

Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker  
Governor

Karyn E. Polito  
Lieutenant Governor

Matthew A. Beaton  
Secretary

Martin Suuberg  
Commissioner

September 4, 2015

In the Matter of  
Rockland Industries, Inc.

Docket Nos. 2014-013, 2014-014  
File Nos. PAN-SE-14-3T-001  
UAO-SE-14-3T-001  
Plymouth, MA

### FINAL DECISION

In May 2014, the Petitioner Rockland Industries, Inc. brought these consolidated appeals challenging two enforcement orders that the Southeast Regional Office (“SERO Office”) of the Massachusetts Department of Environmental Protection (“MassDEP” or “the Department”) issued to the Petitioner on April 22, 2014 for purported violations of the Massachusetts Oil and Hazardous Material Release and Prevention Act, G.L. c. 21E (“Chapter 21E”), and the Massachusetts Contingency Plan Regulations (“MCP Regulations”) at 310 CMR 40.0000. See Pre-Screening Conference Report and Order (July 14, 2013) (“Conf. Rept. & Order”), at pp. 1-4. The enforcement orders arose from the discharge of chlorinated volatile organic compounds from the groundwater at 255 Plymouth Street, Plymouth, Massachusetts (“the Site”), a real property that the Petitioner owns and/or controls, to a nearby surface water body. Id., at pp. 1-2. Specifically, the Petitioner challenged:

- (1) a \$26,600.00 Penalty Assessment Notice (“PAN” or “Civil Administrative Penalty”) that the SERO Office issued to the Petitioner for its purported Chapter 21E violations (Docket No. 2014-013 or “the PAN appeal”); and

- (2) a Unilateral Administrative Order (“UAO”) that the SERO Office issued directing the Petitioner to correct its purported Chapter 21E violations (Docket No. 2014-014 or “the UAO appeal”).

Id., at p. 2.

The Petitioner denied liability for any violations asserted by the Department in the PAN and UAO, and requested that the PAN and UAO be vacated. See Petitioner’s Appeal Notices in PAN and UAO Appeals; Conf. Rept. & Order, at p. 4. The Department maintained that it properly issued the PAN and UAO, and requested that these enforcement orders be upheld. Id., at pp. 1-5.

Recently, the Petitioner and the Department (collectively “the parties”) filed a proposed Settlement Agreement for my review and approval pursuant to 310 CMR 1.01(8)(c) to resolve the Petitioner’s claims in these consolidated appeals. See [Department’s] Request to Approve Settlement Agreement (July 20, 2015). The proposed Settlement Agreement is in the form of an Administrative Consent Order With Penalty and Notice of Non-Compliance (“ACOP”), which has been signed by the Petitioner’s President and the SERO Office’s Acting Regional Director. Under the ACOP, the Petitioner is required to pay a \$20,000.00 civil administrative penalty to the Commonwealth for its purported violations of Chapter 21E and the MCP Regulations with \$15,000.00 of the penalty suspended provided the Petitioner complies with the ACOP, including submitting certain documents to the Department by September 1, 2015 demonstrating the Petitioner’s compliance with Chapter 21E and the MCP Regulations.<sup>1</sup> ACOP, ¶¶ 8, 12. If the Petitioner violates any provision of the ACOP, the Petitioner is required to pay the \$15,000.00 to the Commonwealth within 30 days of the Department’s written demand for payment of that

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<sup>1</sup> Although the date of this Final Decision is after the September 1<sup>st</sup> deadline for submission of the required documentation, the deadline is approved *nunc pro tunc* (retroactively) by this Final Decision approving and incorporating the ACOP.

amount. ACOP, ¶ 12. Additionally, the Department's agreement to suspend payment of the \$15,000.00 does not bar, diminish, adjudicate, or in any way affect, any legal or equitable right of the Department to assess the Petitioner additional civil administrative penalties, or to seek any other relief, with respect to any future violation of any provision of the ACOP or any law or regulation. Id.

After reviewing the ACOP, I find that the parties' settlement of these consolidated appeals is reasonable and consistent with furthering the statutory and regulatory interests of Chapter 21E and the MCP Regulations. Accordingly, I issue this Final Decision approving and incorporating the ACOP.

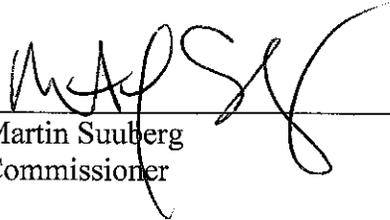
In accordance with the ACOP, I issue the following orders:

- (1) Pursuant to ¶ 8 of the ACOP, the Petitioner is ordered to submit to the Department by September 1, 2015 the documentation set forth in ¶ 8 of the ACOP.
- (2) Pursuant to ¶¶ 12 and 19 of the ACOP, the Petitioner is ordered to pay a \$20,000.00 civil administrative penalty to the Commonwealth for the Petitioner's purported violations of Chapter 21E and the MCP Regulations as follows:
  - (a) the Petitioner shall pay \$5,000.00 of the \$20,000.00 to the Commonwealth within 60 days of the date of this Final Decision; and
  - (b) the Petitioner's payment of the remaining \$15,000.00 of the \$20,000.00 is suspended provided the Petitioner complies with the ACOP.

If the Petitioner violates any provision of the ACOP, the Petitioner shall pay the \$15,000.00 to the Commonwealth within 30 days of the Department's written demand for payment of that amount. The Department's agreement to suspend payment of the \$15,000.00 shall not be construed or operate to bar, diminish, adjudicate, or in any way affect, any legal or equitable

right of the Department to assess the Petitioner additional civil administrative penalties, or to seek any other relief, with respect to any future violation of any provision of the ACOP or any law or regulation.

Under the terms of 310 CMR 1.01(8)(c), these consolidated appeals are dismissed with the parties waiving whatever rights they may have to further administrative review before the Department as well as any appeal to court.

  
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Martin Suuberg  
Commissioner

**SERVICE LIST**

In the Matter of  
Rockland Industries, Inc.

**Docket No. 2014-013**  
DEP File No. PAN-SE-14-3T-001; **and**  
**Docket No. 2014-014**  
DEP File No. UAO-SE-14-3T-001

**Petitioner:** Rockland Industries, Inc.

**Legal representatives:** Paul L. Feldman, Esq.  
Davis, Malm, & D'Agostine, P.C.  
One Boston Place  
Boston, MA 02109  
**e-mail:** pfeldman@davismalm.com;

Kendra Kinscherf, Esq.  
Davis, Malm, & D'Agostine, P.C.  
One Boston Place  
Boston, MA 02109  
**e-mail:** kkinscherf@davismalm.com;

**The Department:** John Handrahan  
MassDEP/Southeast Regional Office  
Bureau of Waste Site Cleanup  
20 Riverside Drive  
Lakeville, MA 02347  
**e-mail:** John.Handrahan@state.ma.us

**Legal Representative:** Dana Muldoon, Senior Counsel  
MassDEP/Office of General Counsel  
One Winter Street  
Boston, MA 02108;  
**e-mail:** Dana.Muldoon@state.ma.us;

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**cc:** Dawn Stolfi Stalenhoef, Chief Regional Counsel  
MassDEP/Southeast Regional Office  
Office of General Counsel  
20 Riverside Drive  
Lakeville, MA 02347  
**e-mail:** Dawn.Stolfi.Stalenhoef@state.ma.us;

Leslie DeFillipis, Paralegal  
MassDEP/Office of General Counsel  
One Winter Street  
Boston, MA 02108