



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP 19 2007

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

LR-8J

Robert C. Steiner  
Kevin K. Steiner  
Co-Chief Executive Officers  
AlSCO, Incorporated  
505 East South Temple  
Salt Lake City, Utah 84102

Re: Consent Agreement and Final Order  
AlSCO Inc.  
Docket No.: RCRA-05-2007-0012

Dear Messrs. Steiner:

Enclosed please find an original, signed, fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The originals were filed on September 19<sup>th</sup>, 2007 with the Regional Hearing Clerk (RHC).

Please remit the payment of the \$280,587.00 civil penalty, in manner prescribed in Paragraphs 47-52 of the CAFO, and reference all checks with the number BD 2750742R006 and docket number RCRA-05-2007-0012.

Your payment is due within 30 calendar days of the effective date of the CAFO. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*.

Thank you for your cooperation in resolving this matter.

Sincerely,

Willie H. Harris, P.E.  
Chief  
RCRA Branch  
Land and Chemicals Division

Enclosure

cc: Todd Marvel, Illinois Environmental Protection Agency (w/ CAFO)

## NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

IN THE MATTER OF: )  
 ) DOCKET NO. **RCRA-05-2007-0012**  
AlSCO Inc. )  
2221 West Oakdale Avenue )  
Chicago, IL 60618 )  
 )  
ILD 074 416 603 )  
 )  
Respondent )  
\_\_\_\_\_ )

**RECEIVED  
REGIONAL HEARING CLERK  
US EPA REGION 5  
2007 SEP 19 AM 11:22**

**CONSENT AGREEMENT AND FINAL ORDER**

The United States Environmental Protection Agency (“U.S. EPA” or “Complainant”) and AlSCO Inc., located at 2221 West Oakdale Avenue, Chicago, Illinois, 60618 (“AlSCO” or “Respondent”) have agreed to a settlement of this action before the filing of a complaint. Accordingly, by the filing of this Consent Agreement and Final Order (“CAFO”), this action is simultaneously commenced and concluded pursuant to Sections 22.13(b), 22.18(b)(2), and 22.18(b)(3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 CFR §§ 22.13(b), 22.18(b)(2), and 22.18(b)(3) (“Consolidated Rules”).

**I. Preliminary Statement and Jurisdiction**

1. This is a civil administrative action instituted under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act of 1976, as amended (“RCRA”), 42 U.S.C. § 6928(a). RCRA was amended by the Hazardous and Solid Waste Amendments of 1984,

42 U.S.C. §§ 6921-6939 (“HSWA”). This action is also instituted under Sections 22.1(a)(4), 22.13, 22.14(a)(1)-(3) and (8), and 22.37 of the Consolidated Rules.

2. Jurisdiction for this action is conferred upon U.S. EPA by Sections 2002(a)(1), 3006(b), and 3008 of RCRA, 42 U.S.C. §§ 6912(a)(1), 6926(b), and 6928.
3. The Complainant is, by lawful delegation, the Division Director, Land and Chemicals Division, Region 5, U.S. EPA.
4. The Respondent is and was at all times relevant to this CAFO a corporation incorporated under the laws of Nevada.
5. The State of Illinois received a copy of a Notice of Violation sent to Respondent on May 24, 2006, via electronic mail. On November 1, 2006, U.S. EPA provided the State of Illinois with notice of commencement of this action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

## **II. Statutory and Regulatory Background**

6. U.S. EPA has promulgated regulations, codified at 40 CFR Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store and dispose of hazardous waste.
7. Under Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated under Subchapter III of RCRA, 42 U.S.C. §§ 6921-6939, or of any state provision authorized under Section 3006 of RCRA, constitutes a violation of RCRA, and

makes the violator subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

8. Under Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Illinois final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective on January 31, 1986. 51 Fed. Reg. 3778 (January 31, 1986). The Administrator of U.S. EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective March 5, 1988, 53 Fed. Reg. 126 (January 5, 1988); April 30, 1990, 55 Fed. Reg. 7320 (March 1, 1990); June 3, 1991, 56 Fed. Reg. 13595 (April 3, 1991); August 15, 1994, 59 Fed. Reg. 30525 (June 14, 1994); May 14, 1996, 61 Fed. Reg. 10684 (March 15, 1996); October 4, 1996, 61 Fed. Reg. 40520 (August 5, 1996). The U.S. EPA-authorized Illinois regulations are codified at Title 35 Illinois Administrative Code ("IAC") Part 703 *et seq.*
9. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), provides U.S. EPA with the authority to enforce State regulations in those States authorized to administer a hazardous waste program.
10. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both.

### **III. General Allegations**

11. Respondent is the owner or operator of contiguous land, and structures, other appurtenances, and improvements on the land, located at 2221 West Oakdale Avenue, Chicago, Illinois (the “Chicago facility”).
12. Respondent has a North American Industry Classification System (NAICS) code of 812332.
13. Respondent is an industrial launderer.
14. Respondent’s manufacturing activities result in the generation and storage at the Chicago facility of waste generally characterized by manifest as D001 waste, cleaning fluids characterized by manifest as D002 waste, and waste paint characterized by manifest as D005 waste, all of which were determined to be “hazardous wastes” as that term is defined in 35 IAC § 721.103 [40 CFR § 261.3], by the treatment, storage, and disposal facilities used by Respondent.
15. Accordingly, Respondent’s Chicago facility is a “facility” as that term is defined at 35 IAC § 720.110 [40 CFR § 260.10].
16. 35 IAC § 720.110 [40 CFR § 260.10] defines a “generator” as any person, by site, whose act or process produces hazardous waste identified or listed in 35 IAC § 721 [40 CFR § 261] or whose act first causes a hazardous waste to become subject to regulation.
17. Accordingly, Respondent is a generator of hazardous waste pursuant to 35 IAC 720.110 [40 CFR § 261].
18. Respondent generates more than 1000 kilograms a month of D001, D002, and D005 hazardous waste.

19. Accordingly, Respondent is a large quantity generator of hazardous waste subject to the requirements of 35 IAC §§ 722.134(a)-(c).

**COUNT 1:**

**Storage of Hazardous Waste Without a Permit or Interim Status**

20. Complainant incorporates paragraphs 1 through 19 of this CAFO as though set forth in this paragraph 20.
21. From approximately February 1, 2006, through approximately April 24, 2006, Respondent's Chicago facility included twenty-one 55-gallon hazardous waste storage containers, one 25-gallon hazardous waste storage container, one 10-gallon hazardous waste storage container, and one 5-gallon hazardous waste storage container, all of which stored up to 1,195 gallons of hazardous waste.
22. Respondent's Chicago facility manifested an approximate total of 3,525 gallons of hazardous waste between approximately January 1, 2006, and October 1, 2006.
23. 35 IAC §§ 703.121(a) and 703.153 [40 CFR § 270.1] provide that each person owning or operating a hazardous waste storage facility must have a permit or must have achieved "interim status".
24. Pursuant to 35 IAC § 722.134(a) [40 CFR § 262.34(a)], however, and subject to certain exemptions, large quantity generators of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the generator complies with the conditions specified in 35 IAC §§ 722.134(a)(1) through 722.134(a)(4) [40 CFR §§ 262.34(a)(1) – 262.34(a)(4)].

25. Storage for more than 90 days, or the failure to comply with any of the conditions of 35 IAC §§ 722.134(a)(1) – 722.134(a)(4) [40 CFR §§ 262.34(a)(1) – 262.34(a)(4)], subjects the large quantity generator of hazardous waste to the requirement to either obtain a permit or achieve interim status.

*See, 35 IAC §§ 722.134(a), 722.134(b). See also, generally, 35 IAC §§ 703.121, 703.123(a), 703.153.*

26. Personnel Training Conditions:

Pursuant to 35 IAC § 722.134(a) [40 CFR § 262.34(a)], Respondent was permitted to accumulate hazardous waste on-site for 90 days or less without a permit or interim status provided it fulfilled, in relevant part, the following personnel training conditions:

(1) provide a hazardous waste-oriented training program pursuant to 35 IAC §§ 725.116(a)(1)-(3) (35 IAC § 725.116(a), incorporated by reference at 35 IAC § 722.134(a)(4) [40 CFR § 262.34(a)(4)], [40 CFR § 265.16(a)]);

(2) provide hazardous waste-oriented management training to new employees within six months of employment (35 IAC § 725.116(b), incorporated by reference at 35 IAC § 722.134(a)(4) [40 CFR 262.34(a)(4)], [40 CFR § 265.16(a)]);

(3) provide an annual review of such initial training to facility personnel (35 IAC § 725.116(c), incorporated by reference at 35 IAC § 722.134(a)(4) [40 CFR § 262.34(a)(4)], [40 CFR § 265.16(c)]);

(4) maintain the following documents and records at the facility:



(i) the job title for each position at the facility related to hazardous waste management and the name of the employee filling each position (35 IAC § 725.116(d)(1), incorporated by reference at 35 IAC § 722.134(a)(4) [40 CFR § 262.34(a)(4)], [40 CFR § 265.16(d)(1)]);

(ii) a written job description for each position related to hazardous waste management at the facility (35 IAC § 725.116(d)(2), incorporated by reference at 35 IAC § 722.134(a)(4) [40 CFR § 262.34(a)(4)], [40 CFR § 265.16(d)(2)]);

(iii) a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position related to hazardous waste management at the facility (35 IAC § 722.116(d)(3), incorporated by reference at 35 IAC § 722.134(a)(4) [40 CFR § 262.34(a)(4)], [40 CFR § 265.16(d)(3)]); and

(iv) documentation that the required training or job experience has been given to and/or completed by facility personnel (35 IAC § 725.116(d)(4), incorporated by reference at 35 IAC § 722.134(a)(4) [40 CFR § 262.34(a)(4)], [40 CFR § 265.16(d)(4)]).

27. From approximately February 1, 2006, until approximately April 24, 2006, Respondent failed to fulfill the personnel training conditions for the 90-day storage exemption of 35 IAC § 722.134(a) [40 CFR § 262.34(a)] by: (1) failing

to provide a hazardous waste-oriented training program for hazardous waste management employees; (2) failing to provide hazardous waste-oriented management training to new employees within six months of employment; (3) failing to annually review such hazardous waste-oriented management training with appropriate personnel; and (4) failing to maintain documents and records at the Chicago facility regarding hazardous waste management job titles, hazardous waste management job descriptions, and hazardous waste training.

28. Contingency Plan & Emergency Preparedness Conditions:

Pursuant to 35 IAC § 722.134(a) [40 CFR § 262.34(a)], Respondent was permitted to accumulate hazardous waste on-site for 90 days or less without a permit or interim status provided it fulfilled, in relevant part, the contingency plan and emergency preparedness conditions of 35 IAC § 725, Subpart D, incorporated by reference at 35 IAC § 722.134(a)(4) [40 CFR § 262.34(a)(4)], [40 CFR § 265, Subpart D]. Respondent was obligated to have a contingency plan available on-site and have the resources necessary to implement such a plan (35 IAC §§ 725.151(a) and (b) [40 CFR §§ 265.51(a) and (b)]) and follow the respective requirements within the Subpart (35 IAC §§ 725.152-725.156 [40 CFR §§ 265.52-265.56]).

29. From approximately February 1, 2006, to approximately April 24, 2006, Respondent failed to comply with the contingency plan conditions for the 90-day storage exemption of 35 IAC § 722.134(a) by failing to have a facility contingency plan.

30. Pursuant to 35 IAC § 725.137 [40 CFR § 265.37], Respondent was permitted to accumulate hazardous waste on-site for 90 days or less without a permit or interim status provided it fulfilled, in relevant part, the facility familiarization conditions of 35 IAC § 725.137, incorporated by reference at 35 IAC § 722.134(a)(4) [40 CFR § 265.37]. Respondent was obligated to make an attempt to familiarize police, fire, State and local emergency response officials and hospitals with the hazardous waste generation of the Respondent's facility.
31. From approximately January 1, 2006, to approximately April 24, 2006, as well as after closure of the facility, Respondent failed to comply with the facility conditions for the 90-day storage exemption of 35 IAC § 722.134(a) by failing to have a facility contingency plan.
32. Hazardous Waste Recordkeeping Conditions:
- Pursuant to 35 IAC §§ 722.140(a)-(c) and 722.141 [40 CFR §§ 262.40(a)-(c) and 262.41], Respondent was permitted to accumulate hazardous waste on-site for 90 days or less without a permit or interim status provided it fulfilled, in relevant part, the following hazardous waste recordkeeping conditions:
- (1) maintain manifests on-site for a period of three years or until closure of the facility (35 IAC § 722.140(a) [40 CFR § 262.40(a)], incorporated by reference at 35 IAC § 722.134(a) [40 CFR § 262.34(a)]);
  - (2) maintain annual reporting on-site for a period of three years or until closure of the facility (35 IAC § 722.140(b) [40 CFR § 262.40(b)], incorporated by reference at 35 IAC § 722.134(a) [40 CFR § 262.34(a)]);

(3) maintain waste analyses, test results, or other hazardous waste determinations on-site for a period of three years or until closure of the facility (35 IAC §§ 722.140(c) and 722.111 [40 CFR §§ 262.40(c) and 262.11], incorporated by reference at 35 IAC § 722.134(a) [40 CFR § 262.34(a)]; and

(4) file an annual report for a year in which hazardous waste was generated and transported off-site (35 IAC §§ 722.141(a) [40 CFR §§ 262.41(a)], incorporated by reference at 35 IAC § 722.134(a) [40 CFR § 262.34(a)]).

33. From approximately February 1, 2006, to approximately April 24, 2006, Respondent failed to comply with the hazardous waste data management conditions for the 90-day storage exemption of 35 IAC § 722.134(a) [40 CFR § 262.34(a)] by failing to maintain manifests, annual reporting or waste analyses on-site or at a reasonable location in which such hazardous waste management data could be easily accessed.
34. On or about March 1, 2006, Respondent failed to comply with the hazardous waste annual report filing conditions for the 90-day storage exemption of 35 IAC § 722.134(a) [40 CFR § 262.34(a)] by failing to file an annual report, while having generated and transported hazardous waste off-site to a treatment, storage and disposal facility (TSDF).
35. Hazardous Waste Minimization Conditions:  
Pursuant to 35 IAC §§ 725.131 and 725.132(c) [40 CFR §§ 265.31 and 262.32(c)], Respondent was permitted to accumulate hazardous waste on-site for 90 days or less without a permit or interim status provided it fulfilled, in relevant part, the following hazardous waste minimization conditions:

(1) maintain and operate the facility to minimize the possibility of hazardous waste and/or hazardous constituent releases (35 IAC § 725.131 [40 CFR § 262.31], incorporated by reference at 35 IAC § 722.134(a)(4) [40 CFR § 262.34(a)]), and

(2) maintain proper spill control and/or decontamination equipment (35 IAC § 725.132(c) [40 CFR § 265.32(c)], incorporated by reference at 35 IAC § 722.134(a) [40 CFR § 262.34(a)]).

36. From approximately February 1, 2006, to approximately April 24, 2006, Respondent failed to comply with the hazardous waste minimization conditions for the 90-day storage exemption of 35 IAC § 722.134(a) [40 CFR § 262.34(a)] by failing to maintain spill control or decontamination equipment and failing to operate the facility in a way that would prevent such spills, as discussed in paragraphs 37 and 38 below.

37. Hazardous Waste Storage Container Management Conditions:

Pursuant to 35 IAC §§ 722.134(a)(2)-(a)(4) [40 CFR §§ 262.34(a)(2)-(a)(4)], 725.35, 725.271, 725.273(a)-(b), and 725.274 [40 CFR §§ 262.40(a)-(c) and 262.41], Respondent was permitted to accumulate hazardous waste on-site for 90 days or less without a permit or interim status provided it fulfilled, in relevant part, the following hazardous waste storage container management conditions:

(1) label each hazardous waste storage container with the date on which accumulation began (35 IAC § 722.134(a)(2) [40 CFR § 262.34(a)(2)]);

(2) label each hazardous waste storage container with the words, “Hazardous Waste,” or an equivalent chemical indicator (35 IAC § 722.134(a)(3))

[40 CFR § 262.34(a)(3)];

(3) properly manage hazardous waste storage containers and transfer hazardous waste in poor storage containers to proper containment (35 IAC §§ 725.271 and 722.273(b) [40 CFR §§ 265.171 and 265.173(b)], incorporated by reference at 35 IAC § 722.134(a)(4) [40 CFR § 262.34(a)(4)]);

(4) keep hazardous waste storage containers closed, except when adding or removing waste (35 IAC §§ 725.273(a) [40 CFR §§ 265.173(a)], incorporated by reference at 35 IAC § 722.134(a)(4) [40 CFR § 262.34(a)(4)]);

(5) maintain proper aisle space for emergency responder accessibility in hazardous waste storage areas (35 IAC § 725.135 [40 CFR § 265.35], incorporated by reference at 35 IAC § 722.134(a)(4) [40 CFR § 262.34(a)(4)]); and

(6) inspect hazardous waste storage areas weekly and have a log of such inspections in the facility operating record or inspection log (35 IAC § 725.274 [40 CFR § 265.174], incorporated by reference at 35 IAC § 722.134(a)(4) [40 CFR § 262.34(a)(4)]).

38. From approximately February 1, 2006, to approximately April 24, 2006, Respondent failed to comply with the hazardous waste minimization conditions for the 90-day storage exemption of 35 IAC § 722.134(a) [40 CFR § 262.34(a)] by failing to: (1) label hazardous waste storage containers with an accumulation date; (2) label hazardous waste storage containers with the words, “Hazardous Waste,” or an equivalent chemical indicator; (3) properly manage hazardous waste storage containers and transfer hazardous waste in poor storage containers

to proper containment; (4) keep hazardous waste storage containers closed, except when adding or removing waste; (5) maintain proper aisle space for emergency responder accessibility in hazardous waste storage areas; (6) inspect hazardous waste storage areas weekly and have a log of such inspections in the facility operating record or inspection log.

39. As a result of its failure to comply with the personnel training; contingency plan; hazardous waste data management; hazardous waste minimization; and hazardous waste storage container management conditions for the 90-day hazardous waste storage exemption of 35 IAC § 722.134(a) [40 CFR § 262.34(a)], Respondent became obligated to obtain either a hazardous waste storage permit or achieve interim status.
40. Respondent never applied for or obtained a permit from the State of Illinois for the storage of hazardous waste at the Chicago facility.
41. Respondent's storage of hazardous waste without a permit or interim status is a violation of 35 IAC §§ 703.121(a) and 703.153 [40 CFR § 270.1].

#### **IV. Terms of Settlement**

42. Complainant and the Respondent agree that the settlement of this matter pursuant to Section 22.13(b) of the Consolidated Rules, 40 CFR § 22.13(b), is in the public interest and that the entry of this CAFO without engaging in litigation is the most appropriate means of resolving this matter.
43. Respondent admits the jurisdictional allegations set forth in this CAFO.
44. Respondent neither admits nor denies the factual allegations set forth in this CAFO.

45. Respondent consents to the issuance of this CAFO and the assessment of the civil penalty as outlined in Section V of this CAFO.
46. Respondent has demonstrated and certifies that it is now in compliance with the requirements that formed the basis of the allegations in Section III of this CAFO.

**V. Civil Penalty**

47. Pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, the Administrator of U.S. EPA may assess a civil penalty of up to \$25,000 per day for each violation of Subtitle C of RCRA. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, required U.S. EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 CFR Part 19, U.S. EPA may assess a civil penalty of up to \$32,500 per day for each violation of Subtitle C of RCRA occurring or continuing on or after March 15, 2004.
48. Complainant determined the proposed civil penalty according to RCRA Section 3008, 42 U.S.C. § 6928. In assessing a civil penalty, the Administrator of U.S. EPA must consider “the seriousness of the violation and any good faith efforts to comply with applicable requirements.” Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). Complainant has considered the facts and circumstances of this case with specific reference to U.S. EPA’s 2003 RCRA Civil Penalty Policy. This policy provides a consistent method of applying the statutory penalty factors to this case.



49. Based on an analysis of the applicable statutory penalty factors, as well as the penalty policy, and based on the foregoing, the nature and seriousness of storing hazardous waste without a permit or interim status, the potential harm to human health and the environment, Respondent's willfulness/negligence or lack thereof, Respondent's compliance history, the ability of Respondent to pay penalties, information exchanged by the parties, consideration of the steps Respondent has taken and has agreed to take to achieve and maintain compliance, Respondent's good faith efforts to comply, and other relevant factors, U.S. EPA has determined that an appropriate civil penalty to settle this CAFO is in the amount of **\$280,587**, and the parties have agreed to a civil penalty in that amount, to be paid as specified below. Complainant accordingly assessed a civil penalty against Respondent in the amount of **\$280,587**.

50. Within 30 days following the effective date of this CAFO, Respondent shall pay \$280,587. Payment shall be made by certified or cashier's check, payable to "Treasurer, the United States of America," and remit to:

U.S. Environmental Protection Agency, Region 5  
P.O. Box 371531  
Pittsburgh, PA 15251-7531

The check shall reference the name of the Respondent and the Docket Number of this CAFO. Interest and late charges shall be paid as specified in paragraph 52 of this CAFO.

51. Upon payment of the civil penalty, Respondent shall send to each of the persons listed below a copy of the check and a transmittal letter referencing the name of Respondent and the docket number of this CAFO:

Regional Hearing Clerk  
U.S. EPA Region 5  
77 West Jackson Blvd. (E-13J)  
Chicago, Illinois 60604-3590

Kevin Chow  
Office of Regional Counsel (C-14J)  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

and

Bradley R. Grams  
Land and Chemicals Division (LR-8J)  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

52. Pursuant to 31 U.S.C. § 3717, Respondent shall pay the following amounts on any amount overdue under this CAFO:

- (a) **Interest.** Any unpaid portion of a civil penalty shall bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 CFR § 102.13(c).
- (b) **Monthly Handling Charge.** Respondent shall pay a late payment handling charge of \$15.00 on any late payment, with an additional charge of \$15.00 for each subsequent 30 calendar day period over which an unpaid balance remains.
- (c) **Non-Payment Penalty.** On any portion of a civil penalty more than 90 calendar days past due, Respondent shall pay a non-payment penalty of six percent per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b) above.

The penalty specified in this CAFO shall represent civil penalties assessed by U.S. EPA and shall not be deductible for purposes of Federal taxes.

## **VI. General Terms of Settlement**

53. Respondent consents to all of the conditions in this CAFO.
54. This CAFO constitutes the entire agreement and settlement between the parties.
55. Respondent waives any right to contest or appeal the allegations contained in this CAFO and any right to appeal the CAFO.
56. If Respondent fails to comply with any provision contained in this CAFO, Respondent waives any rights it may possess in law or equity to challenge the authority of U.S. EPA to bring a civil action in the appropriate United States District Court to compel compliance with this CAFO.
57. This CAFO constitutes a full and final settlement by U.S. EPA of all claims for civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for the violations alleged in Section III of this CAFO.
58. Nothing in this CAFO shall be construed to relieve the Respondent from its obligation to comply with all applicable federal, state and local statutes and regulations, including the RCRA Subtitle C requirements at 40 CFR Parts 260 through 270.
59. Notwithstanding any other provision of this CAFO, nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of U.S. 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 applicable provision of law, other than the specific matters resolved herein.

60. Notwithstanding any other provision of this CAFO, U.S. EPA may bring an enforcement action pursuant to Section 7003 of RCRA, or other statutory authority, if any handling, storage, treatment, transportation or disposal of solid or hazardous waste may present an imminent and substantial endangerment to human health or the environment. U.S. EPA also expressly reserves the right: (a) for any matters other than violations alleged in the CAFO, to take any action authorized under Section 3008 of RCRA; (b) to enforce compliance with the applicable provisions of the Illinois Administrative Code; and (c) to enforce compliance with this CAFO, including through a referral to the Department of Justice.
61. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this CAFO.
62. Respondent shall submit all reports, submissions, and notifications required by this Order to:
- Bradley R. Grams  
RCRA Branch  
Land and Chemicals Division,  
U.S. EPA  
77 West Jackson Boulevard (LR-8J)  
Chicago, Illinois 60604-3590.
63. The undersigned representative of each party to this CAFO certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms and bind that party to them.
64. Respondent waives any right it may have pursuant to 40 CFR § 22.08 to be present during discussions with, or to be served with and reply to, any memorandum or communication addressed to the Director, Land and Chemicals

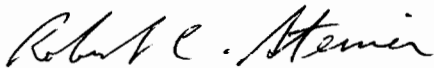
Division, or her superiors, where the purpose of such discussion, memorandum or communication is to persuade such an official to accept and issue the CAFO.

65. Respondent and U.S. EPA agree to the issuance and entry of the accompanying Final Order.
66. This CAFO shall become effective on the date it is filed with the Regional Hearing Clerk, Region 5.
67. This CAFO shall terminate upon payment by Respondent of the civil penalty as required under Section V of this CAFO.

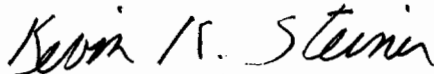
**VII. Signatories**

Each undersigned representative of a party to this Consent Agreement certifies that he or she is fully authorized to enter into the terms and conditions of the Consent Agreement and to bind legally each party to this document.

Agreed to this 23<sup>rd</sup> day of August, 2007.



Robert C. Steiner, Co-Chief Executive Officer  
AlSCO Inc.  
505 East South Temple  
Salt Lake City, UT 84102



Kevin K. Steiner, Co-Chief Executive Officer  
AlSCO Inc.  
505 East South Temple  
Salt Lake City, UT 84102

Agreed to this 10 day of Sept, 2007.



Margaret M. Guerriero, Director  
Land and Chemicals Division  
U.S. EPA, Region 5

**RCRA-05-2007-0012**

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**IN THE MATTER OF:**

**AlSCO Inc.  
2221 West Oakdale Avenue  
Chicago, Illinois 60618**

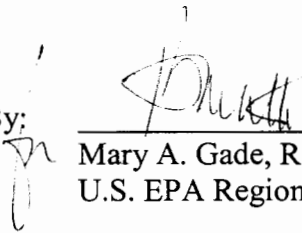
**U.S. EPA Docket No.: RCRA-05-2007-0012**

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved and incorporated by reference into this FINAL ORDER. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement, effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 CFR §§ 22.18 and 22.31.

Ordered this 11<sup>th</sup> day of September, 2007

By:



Mary A. Gade, Regional Administrator  
U.S. EPA Region 5

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2007 SEP 19 AM 11:23

**CASE NAME:** American Industrial Service Company - AlSCO, Incorporated  
**DOCKET NO:** **RCRA-05-2007-0012**

**CERTIFICATE OF SERVICE**

I hereby certify that today I filed the original of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed via Certified Mail, Return Receipt Requested to the following:

Robert C. Steiner  
Co-Chief Executive Officer  
AlSCO, Incorporated  
505 East South Temple  
Salt Lake City, UT 84102

Return Receipt # **7001 0320 0006 1448 9726**

Kevin K. Steiner  
Co-Chief Executive Officer  
AlSCO, Incorporated  
505 East South Temple  
Salt Lake City, UT 84102

Return Receipt# **7001 0320 0006 1458 5107**

And via First Class Mail to:

Kurt Wagner  
Director of Operations  
AlSCO, Incorporated  
505 East South Temple  
Salt Lake City, UT 84102

Todd Marvel  
Bureau of Land  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O Box 19276  
Springfield, IL 62794-9276

Jeremiah D. Jackson, Ph.D., P.E., CHMM  
Executive Vice President  
Project Resources, Incorporated  
3760 Convoy Street, Suite 230  
San Diego, CA 92111

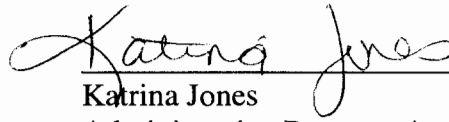
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US EPA REGION V



CASE NAME: American Industrial Service Company-Alsco, Incorporated  
DOCKET NO:.

David Prink  
Plant Manager  
American Industrial-Milwaukee Office  
4250 North 124<sup>th</sup> Street  
Wauwatosa, WI 53222

Dated: 9/19/07



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Katrina Jones  
Administrative Program Assistant  
United States Environmental Protection Agency  
Land and Chemicals Division -RCRA Branch  
77 W. Jackson Boulevard  
Chicago, IL 60604-3590  
(312) 353-5882

**RCRA-05-2007-0012**

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