

9/25/91

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

-----X			
In the Matter of	:		
WARWICK LABORATORIES CO., INC.,	:	<u>DEFAULT ORDER</u>	91SEP30 P3:01
	:		
Respondent.	:		
	:		
Proceeding Under Section 325(c)	:		
of the Superfund Amendments and	:	Docket No. II EPCRA-90-0102	
Reauthorization Act.	:		
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RECEIVED
EPA REGIONAL OFFICES
HARRISBURG, PA

PRELIMINARY STATEMENT

This civil proceeding for the assessment of a penalty was initiated pursuant to Section 325(c) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 11001 et. seq. [also known as the Emergency Planning and Community Right-to Know Act of 1986; hereinafter "EPCRA"] charging that Respondent failed to submit Toxic Chemical Release Inventory Reporting Forms (Form "R") by the required date for Methanol, Ethylene Glycol, and Glycol Ethers for the calendar years 1987 and 1988, in violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30. It is hereby determined that an appropriate default order shall be issued based on the findings of fact and conclusions of law as set forth below.

FINDINGS OF FACT

1. On or about October 3, 1989, authorized representatives of EPA conducted an inspection of Respondent's facility to determine whether Respondent was in compliance with the Toxic Chemical Release Reporting requirements of EPCRA. As a result of the inspection, the EPA determined Respondent had processed approximately 1,640,441 pounds of Methanol, Chemical Abstracts Service ("CAS") Registry Number 67-56-1, during 1987 and approximately 577,500 pounds in 1988. Furthermore, it was determined that Respondent had processed approximately 5,103,266 pounds of Ethylene Glycol, (CAS Registry Number 107-21-1), during 1987 and approximately 13,351,819 pounds in 1988. In addition, it

was determined that Respondent had processed approximately 762,293 pounds of Glycol Ethers, (CAS Registry Number not applicable) during 1987 and approximately 1,054,662 pounds in 1988. Each of the above figures exceeds the threshold amount for the reporting of a chemical during the applicable calendar year.

2. On June 18, 1990, the Director of the Environmental Services Division, EPA, Region II ("Complainant") served a Complaint and Notice of Opportunity For Hearing to Respondent pursuant to Section 325(c) of EPCRA, alleging that Respondent had violated Section 313 of EPCRA by failing to submit in a timely manner a complete and correct Form R for Methanol, Ethylene Glycol, and Glycol Ethers for calendar years 1987 and 1988. The Complaint, calculated in accordance with EPA's EPCRA Enforcement Response Policy dated December 2, 1988, sought a total proposed penalty of \$102,000.

3. On July 9, 1990, the Respondent filed an Answer to the Complaint.

4. On July 12, 1990, Administrative Law Judge Thomas B. Yost was designated to preside over this proceeding.

5. On July 19, 1990, Judge Yost wrote the counselors involved in this proceeding and directed that Counsel for Complainant should advise as to whether a settlement had been reached in this proceeding and if not, the parties were to file prehearing exchange by August 23, 1990.

6. On August 16, 1990, the parties met at the offices of Complainant to discuss settlement and subsequently, Complainant requested numerous extensions of time in order to work out a settlement.

7. On June 7, 1991, Counsel for Complainant filed a status report to the effect that negotiations had broken down and requesting an order from the presiding officer directing prehearing exchange.

8. On June 11, 1991, Judge Yost issued an Order directing the parties to submit the initial prehearing exchange by July 2, 1991.

9. On June 28, 1991, Complainant filed a prehearing exchange.

10. Respondent did not file a prehearing exchange by the July 2, 1991 deadline nor has one been filed as of this date.

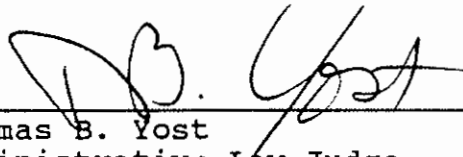
CONCLUSIONS OF LAW

1. Under the facts as set out in the Findings of Fact of this Order, Respondent violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30 by failing to submit the required Form R for each chemical by the required deadlines.

2. Under the facts as set out in the Findings of Fact of this Order, Respondent failed to comply with a prehearing order of the Presiding Officer and is therefore, pursuant to 40 C.F.R. § 22.17, in default and the proposed penalty is due and payable.

ORDER

1. Respondent shall pay by cashier's or certified check a civil penalty in the amount of one hundred and two thousand dollars (\$102,000) payable to the Treasurer, United States of America within sixty (60) days of the issuance of this Order. Such remittance should be sent by certified mail to the U. S. Environmental Protection Agency, Region II, Regional Hearing Clerk, P.O. Box 36018MM, Pittsburgh, Pennsylvania 15251.



Thomas B. Yost
Administrative Law Judge

DATED: 9/25/91

In the Matter of WARWICK LABORATORIES CO., INC.,
Docket No. II-EPCRA-90-0102

CERTIFICATE OF SERVICE

I certify that the foregoing Default Order, dated SEP 25 1991
was sent this day in the following manner to the addressees below:

Original
By Regular Mail to:

Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region II
26 Federal Plaza
New York, New York 10278

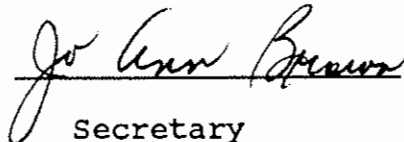
Copy By
Regular Mail to:

Stuart N. Keith, Esq.
Assistant Regional Counsel
Air Waste and Toxic Substances Branch
U.S. Environmental Protection Agency
26 Federal Plaza
New York, New York 10278

Robert L. Davidson, Esq.
Wolf, Haldenstein, Adler, Freeman & Herz
270 Madison Avenue
New York, New York 10018

SEP 25 1991

DATED


Secretary