

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION III

2015 JUN 10 PM 2:47

<p>In the Matter of:</p> <p>Clendenin Brothers, Inc. 4309 Erdman Ave. Baltimore, MD 21213</p> <p style="text-align: center;">RESPONDENT</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>REGIONAL HEARING CLERK EPA REGION III, PHILA. PA</p> <p>Docket No. EPCRA-03-2015-0134</p> <p>Proceeding under EPCRA Section 325(c), 42 U.S.C. § 11045(c)</p>
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CONSENT AGREEMENT

This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III ("EPA" or "Complainant") and Clendenin Brothers, Inc. ("Respondent") pursuant to Sections 313 and 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. §§ 11023 and 11045(c), the regulations implementing EPCRA Section 313, as set forth at 40 C.F.R. Part 372, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)).

I. PRELIMINARY STATEMENT AND STIPULATIONS

1. The violations cited herein pertain to Respondent's alleged failure to comply with Section 313 of EPCRA, 42 U.S.C. § 11023, and the Toxic Chemical Release Reporting program set forth at 40 C.F.R. Part 372.
2. In accordance with 40 C.F.R. § 22.13(b) and .18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves, as part of the settlement set forth herein, EPA's civil claims alleged in Section IV ("Findings of Fact and Conclusions of Law") of this Consent Agreement.

II. JURISDICTION

3. The U.S. Environmental Protection Agency ("EPA") has jurisdiction over the above-captioned matter pursuant to Sections 313 and 325(c) of EPCRA, 42 U.S.C. §§ 11023 and 11045(c), and 40 C.F.R. §§ 22.1(a)(8) and 22.4 of the Consolidated Rules of Practice.

III. GENERAL PROVISIONS

4. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and the attached Final Order, hereinafter collectively referred to as the "CAFO."

5. Except as provided in paragraph 4, above, Respondent neither admits nor denies the specific factual allegations and legal conclusions set forth in this CAFO.
6. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
7. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
8. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
9. Respondent shall bear its own costs and attorney's fees.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

10. In accordance with 40 C.F.R. § 22.13(b) and .18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
11. Respondent is incorporated in the state of Maryland.
12. As a Maryland corporation, Respondent is a "person" as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
13. Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3 define "facility" to mean, in relevant part, all buildings, equipment, structures, and other stationary items that are located on a single site and that are owned or operated by the same person.
14. At the time of the violation alleged herein, Respondent owned and operated a facility located at 4309 Erdman Avenue, Baltimore, Maryland 21213, at which Respondent manufactures metal products (the "Facility").
15. Respondent's Facility is a "facility" as defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3.
16. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.22 state, *inter alia*, that the owner or operator of a facility that:
 - 1) has 10 or more employees;
 - 2) has a primary Standard Industrial Classification ("SIC") Code of 20 [2000] through 39 [3900] (as in effect on January 1, 1987), or, has an SIC code in one or more of the following categories:

- i. between 1000 and 1099, except 1011, 1081, and 1094;
 - ii. between 1200 and 1299, except 1241;
 - iii. 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce);
 - iv. 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. §§ 6921-6939e);
 - v. 5169 or 5171;
 - vi. 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); and
- 3) manufactured, processed or otherwise used a toxic chemical listed in 40 C.F.R. § 372.65, in excess of the threshold quantities established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during the calendar year for which the form is required,

is a covered facility for that calendar year and must report under 40 C.F.R. § 372.30.

17. Pursuant to 40 C.F.R. § 372.30, the owner or operator of a covered facility must submit to EPA and the state in which the facility is located a completed toxic release inventory report ("Form R") or appropriate alternate threshold and certification report ("Form A") for each toxic chemical, by July 1 of the following calendar year.
18. During the calendar years of 2011, 2012, and 2013, Respondent employed 10 or more full-time employees at the Facility.
19. During the calendar years of 2011, 2012, and 2013, the Facility had a primary SIC code of 3452. This SIC code falls between the primary SIC codes of 20 (2000) and 39 (3900) (as in effect on July 1, 1987).
20. For each toxic chemical listed in 40 C.F.R. § 372.65 manufactured, processed, or otherwise used by Respondent at the Facility in excess of the threshold quantity set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during any calendar year, Respondent has been required by EPCRA Section 313(a), 40 C.F.R. § 11023(a), at all times relevant to this Consent Agreement, to complete and submit to EPA and the state of Maryland, by July 1, of the following calendar year, a Form R or Form A pursuant to 40 C.F.R. § 372.30.
21. 40 C.F.R. § 372.27 states that the owner or operator of a facility may apply an alternate reporting threshold of 1 million pounds per year to a toxic chemical if, among other things, the facility does not have a reportable amount of that toxic chemical (consisting of the summation of the amounts released, treated, used for energy recovery, and recycled onsite and offsite) greater than 500 pounds during the calendar year.
22. 40 C.F.R. § 372.27 states that where the owner or operator applies the alternate reporting threshold specified in paragraph 21, above, the owner or operator may submit a certification statement that contains the information required in § 372.95 ("alternate threshold and certification" or "Form A") instead of submitting a Form R.

23. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), provides that any person who violates EPCRA Section 313, 40 C.F.R. § 11023, shall be liable to the United States for a civil penalty.

V. VIOLATIONS ALLEGED

Counts 1 - 2

24. The allegations of Paragraphs 1 through 23, above, are incorporated by reference as though fully set forth herein.
25. The chemical substance copper is a “toxic chemical” as defined in EPCRA Sections 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), and 40 C.F.R. § 372.3.
26. During calendar years 2012 and 2013, Respondent “processed” more than 25,000 pounds of copper as that term is defined in EPCRA § 313(b)(1)(C)(ii), 42 U.S.C. § 11023(b)(1)(C)(ii), and 40 C.F.R. § 372.3. Such amount exceeded the threshold quantity for reporting a toxic chemical processed at a facility, as set forth in EPCRA Section 313(f)(1)(B), 42 U.S.C. § 11023(f)(1)(B), and 40 C.F.R. § 372.25(a).
27. Pursuant to EPCRA Section 313, 42 U.S.C. § 11023, Respondent was required to submit to EPA and the state of Maryland a completed Form R or Form A for copper processed at the Facility on the following dates: July 1, 2013 for calendar year 2012; and July 1, 2014 for calendar year 2013.
28. Respondent submitted to EPA and the state of Maryland the following forms on the following dates:
- Reporting Year 2012: Form R for copper on June 10, 2014; and
Reporting Year 2013: Form R for copper on September 4, 2014.
29. Respondent's failure to submit to EPA, by July 1, 2013, a completed Form R reporting the amount of copper processed at the Facility for calendar year 2012 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, for which Respondent is liable for a civil penalty pursuant to EPCRA Section 325(c), 42 U.S.C. § 11045.
30. Respondent's failure to submit to EPA, by July 1, 2014, a completed Form R reporting the amount of copper processed at the Facility for calendar year constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, for which Respondent is liable for a civil penalty pursuant to EPCRA Section 325(c), 42 U.S.C. § 11045.

Counts 3 - 5

31. The allegations of Paragraphs 1 through 30, above, are incorporated by reference as though fully set forth herein.
32. The chemical substance nickel is a “toxic chemical” as defined in EPCRA Sections 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), and 40 C.F.R. § 372.3.
33. During calendar years 2011, 2012, and 2013, Respondent “processed” more than 25,000 pounds of nickel as that term is defined in EPCRA § 313(b)(1)(C)(ii), 42 U.S.C. § 11023(b)(1)(C)(ii), and 40 C.F.R. § 372.3. Such amount exceeded the threshold quantity for reporting a toxic chemical processed at a facility as set forth in EPCRA Section 313(f)(1)(B), 42 U.S.C. § 11023(f)(1)(B), and 40 C.F.R. § 372.25(a).
34. During calendar years 2011, 2012, and 2013, Respondent transferred more than 500 pounds of nickel from the facility to off-site locations for the purpose of recycling. Pursuant to 40 C.F.R. § 372.27(a), such an amount disqualified Respondent from using a Form A alternate threshold and certification as described in 40 C.F.R. § 373.27.
35. Pursuant to EPCRA Section 313, 42 U.S.C. § 11023, Respondent was required to submit to EPA and the state of Maryland a completed Form R for nickel processed at the Facility on the following dates: July 1, 2012 for calendar year 2011; July 1, 2013 for calendar year 2012; and July 1, 2014 for calendar year 2013.
36. Respondent submitted to EPA and the state of Maryland the following forms on the following dates:
 - Reporting Year 2011: Form A for nickel on June 29, 2012;
 - Reporting Year 2012: Form A for nickel on June 10, 2014; and
 - Reporting Year 2013: Form R for nickel on September 4, 2014.
37. Respondent's failure to submit to EPA, by July 1, 2012, a completed Form R reporting the amount of nickel processed at the Facility for calendar year 2011 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, for which Respondent is liable for a civil penalty pursuant to EPCRA Section 325(c), 42 U.S.C. § 11045.
38. Respondent's failure to submit to EPA, by July 1, 2013, a completed Form R reporting the amount of nickel processed at the Facility for calendar year 2012 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, for which Respondent is liable for a civil penalty pursuant to EPCRA Section 325(c), 42 U.S.C. § 11045.

39. Respondent's failure to submit to EPA, by July 1, 2014, a completed Form R reporting the amount of nickel processed at the Facility for calendar year 2013 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, for which Respondent is liable for a civil penalty pursuant to EPCRA Section 325(c), 42 U.S.C. § 11045.

Counts 6 – 8

40. The allegations of Paragraphs 1 through 39, above, are incorporated by reference as though fully set forth herein.

41. The chemical substance chromium is a "toxic chemical" as defined in EPCRA Sections 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), and 40 C.F.R. § 372.3.

42. During calendar years 2011, 2012, and 2013, Respondent "processed" more than 25,000 pounds of chromium as that term is defined in EPCRA § 313(b)(1)(C)(ii), 42 U.S.C. § 11023(b)(1)(C)(ii), and 40 C.F.R. § 372.3. Such amount exceeded the threshold quantity for reporting a toxic chemical processed at a facility as set forth in EPCRA Section 313(f)(1)(B), 42 U.S.C. § 11023(f)(1)(B), and 40 C.F.R. § 372.25(a).

43. During calendar years 2011, 2012, and 2013, Respondent transferred more than 500 pounds of chromium from the facility to off-site locations for the purpose of recycling. Pursuant to 40 C.F.R. § 372.27(a), such an amount disqualified Respondent from using a Form A alternate threshold and certification as described in 40 C.F.R. § 372.27.

44. Pursuant to EPCRA Section 313, 42 U.S.C. § 11023, Respondent was required to submit to EPA and the state of Maryland a completed Form R for chromium processed at the Facility on the following dates: July 1, 2012 for calendar year 2011; July 1, 2013 for calendar year 2012; and July 1, 2014 for calendar year 2013.

45. Respondent submitted to EPA and the state of Maryland the following forms on the following dates:

Reporting Year 2011: Form A for chromium on June 29, 2012;
Reporting Year 2012: Form A for chromium on June 10, 2014; and
Reporting Year 2013: Form R for chromium on September 4, 2014.

46. Respondent's failure to submit to EPA, by July 1, 2012, a completed Form R reporting the amount of chromium processed at the Facility for calendar year 2011 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, for which Respondent is liable for a civil penalty pursuant to EPCRA Section 325(c), 42 U.S.C. § 11045.

47. Respondent's failure to submit to EPA, by July 1, 2013, a completed Form R reporting the amount of chromium processed at the Facility for calendar year 2012 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, for which Respondent is liable for a civil penalty pursuant to EPCRA Section 325(c), 42 U.S.C. § 11045.
48. Respondent's failure to submit to EPA, by July 1, 2014, a completed Form R reporting the amount of chromium processed at the Facility for calendar year 2013 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30, for which Respondent is liable for a civil penalty pursuant to EPCRA Section 325(c), 42 U.S.C. § 11045.

VI. CIVIL PENALTY

49. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), provides that any person who violates EPCRA § 313, 42 U.S.C. § 11023, shall be liable to the United States for a civil penalty of up to \$25,000 per violation. Pursuant to the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, as revised (73 Fed. Reg. 75340-46 (December 11, 2008)), violations of Section 313 of EPCRA, 42 U.S.C. § 11023, are subject to an increased statutory maximum inflation-adjusted penalty for violations occurring after January 12, 2009 of \$37,500 per violation.
50. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **forty thousand nine hundred dollars (\$40,900.00)**, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO, fully executed by the parties, signed by the Regional Administrator or his designee, the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which this CAFO is received by Respondent.
51. The Parties represent that the settlement terms are reasonable and are based upon EPA's consideration of a number of factors, including the statutory factors set forth in § 325(b)(1)(C) of EPCRA, 42 USC § 11045(b)(1)(C) and the penalty criteria set forth in EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986)* (April 12, 2001). EPA has also considered the Adjustment of Civil Penalties for Inflation, 40 C.F.R. Part 19 and the November 16, 2009 memorandum by EPA Waste and Chemical Enforcement Division Director Rosemary A. Kelley entitled *Adjusted Penalty Policy Matrices Based on the 2008 Monetary Penalty Inflation Adjustment Rule* ("Kelley Memorandum"). The settlement in this proceeding is consistent with the provisions and objectives of EPCRA Section 313, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

52. Payment of the civil penalty amount shall be made by either cashier's check, certified check, or electronic wire transfer in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, EPCRA-03-2015-0134;
- 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
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Primary Contact: Craig Steffen, (513) 487-2091
Secondary Contact: Molly Williams, (513) 487-2076

- d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: (314) 418-1818

- 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

53. Respondent may also pay the civil penalty electronically or on-line as follows:

- a. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT Address: FRNYUS33
33 Liberty Street
New York, NY 10045

(Field Tag 4200 of the wire transfer message should read:
"D 68010727 Environmental Protection Agency")

- b. 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 Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: Remittance Express (REX): 1-866-234-5681

- c. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

- d. Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>

A copy of Respondent's check or a copy of Respondent's electronic transfer shall be sent simultaneously to:

Jennifer J. Nearhood
Assistant Regional Counsel
U.S. EPA, Region III (3RC50)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Lydia Guy
Regional Hearing Clerk
U.S. EPA, Region III (3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029.

54. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs, and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this Consent Agreement and the attached Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
55. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan account rate in accordance with 40 C.F.R. § 13.11(a).
56. The costs of the EPA'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.
57. A late penalty payment of six percent (6%) 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).
58. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

VII. EFFECT OF SETTLEMENT

59. The settlement set forth in this CAFO shall constitute full and final satisfaction of all civil claims for penalties which Complainant may have under EPCRA for the specific violations alleged in Section IV ("Findings of Fact and Conclusions of Law") above. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

VIII. OTHER APPLICABLE LAWS

60. Nothing in this CAFO shall relieve Respondent of the obligation to comply with all applicable federal, state, and local laws and regulations.

IX. CERTIFICATION OF COMPLIANCE

61. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is complying with applicable provisions of EPCRA and 40 C.F.R. Part 372.

X. RESERVATION OF RIGHTS

62. This Consent Agreement and the accompanying Final Order resolve only EPA's claims for civil monetary penalties for the specific violations alleged in Section IV ("Findings of Fact and Conclusions of Law") against the Respondent. 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, 40 C.F.R. § 22.18(c). Further, EPA reserves any rights and remedies available to it under EPCRA and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO following its filing with the EPA Regional Hearing Clerk.

XI. PARTIES BOUND

63. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, Respondent, and Respondent's successors, agents and assigns.

XII. EFFECTIVE DATE

64. The effective date of this Consent Agreement and the accompanying Final Order (which is signed by the Regional Administrator of EPA Region III, or his designee, the Regional Judicial Officer), shall be the date the Final Order is filed with the EPA Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

XIII. ENTIRE AGREEMENT


65. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

XIV. EXECUTION

66. The person signing this Consent Agreement on behalf of Respondent acknowledges and certifies by his signature that he is fully authorized to enter into this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

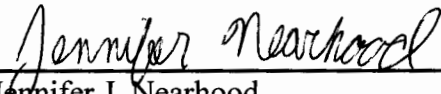
For Respondent:

Date: 5/8/2015

By: 
John Corckran
President
Clendenin Brothers, Inc.

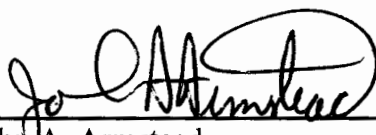
For Complainant:

Date: 5/6/2015

By: 
Jennifer J. Nearhood
Assistant Regional Counsel
U.S. EPA, Region III

After reviewing the foregoing Consent Agreement and other pertinent information, the Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator, or his designee the Regional Judicial Officer, issue the Final Order attached hereto.

Date: 6.1.15

By: 
John A. Armstead
Director, Land and Chemicals Division
U.S. EPA, Region III

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

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EPA REGION III, PHILA. PA

In the Matter of:)

Clendenin Brothers, Inc.)
4309 Erdman Ave.)
Baltimore, MD 21213)

Docket No. EPCRA-03-2015-0134

RESPONDENT)

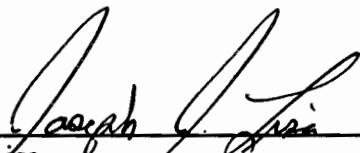
Proceeding under EPCRA Section 325(c),
42 U.S.C. § 11045(c)

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Clendenin Brothers, Inc., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

WHEREFORE, pursuant to the authority of 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, after having determined, based on the representations of the parties to the attached Consent Agreement, that the civil penalty agreed therein was based upon a consideration of the statutory factors set forth in Section 325(b)(1)(C) of EPCRA, 42 U.S.C. § 11045(b)(1)(C), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **forty thousand nine hundred dollars (\$40,900.00)** in accordance with the payment provisions set forth in the attached Consent Agreement, and timely comply with each of the additional terms and conditions therein. The effective date of the foregoing Consent Agreement and Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: June 10, 2015



Joseph J. Lisa
Regional Judicial Officer
U.S. EPA - Region III

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

2015 JUN 10 PM 2:47
REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

In the Matter of:)
)
Clendenin Brothers, Inc.)
4309 Erdman Ave.)
Baltimore, MD 21213) **Docket No. EPCRA-03-2015-0134**
)
RESPONDENT) **Proceeding under EPCRA Section 325(c),**
) **42 U.S.C. § 11045(c)**

CERTIFICATE OF SERVICE

I certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the above referenced matter was sent this day, in the following manner, to the below addressees.

Original and One Copy by Hand-Delivery:

Lydia Guy, Regional Hearing Clerk
U.S. EPA, Region III (3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

Copy by UPS Next Day Air:

John Corckran, President
Clendenin Brothers, Inc.
4309 Erdman Ave.
Baltimore, MD 21213

06/10/15
Date

Jennifer J. Nearhood
Jennifer J. Nearhood (3RC50)
Assistant Regional Counsel
U.S. EPA, Region III

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