP Installation Report fails to satisfactorily address all the requirements of Paragraphs 22-24 of this CA/FO, EPA will issue a written notification to Respondent rejecting the SEP Installation Report ("Notice of SEP Installation Report Rejection"), providing EPA's reasons therefore, identifying the deficiencies with the SEP purchase and/or installation or with the SEP Installation Report itself, and granting Respondent a reasonable time from receipt of such notice within which to correct any such deficiencies. In the event Respondent fails to correct the identified deficiencies within the time provided by EPA, EPA will issue a written notice of disapproval ("Notice of SEP Installation Report Disapproval") and may seek additional penalties in accordance with Paragraphs 34-36 of this CA/FO.
26. If EPA issues a written Notice of SEP Installation Report Disapproval rejecting the SEP Installation Report, EPA shall grant Respondent the opportunity to object in writing to such notification within TEN (10) DAYS of receipt of such notification ("Respondent Installation Report Objection"). EPA and Respondent shall have an additional THIRTY (30) DAYS from the receipt by EPA of the Respondent Installation Report Objection to reach agreement on the matter in dispute. If the parties are able to reach agreement on the issues raised in the Respondent Installation Report Objection, the agreement shall be

memorialized in writing and signed by the parties (“SEP Installation Report Dispute Agreement”) and Respondent shall complete the SEP Installation Report in accordance with the terms of such agreement. If agreement cannot be reached on any such matter within the THIRTY (30) DAY period, EPA shall provide a written statement of its decision and the rationale therefore (“EPA SEP Installation Report Dispute Decision”) to Respondent, which decision shall be final and binding upon Respondent.

27. In the event EPA determines after the expiration of the above 30-day dispute resolution period that the combination mercury dispenser and vacuum system has not been purchased and installed as specified herein or has issued a written Notice of SEP Installation Report Disapproval for which a timely objection has not been filed by Respondent, additional penalties shall be due and payable by Respondent to EPA in accordance with Paragraphs 34-36 of this CA/FO. The submission of an unacceptable SEP Installation Report shall be the equivalent of the failure to submit a timely SEP Installation Report for purposes of the stipulated penalty provisions set forth in Paragraph 34, below, except that the calculation of any such stipulated penalties shall not run during the pendency of the dispute resolution procedure set forth in Paragraph 26, above, but shall instead run from the date on which Respondent receives the EPA SEP Installation Report Dispute Decision pursuant to Paragraph 26, above, or, in the event that Respondent has not filed a timely objection to an EPA Notice of SEP Installation Report Disapproval, the date following the day of expiration of the 30-day dispute resolution period.

### **SEP Completion Report**

28. Respondent shall submit a SEP Completion Report to EPA no later than EIGHT HUNDRED DAYS (800) DAYS after the installation of the combination mercury dispenser and vacuum system. The SEP Completion Report shall have the following information:
- a. An updated description of the SEP as implemented, including the current operation and maintenance status of the combination mercury dispenser and vacuum system and a list of any modifications or changes to the combination mercury dispenser and vacuum system that have occurred subsequent to the filing of the SEP Installation Report;
  - b. A description of any operation and maintenance problems encountered with the SEP and the solution thereto and specifically stating whether the combination mercury dispenser and vacuum system has been consistently operational in accordance with Paragraphs 17-21 of this CA/FO for at least 24 months; and
  - c. An updated itemization of costs incurred in purchasing and installing the combination mercury dispenser and vacuum system, and the costs of preparing the

SEP Installation Report and SEP Completion Report, as documented by copies of purchase orders and receipts or cancelled checks.

- d. A description of the reduction in mercury usage realized through the purchase, installation, and operation of the combination mercury dispenser and vacuum system, including a comparison of yearly mercury usage for 24 months prior to the implementation of the SEP and mercury usage for the 24 months after the purchase and installation of the combination mercury dispenser and vacuum system.
29. Failure to submit the SEP Completion Report as required by Paragraph 28, above, shall be a violation of this CA/FO and Respondent shall become liable for the additional penalties pursuant to Paragraphs 34-36 below.

#### **EPA Review of SEP Completion Report**

30. Following receipt of the SEP Completion Report, EPA will do one of the following:
- a. If EPA determines that the SEP was implemented in accordance with the terms of this CA/FO, and in compliance with all applicable federal, state and local laws and regulations, EPA will issue a written notification to Respondent accepting the SEP Completion Report (“Notice of SEP Completion Report Acceptance”) and approving the purchase and installation costs itemized and documented in the SEP Completion Report which EPA agrees Respondent incurred pursuant to this SEP subsequent to Respondent’s submittal of the SEP Installation Report.
  - b. If EPA determines that the SEP was not completed in accordance with the terms of this CA/FO or that the SEP Completion Report fails to satisfactorily address all the requirements of Paragraph 28 of this CA/FO, EPA will issue a written notification to Respondent rejecting the SEP Completion Report (“Notice of SEP Completion Report Rejection”), providing EPA’s reasons therefor and identifying the deficiencies with the SEP purchase, installation, operation or maintenance, or deficiencies with the SEP Completion Report itself, and granting Respondent a reasonable time from receipt of such notice within which to correct any such deficiencies. In the event Respondent fails to correct the identified deficiencies EPA will issue a written notice of disapproval (“Notice of SEP Completion Report Disapproval”) and may seek additional penalties in accordance with Paragraphs 34-36 of this CA/FO.
31. If EPA issues a written Notice of SEP Completion Report Disapproval rejecting the SEP Completion Report, EPA shall grant Respondent the opportunity to object in writing to such notification within Ten (10) DAYS of receipt of such notification (“Respondent’s Completion Report Objection”). EPA and Respondent shall have an additional THIRTY

(30) DAYS from the receipt by EPA of Respondent's Completion Report Objection to reach agreement on the matter in dispute. If the parties are able to reach agreement on the issues raised in the Respondent Completion Report Objection, the agreement shall be memorialized in writing and signed by the parties ("SEP Completion Report Dispute Agreement") and Respondent shall complete the SEP Completion Report in accordance with the terms of such agreement. If agreement cannot be reached on any such matter within such 30-day period, EPA shall provide a written statement of its decision and the rationale therefore ("EPA SEP Completion Report Dispute Decision") to Respondent, which decision shall be final and binding upon Respondent.

32. In the event EPA determines after the expiration of the above 30-day dispute resolution period that the SEP has not been completed and operated as specified herein or has issued a written Notice of SEP Completion Report Disapproval for which a timely objection has not been filed by Respondent, additional penalties shall be due and payable by Respondent to EPA in accordance with Paragraphs 34-36 of this CA/FO. The submission of an unacceptable SEP Completion Report shall be the equivalent of the failure to submit a timely SEP Completion Report for purposes of the stipulated penalty provisions set forth in Paragraph 34, below, except that the calculation of any such stipulated penalties shall not run during the pendency of the dispute resolution procedure set forth in Paragraph 31, above, but shall instead run from the date on which Respondent receives the EPA SEP Completion Report Dispute Decision pursuant to Paragraph 31, above, or, in the event that Respondent has not filed a timely objection to an EPA notice of disapproval, the date following the day of expiration of the 30-day dispute resolution period.

#### **Notification and Reporting**

33. Except as otherwise specified herein, whenever this SEP requires notice or submission of reports, information, or documents, such notice or submission shall be provided to the following persons via certified mail, return receipt requested, first class mail, overnight mail (Express or priority), hand-delivery or any reliable commercial delivery service:

*To EPA:*

Craig Yussen  
Chemical Engineer  
Toxics Programs Branch (3LC61)  
U.S. EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103

*To Respondent:*

Mr. Steven Rothenberg  
CEO  
Interlectric Corporation  
1401 Lexington Avenue  
Warren, PA 16365

Either party may substitute another party to receive notice on its behalf or change the address to which notices are being sent by sending written notification of the substitution or change to the other party.

**Failure to Satisfactorily Complete the SEP/Delays in Performance**

34. In the event that Respondent fails to comply with any of the terms or conditions of this Consent Agreement relating to the performance of the SEP as described in Paragraphs 17-32 above, and to the extent that the actual expenditures approved by EPA pursuant to Paragraphs 25 and/or 30 above do not equal or exceed the cost of the SEP as described in Paragraph 20, Respondent shall be liable for additional penalties according to the provisions set forth below:
- a. Except as provided in subparagraph (b) immediately below, if the SEP has not been completed to EPA's satisfaction, pursuant to this CA/FO, Respondent shall pay an additional penalty of up to FIFTY FOUR THOUSAND TWO HUNDRED AND FIFTY SEVEN DOLLARS (\$ 54,257.00), as described below.
  - b. If the SEP is not completed in accordance with Paragraphs 17-32, but (i) EPA determines that Respondent made good faith and timely efforts to complete the project; and (ii) Respondent certifies, with supporting documentation, that at least 90% of the amount of money which was required to be spent was expended on the SEP (SIXTY SEVEN THOUSAND EIGHT HUNDRED AND TWENTY-ONE DOLLARS AND TWENTY-FIVE CENTS (\$67,821.25)), Respondent shall not be liable for any additional penalties.
  - c. If the SEP is completed in accordance with Paragraphs 17-32, and the Respondent certifies, with supporting documentation, that at least 90% of the amount which was required to be spent was expended on the SEP (SIXTY SEVEN THOUSAND EIGHT HUNDRED AND TWENTY-ONE DOLLARS AND TWENTY-FIVE CENTS (\$67,821.25)), Respondent shall not be liable for any additional penalties.
  - d. If the SEP is completed in accordance with Paragraphs 17-32, but EPA determines that the Respondent spent less than 90% of the amount of money required to be spent on the SEP (SIXTY SEVEN THOUSAND EIGHT HUNDRED AND TWENTY-ONE DOLLARS AND TWENTY-FIVE CENTS (\$67,821.25)),

Respondent shall pay to the United States an additional penalty up to an amount calculated as follows:

.8 x ("multiply") \$67,821.25 - ("minus") "Approved SEP Expenditures" = ("equals") additional penalty.

- e. If the purchase and installation of the SEP is not completed within the deadlines provided by Paragraphs 17-21 above, Respondent shall pay an additional penalty of up to FIVE HUNDRED DOLLARS (\$500) for each day after the deadline until purchase and installation of the combination mercury dispenser and vacuum system is completed. Payment shall be made pursuant to the procedures set forth in Paragraph 15.
  - f. For failure to timely submit the SEP Installation Report or SEP Completion Report required by Paragraphs 22-24 and 28 above, Respondent shall pay an additional penalty of up to TWO HUNDRED FIFTY DOLLARS (\$250) for each day after the respective deadlines for such submission until the report is submitted. Payment shall be made pursuant to the procedures set forth in Paragraph 15.
  - g. For failure to submit any other report or document required by this CA/FO, Respondent shall pay an additional penalty in the amount of up to ONE HUNDRED DOLLARS (\$100) for each day after the deadline set forth in the relevant paragraph until the report is submitted. Payment shall be made pursuant to the procedures set forth in Paragraph 15.
  - h. Notwithstanding the foregoing, in no event shall the additional penalties under this section exceed FIFTY FOUR THOUSAND TWO HUNDRED AND FIFTY SEVEN DOLLARS (\$ 54,257.00).
  - i. The determination of whether the SEP has been satisfactorily implemented and completed, whether Respondent has made a timely good faith effort to implement and complete the SEP and the amount of additional penalties to be paid under the conditions described in this Paragraph shall be within the sole discretion of EPA subject to the procedures set forth in Paragraphs 29 - 31 and 34 - 36 of this CA/FO.
  - j. Except as otherwise expressly provided herein, additional penalties under this Paragraph shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.
35. Respondent shall pay additional penalties within FIFTEEN (15) DAYS after:

- a. Receipt of written demand by EPA for such penalties; or
  - b. Receipt of EPA's decision pursuant to Paragraph 39. The method of payment shall be in accordance with Paragraph 15, above.
36. 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.

**Provisions in the Event of Delay or Anticipated Delay**

37. If any event occurs which causes or may cause delays in the completion of the SEP as required under this CA/FO, Respondent shall notify Complainant in writing not more than TEN (10) DAYS after the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Respondent to minimize the delay, and the timetable by which those measures shall be implemented. The Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this Paragraph shall render this Paragraph void and of no effect as to the particular incident involved and constitute a waiver of the Respondent's right to seek an extension of the time for performance of its obligation under this CA/FO based on such incident.
38. If the Parties agree that the delay or anticipated delay in compliance with this CA/FO has been or will be caused by circumstances entirely beyond the control of Respondent which could not be overcome by due diligence, the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event the Parties shall stipulate to such extension of time.
39. In the event that EPA does not agree that the delay in achieving compliance with this CA/FO has been or will be caused by circumstances entirely beyond the control of Respondent which could not be overcome by due diligence, EPA will notify Respondent in writing of its decision and such delays in the completion of the SEP shall not be excused.
40. The burden of proving that any delay is caused by circumstances entirely beyond the control of Respondent which could not be overcome by due diligence shall rest with the Respondent. Increased costs or expenses associated with the implementation of actions called for by this CA/FO shall not, in any event, be a basis for changes in this CA/FO or extensions of time under Paragraph 38 of this CA/FO. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.



**Certification Requirement**

- 41. In all documents or reports, including, without limitation, the Installation Report and the SEP Completion Report, submitted to EPA pursuant to this CA/FO, Respondent shall, via a responsible corporate officer as that term is defined in 40 C.F.R. § 270.11, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment. I am duly authorized to certify this submission on behalf of Interlectric Corporation.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Language to be Included in Public Statements**

- 42. Any public statement, oral or written, in print, film or other media, made by Respondent, making reference to this SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11045."

**No Reimbursements**

- 43. Respondent certifies that it has not received and will not seek to receive reimbursement in the form of credit in any other federal, state or local grant, rebate, or any other payment or financial assistance from any governmental source for any of the expenses it incurs to fulfill the terms of this CA/FO.
- 44. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this this CA/FO, and any additional penalties paid pursuant to this CA/FO. Respondent further agrees, for federal income tax purposes, that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

### **Notification of Compliance**

45. If EPA determines that Respondent has fully complied with the conditions set forth herein, EPA shall promptly issue a Letter of Remittance Upon Satisfaction of Settlement Conditions, which shall state that Respondent has performed fully the conditions set forth herein for the implementation of the SEP and paid all penalty amounts due pursuant to the terms of this CA/FO, and that Respondent has no further obligations under this CA/FO.

### **Reservation of Rights**

46. EPA or authorized representatives of EPA may, at reasonable times during business hours and after given Respondent notice, enter Respondent's facility to monitor compliance with the terms of this CA/FO, including the inspection of relevant documents. This right of entry is in addition to, and in no way limits, any other rights that may be available to EPA under any law, regulation, or permit.
47. 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.
48. Failure by Respondent to comply with the requirements of this CA/FO may subject Respondent to additional enforcement action, including, but not limited to, the issuance of an Administrative Complaint and imposition of penalties, as provided by Section 325 of EPCRA, 42 U.S.C. § 11045, or the accompanying Final Order.

### **Full and Final Satisfaction**

49. 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 and as more fully set forth in Paragraph 12 of this CA/FO. 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**

50. 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.

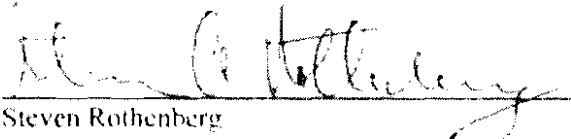
**Authority to Bind the Parties**

51. The undersigned representative of Respondent certifies that she or he is fully authorized by Respondent to enter into the terms and conditions of this CA/FO and to execute and legally bind Respondent to it.

**For Respondent**

Interlectric Corporation


1-24-09  
Date

  
Steven Rothenberg  
CEO

**For Complainant**

Environmental Protection Agency

9/24/09  
Date

  
by: Natalie L. Katz  
Senior Assistant Regional Counsel

After reviewing the Findings of Fact and Conclusions of Law and other pertinent matters, the Land and Chemicals Division of the 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.

9/24/09  
Date

  
Abraham Ferdas  
Director  
Land and Chemicals Division

**Other Applicable Laws**

50. 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.

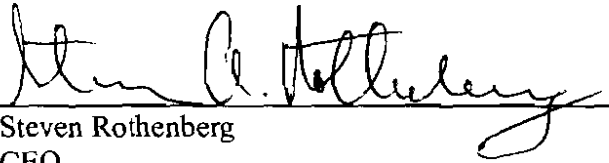
**Authority to Bind the Parties**

51. The undersigned representative of Respondent certifies that she or he is fully authorized by Respondent to enter into the terms and conditions of this CA/FO and to execute and legally bind Respondent to it.

**For Respondent:**

Interlectric Corporation

9-24-09  
Date

  
Steven Rothenberg  
CEO

**For Complainant:**

Environmental Protection Agency

\_\_\_\_\_  
Date

\_\_\_\_\_  
by: Natalie L. Katz  
Senior Assistant Regional Counsel

After reviewing the Findings of Fact and Conclusions of Law and other pertinent matters, the Land and Chemicals Division of the 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.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Abraham Ferdas  
Director  
Land and Chemicals Division

## ATTACHMENT A

### Supplemental Environmental Project Statement of Work ("SEP SOW")

Interlectric Corporation ("Respondent" or "Interlectric") agrees to perform the following Supplemental Environmental Project ("SEP"), pursuant to the settlement of an administrative enforcement action brought by the United States Environmental Protection Agency, Region III ("EPA") against Respondent to address alleged violations of Section 313 of Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11022. (In the Matter of: Interlectric Corporation, EPA Docket No. EPCRA-03-2009-0246). The SEP consists of the purchase, installation, and operation of a combination mercury dispenser and vacuum system for use in the manufacture of fluorescent light bulbs, and is a Pollution Prevention project consistent with the EPA Supplemental Environmental Projects Policy ("SEP Policy") dated April 10, 1998.

#### **Project Narrative Description:**

Respondent shall purchase and install a new combination mercury dispenser and vacuum system to reduce the use of mercury in the manufacture of fluorescent light bulbs to replace the current mercury dispensing system at the Facility.

Currently, Respondent utilizes 32 separate dispensing mechanisms, one for each processing head on the exhaust unit. The current mercury dosing system operates by use of a single stationary electromagnet that energizes as each processing head carrying a lamp passes beneath it. The magnet lifts a hollow rod which has a predetermined opening located through the wall. This opening is the intended means by which the mercury is carried from the reservoir up to the top of the dispensing funnel. This particular method must overcome the effect of gravity, which pulls the liquid back down into the reservoir making it necessary to have an opening larger than desired to assure the mercury will reach the funnel. This results in a significant range of mercury released into the lamp tubes that makes controlled dosing difficult. Another factor that contributes to the inconsistent operation of the current method is friction between the hollow tube and the funnel, which can greatly restrict the dosed amount or increase it depending on the surface contact between the two bodies. This friction affects the speed of the hollow rod's ascent as well as having the ability to trap additional mercury between the two surfaces resulting in light or heavy dosing respectively, at times well over 200 mg per tube.

The new combination mercury dispenser and vacuum system works together with gravity and takes advantage of the friction between moving and stationary bodies to control the amount of mercury that will ultimately be dispensed. Respondent expects that the reduced amount of mercury being introduced during processing will place a premium on the quality of the vacuum process during lamp making. An increase in the speed at which the volume of gas that is moved out of the lamp tube will become paramount to successful processing. This rapid vacuum processing will require the installation of larger vacuum pumps to accomplish the low dose mercury design.

The target range for the new system will be between 10 and 30 mg per dose depending on the type of lamp.

**Potential Reduction in Mercury Consumption**

	# of Lamps	mg Hg	Total mg Hg	Total Lbs Hg
Total Fluorescent lamp Transfers in 2008	1,171,311			
VHO's	131,700	60	7,902,000	17
10 ft	70,700	60	4,242,000	9
8 ft	30,300	45	1,363,500	3
ST HO	354,000	30	10,620,000	23
Other	584,611	30	17,538,330	39
Total mg Hg			41,665,830	92
Average mg Hg per lamp – Current Unit design	1,171,311	216	253,003,176	558
Theoretical Hg reduction			84%	

As noted in the table above, the potential savings in mercury with the new combination mercury dispenser and vacuum system will reduce mercury consumption by 84%. Actual reductions may vary depending on the effectiveness of new combination mercury dispenser and vacuum system and the actual doses needed to properly process the lamp. In any case, it is expected that the reduction will be significant, i.e. 50% or more.

**Estimated Project Cost:**

Respondent shall purchase and install the following equipment at the Facility to perform the SEP.

Quantity	Description:	Price:	Total:
22	QF50 O-ring W/Ring Assem	\$14.00	\$308.00
44	QF50 Short Flange SS	\$20.00	\$880.00
22	QF50 SS Swing Clamp	\$73.00	\$1,606.00
11	QF50 to LF63 Nipple	\$170.00	\$1,870.00
22	QF50-200-F	\$110.00	\$2,420.00

11	ISO63 Flange Bored Stainless Steel	\$67.61	\$743.71
11	ISO63 Rotatable Flange Pack Mild Steel	\$77.45	\$851.95
11	ISO63 Co-Seal	\$43.05	\$473.55
11	IBV16MS Ball Valve	\$141.00	\$1,551.00
180	Schedule 10 S/S Pipe	\$4.25	\$765.00
3	SMC Gripper MHW2-40D	\$572.00	\$1,716.00
3	SMC Rotary Actuator NCRB50-90	\$125.90	\$377.70
140	Nut SS-8-VCR-1	\$9.27	\$1,297.80
140	6LV-8-VCR-3S-8TB2	\$10.63	\$1,488.20
140	SS-8-VCR-1-6 Male NPT Connector	\$14.03	\$1,964.20
70	SS-600-1-6W Tube Fitting Male Connector	\$11.23	\$786.10
1	PLC Control System and Components	\$4,783.83	\$4,783.83
24 hours	Contract Welding - Labor	\$65.00/hour	\$1,560.00
3	Edwards Pumps	\$16,688.84	\$50,066.52
1	Contract Machining	\$10,000.00	\$10,000.00
<b>Total:</b>			<b>\$85,509.56</b>

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

IN THE MATTER OF:

Interlectric Corporation

Respondent

Interlectric Corporation  
1401 Lexington Avenue  
Warren, PA 16365

Facility.

:  
: Docket No. EPCRA-03-2009-0246  
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:  
: **FINAL ORDER**  
:  
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: Proceeding under EPCRA §§ 313 and 325,  
: 42 U.S.C. §§ 11023 and 11045  
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**FINAL ORDER**

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, Interlectric Corporation, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with *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 herein as if set forth fully herein.

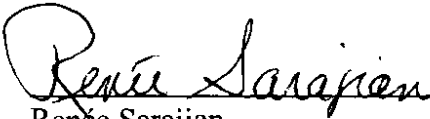
NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the *Consolidated Rules of Practice* and Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045(c), which authorizes the assessment of a civil penalty for violations of EPCRA, and having determined on the basis of the representation of the parties hereto that the civil penalty agreed to in the Consent Agreement is based upon a consideration of the factors set forth in EPCRA § 325, 42 U.S.C. § 11045, IT IS HEREBY ORDERED that Respondent comply with the terms and conditions of the attached Consent Agreement and pay a



civil penalty of Eighteen Thousand and Eighty-Six Dollars (\$18,086.00), as specified in the attached Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA, Region III, or the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA, Region III.

9/29/09  
Date

  
\_\_\_\_\_  
Renee Sarajian  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region III

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

IN THE MATTER OF:

Interlectric Corporation

Respondent

Interlectric Corporation  
1401 Lexington Avenue  
Warren, PA 16365

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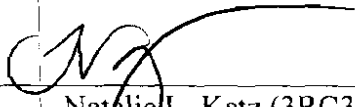
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**CERTIFICATE OF SERVICE**

I hereby certify that the original and one copy of the foregoing Consent Agreement and Final Order, EPA Docket No. EPCRA-03-2009-0246, were filed today with the Regional Hearing Clerk, EPA, Region III, and that one copy of the Consent Agreement and Final Order was sent via FedEx, to:

Mr. Steve Rothenburg  
CEO  
Interlectric Corporation  
1401 Lexington Avenue  
Warren, PA 16365

9/29/09  
Date

  
\_\_\_\_\_  
Natalie L. Katz (3RC30)  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region III  
(215) 814-2615