

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

COMPLAINT NO. 00-115

**MANDATORY PENALTY
IN THE MATTER OF
MALLINCKRODT INC.**

4101 LICK MILL BOULEVARD, SANTA CLARA, SANTA CLARA COUNTY

This complaint assessing Mandatory Penalty pursuant to Water Code section 13385 (h) is issued to Mallinckrodt Inc. (hereafter Discharger) based on a finding of three violations of Order No. 99-051, NPDES No. CAG912003, general waste discharge requirements for discharge or reuse of extracted and treated groundwater resulting from the cleanup of groundwater polluted by volatile organic compounds (VOC General NPDES Permit).

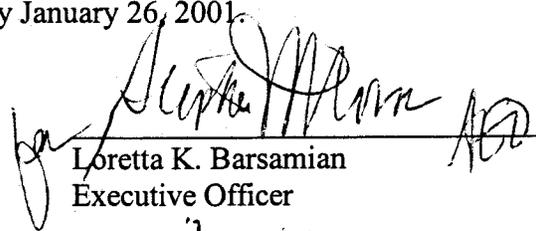
The Executive Officer finds the following:

1. On July 21, 1999, the Regional Water Quality Control Board, (Regional Board) adopted the VOC General NPDES Permit. The discharger applied for and received a letter dated August 26, 1999, authorizing the discharge of treated groundwater under this General Permit.
2. The VOC General NPDES Permit states, in part: The effluent (at a point after full treatment but before it joins or is diluted by any other waste stream, body of water, or substance) shall not contain cis-1,2-dichloroethene (cis-1,2-DCE), tetrachloroethene (PCE), and trichloroethene (TCE) at a concentration exceeding the 5.0 ug/l.
3. The Discharger violated the VOC General NPDES Permit. According to the October 6, 2000, report submitted by the Discharger, a sample of the effluent from the treatment facility collected on September 5, 2000, contained cis-1,2-dichloroethene (cis-1,2-DCE) at a concentration of 35 micrograms per liter (ug/l), tetrachloroethene (PCE) at a concentration of 25.5 ug/l, and trichloroethene (TCE) at a concentration of 160 ug/l, which exceeded the 5.0 ug/l instantaneous maximum limits established in the permit by 600 percent, 410 percent, and 3,100 percent, respectively.
4. Recent changes to Water Code Section 13385(h)(1) became effective January 1, 2000, and require the Regional Board to assess a mandatory minimum penalty of \$3,000 for serious NPDES violations. A serious violation includes discharge of effluent containing any Group II pollutant in a concentration that exceeds the established maximum limits by 20 percent or more. Cis-1,2 DCE, PCE, and TCE are considered Group II pollutants. Water Code Section 13385 further authorizes the Regional Board to assess Penalty of up to ten thousand dollars (\$10,000) per violation day and up to \$10 per gallon discharged but not cleaned up in excess of 1,000 gallons for each such violation.

1. The Discharger committed three serious violations during the six-month period beginning March 5, 2000, and ending on September 5, 2000. The total amount of the mandatory minimum penalty for these three serious violations is three times three thousand dollars, nine thousand dollars (\$9,000). However, payment of \$3,000 is waived because the Discharger submitted an acceptable pollution prevention plan.
5. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.), in accordance with Section 15321(a)(2), Title 14, California Code of Regulations.

MALLINCKRODT INC. IS HEREBY GIVEN NOTICE THAT:

2. The Executive Officer of the Regional Board proposes that the Discharger be assessed Mandatory Penalty in the amount of nine thousand dollars (\$9,000.00). However, payment of \$3,000 is waived because the Discharger submitted an acceptable pollution prevention plan.
3. The Executive Officer of the Regional Board plans to bring this matter to the Regional Board at its February 21, 2001, meeting unless the Discharger agrees to waive the hearing and pay the Mandatory Penalty of six thousand dollars (\$6,000) in full. If a hearing is held, the Regional Board will consider whether to affirm, reject, or modify the proposed mandatory penalty, or whether to refer the matter to the Attorney General for recovery of civil liability and mandatory penalty.
4. The Discharger may waive the right to a hearing. If the Discharger wishes to waive the hearing, the Discharger must check and sign the attached waiver and return it with a check made payable to the State Water Resources Control Board for the full amount of the mandatory penalty, six thousand dollars (\$6,000), to the Regional Board's office at the letterhead address, by January 26, 2001.


Loretta K. Barsamian
Executive Officer

12 | 26 | 00

Date

WAIVER

[] By checking the box I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No. 00-115 and to remit payment for the civil liability imposed. I understand that I am giving up my right to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the mandatory penalty proposed. I further agree to remit payment for the \$6,000 civil liability imposed under Complaint No. 00-115 by January 26, 2001.

Name (print)

Signature

Date

Title/Organization