



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

JUL 03 2012

REPLY TO THE ATTENTION OF:

LR-8J

CERTIFIED MAIL 7001 0320 0006 1458 6654
RETURN RECEIPT REQUESTED

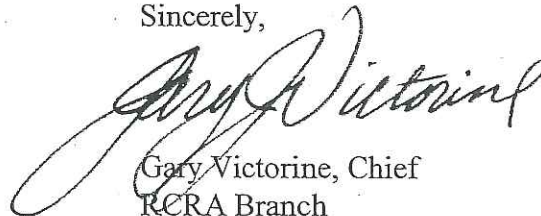
Mr. Samuel L. Patrick
Environmental Compliance Officer
Plas-Tanks Industries, Incorporated
39 Standen Drive
Hamilton, Ohio 45011

Re: Plas-Tanks Industries, Inc.
Consent Agreement and Final Order
Docket No:

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 JUL - 3 2012 with the Regional Hearing Clerk.

Please pay the civil penalty in the amount of \$18,489 in the manner prescribed in paragraph 73 of the CAFO, and reference all checks with the number BD 2751242R007 and docket number RCRA-05-2012-0007. Your payment is due within thirty (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,



Gary Victorine, Chief
RCRA Branch

Enclosures

cc: Bruce McCoy, Ohio EPA w/CAFO (bruce.mccoy@epa.state.oh.us)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. RCRA-05-2012-0007
)	
Plas-Tanks Industries, Inc.)	Proceeding to Assess a Civil Penalty
Hamilton, Ohio)	Under Section 3008(a) of the Resource
)	Conservation and Recovery Act,
Respondent.)	42 U.S.C. § 6928(a)
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Consent Agreement and Final Order

Preliminary Statement

RECEIVED
JUL - 3 2012
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. Respondent is Plas-Tanks Industries, Inc., a corporation doing business in the State of Ohio.
4. U.S. EPA provided notice of commencement of this action to the State of Ohio pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the

issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

8. 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.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

11. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste, pursuant to Sections 3002, 3003, and 3004 of RCRA, 42 U.S.C. §§ 6922, 6923, and 6924.

12. Pursuant to 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 pursuant to Subtitle C (Sections 3001-3023 of RCRA,

42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

13. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Ohio final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective June 30, 1989. 54 Fed. Reg. 27170 (June 28, 1989).

14. 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.

15. 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 according to Section 3008 of RCRA, 42 U.S.C. § 6928. 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 C.F.R. 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 that occurred after March 15, 2004 through January 12, 2009 and may assess a civil penalty of up to \$37,500 per day for each violation of Subtitle C of RCRA that occurred after January 12, 2009.

General Allegations

16. Respondent is a "person" as defined by Section 1004(15) of RCRA, 42 U.S.C.

§ 6903(15), and OAC 3745-50-10(88).

17. At all times relevant to this CAFO, Respondent was an “owner” or “operator,” as those terms are defined under OAC 3745-50-10(91) and (90) and 40 C.F.R. § 260.10, of a facility located at 39 Standen Drive, Hamilton, Ohio manufacturing resin-based products (Facility).

18. At all times relevant to this CAFO, Respondent’s Facility consisted of land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.

19. Respondent’s Facility is a "facility," as that term is defined under OAC 3745-50-10(44)(a) and 40 C.F.R. § 260.10.

20. At all times relevant to this CAFO, Respondent used acetone to clean process equipment.

21. Cleaning the process equipment generated spent acetone.

22. At all relevant times to this CAFO, Respondent held spent acetone in a 55-gallon drum prior to reclaiming it in a recovery still reclamation unit at its Facility.

23. At all times relevant to this CAFO, Respondent’s spent acetone was a “solid waste” as that term is defined under OAC 3745-51-02 and 40 C.F.R. § 261.2.

24. At all times relevant to this CAFO, Respondent’s spent acetone was a “hazardous waste” as that term is defined under OAC 3745-51-03 and 40 C.F.R. § 261.3.

25. Respondent’s spent acetone is a listed hazardous waste with the hazardous waste number F003.

26. At all times relevant to this CAFO, Respondent's holding of spent acetone in a 55 gallon drum constituted hazardous waste "storage," as that term is defined under OAC 3745-50-10(118) and 40 C.F.R. § 260.10.

27. Respondent's 55-gallon drum, which stores, transports, disposes of, or otherwise handles spent acetone is a "container" as that term is defined under OAC 3745-50-10(18).

28. Respondent's recovery still reclamation unit generated still bottoms from the recovery of acetone.

29. At all times relevant to this CAFO, Respondent held the still bottoms, a discarded material, for temporary periods in 55-gallon drums before the material was shipped from the Facility for treatment, storage, disposal, burning or incineration elsewhere.

30. Respondent characterized its still bottoms as hazardous waste codes D001 and F003.

31. At all times relevant to this CAFO, Respondent's still bottoms were "solid waste" as that term is defined under OAC 3745-51-02 and 40 C.F.R. § 261.2.

32. At all times relevant to this CAFO, Respondent's still bottoms were a "hazardous waste" as that term is defined under OAC 3745-51-03 and 40 C.F.R. § 261.3.

33. At all times relevant to this CAFO, Respondent's holding of still bottoms in containers constituted hazardous waste "storage," as that term is defined under OAC 3745-50-10(118) and 40 C.F.R. § 260.10.

34. Respondent's 55-gallon drums, which store, transport, dispose of, or otherwise handle still bottoms and spent acetone are "containers" as that term is defined under OAC 3745-

50-10(18).

35. Respondent is a “generator,” as that term is defined under OAC 3745-50-10(51) and 40 C.F.R. § 260.10.

36. On May 19, 2010, U.S. EPA conducted a Compliance Evaluation Inspection of the Facility (the Inspection).

37. On June 27, 2011, U.S. EPA issued a Notice of Violation to Respondent alleging certain violations of RCRA discovered during the Inspection.

38. On July 26, 2011, Respondent submitted to U.S. EPA a written response to the Notice of Violation.

39. At all times relevant to this CAFO, the State of Ohio had not issued a permit to Respondent to treat, store, or dispose of hazardous waste at its Facility.

40. In at least 2008, 2009 and 2010, Respondent generated between 100 and 1,000 kilograms of hazardous waste per month.

Count 1: Failure to Obtain a U.S. EPA ID Number

41. Complainant incorporates Paragraphs 1 through 40 of this CAFO as though set forth in this paragraph.

42. OAC 3745-52-12(A) [40 C.F.R. § 262.12(a)] provides that a generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an U.S. EPA identification number from U.S. EPA or Ohio EPA.

43. Respondent generated and stored listed hazardous waste spent acetone and still bottoms from the recovery of spent acetone in 2008, 2009, and 2010.

44. Respondent offered for transportation listed and characteristic hazardous waste still bottoms from the recovery of spent acetone in 2008, 2009, and 2010.

45. Respondent did not obtain an U.S. EPA identification number for its facility located at 39 Standen Drive in Hamilton, Ohio until December 2010.

46. Respondent's failure to obtain an U.S. EPA identification number until December 2010 is a violation of OAC 3745-52-12(A).

Count 2: Failure to Obtain a Hazardous Waste Permit

47. Complainant incorporates Paragraphs 1 through 46 of this CAFO as though set forth in this paragraph.

48. Pursuant to 3005(a) of RCRA, 42 U.S.C. § 6925(a) and the regulations at 40 C.F.R. Part 270, the treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a permit is prohibited.

49. Pursuant to OAC 3745-52-34(D) and 40 C.F.R. § 262.34(d), however, and subject to certain exceptions, a generator who generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste for up to one hundred and eighty days without a permit provided that the generator complies with all applicable conditions set forth in OAC 3745-52-34(D) and 40 C.F.R. § 262.34(d) including, but not limited to, requirements for owners and operators of rules 3745-65-30 to 3745-65-37.

Failure to Date Hazardous Waste Containers

50. Pursuant to OAC 3745-52-34(D)(4) [40 C.F.R. § 262.34(d)(4)], in order for generator of hazardous waste to maintain its exemption from the requirement to have hazardous

waste permit, it must comply with the specific condition set forth in OAC 3745-52-34(A)(2) [40 C.F.R. § 262.34(a)(2)] that it mark its containers of hazardous waste with an accumulation start date.

51. At the time of the Inspection, Respondent had not marked one 5-gallon bucket of spent acetone in the Acetone Room with an accumulation start date.

52. At the time of the Inspection, Respondent had not marked one 55-gallon drum of spent acetone in the Acetone Room with an accumulation start date.

53. At the time of the Inspection, Respondent had not marked three 55-gallon drums of solvent recovery still bottoms outside of the Acetone Room with an accumulation start date.

54. Accordingly, Respondent failed to satisfy one of the conditions to maintain its exemption from the requirement that it have an operating permit when it failed to mark a 5-gallon bucket and a 55-gallon drum of spent acetone and three 55-gallon drums of solvent recovery still bottoms as referenced in paragraphs 52-54 above.

Failure to Label Hazardous Waste Containers as “Hazardous Waste”

56. Pursuant to OAC 3745-52-34(D)(4) [40 C.F.R. § 262.34(d)(4)], in order for a generator of hazardous waste to maintain its exemption from the requirement to have a hazardous waste permit, it must comply with the specific condition set forth in OAC 3745-52-34(A)(3) [40 C.F.R. § 262.34(a)(3)] that it mark or label its containers of hazardous waste with the words “Hazardous Waste.”

56. At the time of the Inspection, Respondent had not marked or labeled one 5-gallon bucket of spent acetone in the Acetone Room with the words “Hazardous Waste.”

57. At the time of the Inspection, Respondent had not marked or labeled one 55-gallon drum of spent acetone in the Acetone Room with the words "Hazardous Waste."

58. At the time of the Inspection, Respondent had not marked or labeled three 55-gallon drums of solvent recovery still bottoms outside of the Acetone Room with the words "Hazardous Waste."

59. Accordingly, Respondent failed to satisfy one of the conditions to maintain its exemption from the requirement that it have an operating permit when it failed to mark or label a 5-gallon bucket and a 55-gallon drum of spent acetone and three 55-gallon drums of solvent recovery still bottoms as referenced in paragraphs 56-58 above.

Failure to Post Emergency Information

60. OAC 3745-52-34(D)(5)(b)(i), (ii), and (iii) [40 C.F.R. § 262.34(d)(5)(ii)(A), (B), (C)] provide that a generator who generates between one hundred and one thousand kilograms of hazardous waste in a calendar month may accumulate hazardous waste for up to one hundred and eighty days without a permit provided that the generator posts the name and telephone number of the emergency coordinator, the location of emergency equipment, and telephone number of the fire department next to the telephone.

61. At the time of the Inspection, Respondent had not posted the name of the emergency coordinator next to the telephone.

62. At the time of the Inspection, Respondent had not posted the location of the emergency equipment next to the telephone.

63. At the time of the Inspection, Respondent had not posted the telephone number of

the fire department next to the telephone.

64. Accordingly, Respondent failed to satisfy the conditions to maintain its exemption from the requirement that it have an operating permit when it failed to post certain information next to the telephone as referenced in paragraphs 61-63 above.

Failure to Keep Hazardous Waste Container at or near Point of Generation Closed

65. OAC 3745-52-34(C)(1)(a) [40 C.F.R. § 262.34(c)(1)(i)] provides that a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit provided that the generator keeps the containers of hazardous waste closed during storage except when adding or removing waste as required under OAC 3745-66-73(A).

66. At the time of the Inspection, Respondent failed to keep one 55-gallon drum of solvent recovery still bottoms in the Acetone Room closed, and Respondent was not adding or removing waste at the time.

67. Accordingly, Respondent failed to satisfy one of the conditions to maintain its exemption from the requirement that it have an operating permit when it failed to keep the 55-gallon drum of solvent recovery still bottoms closed as referenced in paragraph 66 above.

Failure to Label Hazardous Waste Container at or Near Point of Generation as

“Hazardous Waste”

68. OAC 3745-52-34(C)(1)(b) [40 C.F.R. § 262.34(c)(1)(ii)] provides that a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near any point of

generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit provided that the generator marks containers of hazardous waste with either the words "Hazardous Waste" or with other words that identify the contents of the containers.

69. At the time of the Inspection, Respondent failed to mark one 55-gallon drum of solvent recovery still bottoms in the Acetone Room with either the words "Hazardous Waste" or with other words that identified the contents of the container.

70. Accordingly, Respondent failed to satisfy one of the conditions to maintain its exemption from the requirement that it have an operating permit when it failed to mark the 55-gallon drum of solvent recovery still bottoms as referenced in paragraph 69 above.

71. Respondent's storage of hazardous waste without a permit violated Section 3005 of RCRA, 42 U.S.C. § 6925(a), OAC 3745-52-34(D) and OAC 3745-52-34(C)(1) [40 C.F.R. § 262.34(d) and 40 C.F.R. §§ 270.1(c), 270.10(a) and (d), and 270.13]

Civil Penalty

72. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is eighteen thousand four hundred eighty-nine dollars (\$18,489). In determining the penalty amount, Complainant took into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

73. Within 30 days after the effective date of this CAFO, Respondent must pay a

\$18,489 civil penalty for the RCRA violations. Respondent must pay the penalty by sending a cashier's or certified check payable to the "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The check must include Respondent's name (Plas-Tanks Industries Inc.), the docket number of this CAFO and the billing document number.

74. A transmittal letter, stating the case name, Respondent's complete address, the case docket number and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Michael Cunningham (LR-8J)
RCRA Branch
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Tamara Carnovsky (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

75. This civil penalty is not deductible for federal tax purposes.

76. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount

overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

77. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

78. This CAFO does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

79. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws or permits.

80. Respondent certifies that it is complying with 42 U.S.C. § 6922 and OAC 3745-52 [40 C.F.R. Part 262].

81. The terms of this CAFO bind Respondent, its successors, and assigns.

82. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

83. Each party agrees to bear its own costs and attorney's fees in this action.

84. This CAFO constitutes the entire agreement between the parties.

In the Matter of:
Plas-Tanks Industries Inc.
Docket No. RCRA-05-2012-0007

Plas-Tanks Industries Inc., Respondent


May 31, 2012
Date



Samuel L. Patrick
Environmental Compliance Officer
Plas-Tanks Industries Inc.

United States Environmental Protection Agency, Complainant

6/29/2012
Date



Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
Plas-Tanks Industries Inc.
Docket No. RCRA-05-2012-0007

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U.S. ENVIRONMENTAL
PROTECTION AGENCY

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

6-29-12
Date


Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

CASE NAME: Plas-Tanks Industries, Incorporated
DOCKET NO:

CERTIFICATE OF SERVICE

I hereby certify that today I filed two originals of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604-3590.

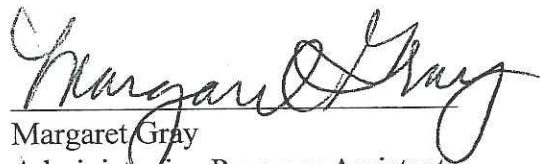
I further certify that I then caused one of the original filed documents to be mailed on the date below, via Certified Mail and Return Receipt Requested to:

Mr. Samuel L. Patrick
Environmental Compliance Officer
Plas-Tanks Industries, Incorporated
39 Standen Drive
Hamilton, Ohio 45011
Certified Mail # 7001 0320 0006 1458 6654

RECEIVED
JUL - 3 2012

**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**

Dated: 7-3, 2012



Margaret Gray
Administrative Program Assistant
United States Environmental Protection Agency
Region V
Land and Chemicals Division LR-8J
RCRA Branch
77 W. Jackson Blvd, Chicago, IL 60604-3590