



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

JUL 11 2018

REPLY TO THE ATTENTION OF:

VIA EMAIL

3 Sigma, LLC  
Attn: Mr. Tony Rowley  
1985 W. Stanfield Road  
Troy, Ohio 45373

Re: Consent Agreement and Final Order  
3 Sigma Pioneer LLC  
Docket No: RCRA-05-2018-0016

Dear Mr. Rowley:

Enclosed please find a fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The CAFO was filed on July 11, 2018 with the Regional Hearing Clerk (RHC). Pursuant to paragraph 73 of the CAFO, the effective date of the CAFO is July 11, 2018.

Please pay the civil penalty in the amount of \$24,222 in the manner described in paragraph 68 of the CAFO within 30 days after the effective date of the CAFO.

Sincerely

A handwritten signature in blue ink that reads "Gary J. Victorine".

Gary J. Victorine, Chief  
RCRA Branch

cc: Mitchell Mathews, OEPA  
(mitchell.mathews@epa.ohio.gov)  
Christopher Grubb, EPA, ORC  
(grubb.christopher@epa.gov)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:

3 Sigma, LLC  
Troy, Ohio

Respondent.

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Docket No. RCRA-05-2018-0016

Proceeding to Commence and Conclude  
an Action to Assess a Civil Penalty  
Under Section 3008(a) of the Resource  
Conservation and Recovery Act,  
42 U.S.C. § 6928(a)

Consent Agreement and Final Order

Preliminary Statement

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. On April 20, 2018, 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).

4. Respondent is 3 Sigma, LLC, a corporation doing business in the State of Ohio.

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 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 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.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6992k, and the regulations at 40 C.F.R. Parts 260 - 279.

#### **Statutory and Regulatory Background**

12. 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 3001 – 3007, among others, of RCRA, 42 U.S.C. §§ 6921 – 6927.

13. 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.

14. 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).

15. 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. The Administrator of U.S. EPA may assess a civil penalty of up to \$95,284 per day for each violation of Subtitle C of RCRA that occurred after November 2, 2015 pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. Part 19.

#### **Factual Allegations and Alleged Violations**

16. Respondent was and is a "person" as defined by OAC 3745-50-10(88), 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. Respondent is the "owner" or "operator," as those terms are defined under OAC 3745-50-10(96), OAC 3745-50-10(95), and 40 C.F.R. § 260.10, of a facility located at 1985 W. Stanfield, Troy, Ohio 43373 (facility).

18. On September 13-14, 2016, U.S. EPA conducted an inspection of the facility.

19. The facility consists of land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste.

20. Respondent manufactures face stock, adhesives, and liners for the label converting, office supply, and specialty tape markets.

21. At all times relevant to this CAFO, Respondent created solid wastes including, but not limited to: (1) waste coating solution; (2) waste solids containing flammables (ethyl acetate and toluene); (3) waste flammable liquid (ethyl acetate and toluene); and, (4) waste adhesive.

22. Respondent's processes at the facility produce several hazardous wastes identified or listed in OAC 3745-51-01 to 3745-51-35 or cause a hazardous waste to become subject to regulation under OAC 3745-50-01 to 3745-270 [40 C.F.R. Parts 260-270].

23. Respondent is a "generator," as that term is defined in OAC 3745-50-10(54) [40 C.F.R. § 260.10].

24. Respondent produced more than 1,000 kilograms (2,205 pounds) of hazardous waste each calendar month of 2016, prior to the inspection, and was a large quantity generator.

25. Respondent is subject to the regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921 - 6939e, or the analogous Ohio regulations as part of the applicable state hazardous waste management program for the state of Ohio, or both.

26. At the time of the inspection, Respondent held used aerosol can waste, a discarded material, for temporary periods in a 55-gallon drum before the material was shipped from the facility for treatment, storage, or disposal elsewhere.

27. Respondent's 55-gallon drum in which it stored, transported, disposed of, or otherwise handled waste was a "container" as that term is defined under OAC 3745-50-10(21) [40 C.F.R. § 260.10].

28. Respondent's holding of aerosol can waste in a 55-gallon drum constitutes "storage" of hazardous waste as that term is defined under OAC 3745-50-10(127) [40 C.F.R. § 260.10].

29. On August 7, 2017, U.S. EPA sent Respondent a request for information pursuant to section 3007 of RCRA, 42 U.S.C. § 6927.

30. On August 24, 2017, Respondent submitted a response to U.S. EPA's request for information.

31. On February 5, 2018, U.S. EPA sent Respondent a notice of violation (NOV) identifying potential violations of RCRA.

32. On February 26, 2018, Respondent submitted a response to U.S. EPA's NOV.

33. At all times relevant to this CAFO, the State of Ohio has not issued a permit to Respondent to treat, store, or dispose of hazardous waste at the facility.

34. At all times relevant to this CAFO, Respondent did not have interim status for the treatment, storage, or disposal of hazardous waste at the facility.

#### **Count 1**

35. Complainant incorporates paragraphs 1 through 34 of this CAFO as though set forth in this paragraph.

36. 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.

37. Pursuant to OAC 3745-52-34 [40 C.F.R. § 262.34(a)], and subject to certain exceptions, a generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without having a permit or interim status, provided that the generator complies with all applicable conditions of OAC 3745-52-34 and 40 C.F.R. § 262.34(a).

38. If the conditions of OAC 3745-52-34 [40 C.F.R. § 262.34] are not met, then the generator must apply for an operating permit under OAC 3745-50-40 to 3745-50-66; 3745-54 to 3745-57; 3745-205 and 3745-256 [40 C.F.R. Part 264, 40 C.F.R. §§ 270.1(c), 270.10(a) and (d), and 270.13].

39. Pursuant to OAC 3745-52-34(A) [40 C.F.R. § 262.34(a)], in order for a large quantity generator of hazardous waste to maintain its exemption from the requirement to have an Ohio hazardous waste permit or interim status, it must comply with the specific requirements that it label or mark each container holding hazardous waste clearly with the words, “Hazardous Waste.” OAC 3745-52-34(A)(3) [40 C.F.R. § 262.34(c)(1)(ii)].

40. At the time of the inspection, a 55-gallon container contained hazardous waste solids but was not labeled “Hazardous Waste.”

41. As set forth above, Respondent did not meet the conditions of OAC 3745-52-34 [40 C.F.R. § 262.34] necessary to exempt it from the requirement to obtain interim status or apply for and obtain a permit for the storage of hazardous waste; therefore, Respondent stored hazardous waste without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925, and the regulations found at OAC 3745-50-40 to 3745-50-66; 3745-54 to 3745-57; 3745-205 and 3745-256; [40 C.F.R. Part 264, 40 C.F.R. §§ 270.1(c), 270.10(a) and (d), and 270.13].

### Count 2

42. Complainant incorporates paragraphs 1 through 41 of this CAFO as though set forth in this paragraph.

43. Pursuant to OAC 3745-52-34(A)(4) [40 C.F.R. § 262.34(a)(4)], in order for a large quantity generator of hazardous waste to maintain its exemption from the requirement to have an Ohio hazardous waste permit or interim status, it must comply with the specific requirements for owners and operators found at OAC 3745-65-16 [40 C.F.R. § 265.16] related to personnel training. OAC 3745-52-34(A)(4) [40 C.F.R. § 262.34(a)(4)].

44. Pursuant to OAC 3745-65-16(D)(1) – (4) [40 C.F.R. § 265.16(d)(1) – (4)], a large

quantity generator must maintain at the facility the following documents and record related to the personnel training program: (1) the job title for each position at the facility related to hazardous waste management and the name of the employee filling each job; (2) a written job description for each position at the facility related to hazardous waste management; (3) a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position at the facility related to hazardous waste management; and, (4) records that document that the training or job experience described above has been given to and completed by facility personnel.

45. At the time of the inspection, Respondent did not have and was unable to provide in response to a request a list of each position at the facility related to hazardous waste management and the name of the employee filling such position(s).

46. At the time of the inspection, Respondent did not have and was unable to provide in response to a request a written description for each position related to hazardous waste management at the facility.

47. At the time of the inspection, Respondent did not have and was unable to provide in response to a request a written description of the type and amount of introductory and continuing training given to employees with duties related to hazardous waste management.

48. As set forth above, Respondent did not meet the conditions of OAC 3745-52-34 [40 C.F.R. § 262.34] necessary to exempt it from the requirement to obtain interim status or apply for and obtain a permit for the storage of hazardous waste; therefore, Respondent stored hazardous waste without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925, and the regulations found at OAC 3745-50-40 to 3745-50-66; 3745-54 to 3745-57; 3745-205 and 3745-256; [40 C.F.R. Part 264, 40 C.F.R. §§ 270.1(c), 270.10(a) and (d),



and 270.13].

### **Count 3**

49. Complainant incorporates paragraphs 1 through 48 of this CAFO as though set forth in this paragraph.

50. Pursuant to OAC 3745-52-34(A) [40 C.F.R. § 262.34(a)(4)], in order for a large quantity generator of hazardous waste to maintain its exemption from the requirement to have an Ohio hazardous waste permit or interim status, it must comply with the specific requirements for owners and operators found at OAC 3745-65-50 to 3745-65-56 [40 C.F.R. Part 265, Subpart D] related to contingency planning and emergency procedures. OAC 3745-52-34(A)(4) [40 C.F.R. § 262.34(a)(4)].

51. Under OAC 3745-65-51(E) [40 C.F.R. § 265.51(e)], a large quantity generator must have a contingency plan for the facility that is designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

52. At the time of the inspection, Respondent did not maintain a contingency plan that describes the actions to be taken in response to fires, explosions, or any unplanned release of hazardous waste.

53. As set forth above, Respondent did not meet the conditions of OAC 3745-52-34 [40 C.F.R. § 262.34] necessary to exempt it from the requirement to obtain interim status or apply for and obtain a permit for the storage of hazardous waste; therefore, Respondent stored hazardous waste without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925, and the regulations found at OAC 3745-50-40 to 3745-50-66; 3745-54 to 3745-57; 3745-205 and 3745-256; [40 C.F.R. Part 264, 40 C.F.R. §§ 270.1(c), 270.10(a) and (d),

and 270.13].

**Count 4**

54. Complainant incorporates paragraphs 1 through 53 of this CAFO as though set forth in this paragraph.

55. Under OAC 3745-52-40(C) [40 C.F.R. § 262.40(c)], a generator must keep records of any test, waste analyses, or other determinations made in accordance with OAC 3745-52-11 [40 C.F.R. § 262.11] for not less than three years from the date that the waste was last sent for on-site or off-site treatment, storage, or disposal.

56. At the time of the inspection, Respondent did not provide records of waste determination for all solid wastes generated at the facility, including for aerosol cans, used oil rags/wipes, and other hazardous waste that is reclaimed at a treatment, storage, and disposal facility.

57. Respondent, therefore, failed to comply with OAC 3745-52-40(C) [40 C.F.R. § 262.40(c)], which subjects Respondent to civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

**Count 5**

58. Complainant incorporates paragraphs 1 through 57 of this CAFO as though set forth in this paragraph.

59. At the time of the inspection, Respondent was a generator of waste lamps and a small quantity handler of universal waste subject to the requirements of OAC 3745-273 [40 C.F.R. § 273, Subpart B].

60. Pursuant to OAC 3745-273-13(D)(1) [40 C.F.R. § 273.13(d)(1)], a small quantity handler of universal waste must contain any lamp in containers or packages that are structurally

sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

61. Pursuant to OAC 3745-273-14(E) [40 C.F.R. § 273.14(e)], a small quantity handler of universal waste must be labeled or marked clearly with one of the following phrases:

"Universal Waste- Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

62. Pursuant to 3745-273-15 [40 C.F.R. § 273.15], a small quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

63. At the time of the inspection, Respondent failed to maintain universal waste lamps in a closed container.

64. At the time of the inspection, Respondent failed to provide records to demonstrate the length of time of the universal waste that had been accumulated.

65. At the time of the inspection Respondent failed to label the universal waste container with one of the following phrases: "Universal Waste- Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

66. Respondent, therefore, failed to comply with OAC 3745-273 [40 C.F.R. § 273].

#### **Civil Penalty**

67. 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 \$24,222.00. 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.

68. Within 30 days after the effective date of this CAFO, Respondent must pay a \$24,222.00 civil penalty for the RCRA violations by ACH electronic funds transfer, payable to “Treasurer, United States of America,” and sent to:

US Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking

69. Respondent must send a notice of payment that states Respondent’s name, complete address, and the case docket number to EPA at the following addresses when it pays the penalty:

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

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

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

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

71. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

72. 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**

73. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk.

74. Pursuant to 40 C.F.R. § 22.5, the parties consent to service of this CAFO by email at the following valid email addresses: grubb.christopher@epa.gov (for Complainant), and TRowley@3sigma.cc (for Respondent). *See* 40 C.F.R. §§ 22.5-22.6.

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

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

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

78. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, U.S. EPA's RCRA Civil Penalty Policy, and U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

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

80. 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.

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

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

**3 Sigma, LLC, Respondent**

6/18/18  
Date

Tony Rowley  
Tony Rowley  
President  
3 Sigma, LLC

**United States Environmental Protection Agency, Complainant**

07/03/2018  
Date

Michael D. Harris <sup>for T.H.</sup>  
Tinka G. Hyde  
Director  
Land and Chemicals Division

**In the Matter of:**  
**3 Sigma, LLC**  
**Docket No. RCRA-05-2018-0016**

**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.

July 10, 2018  
Date

Ann L. Coyle  
Ann L. Coyle  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region 5

Consent Agreement and Final Order  
In the matter of: 3 Sigma, LLC  
Docket Number: **RCRA-05-2018-0016**

**CERTIFICATE OF SERVICE**


I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, which was filed on July 11, 2018, in the following manner to the following addressees:

Copy by E-mail to Respondent: Tony Rowley, 3 Sigma, LLC  
TRowley@3sigma.cc

Copy by E-mail to Attorney for Complainant: Christopher Grubb  
grubb.christopher@epa.gov

Copy by E-mail to Regional Judicial Officer: Ann Coyle  
coyle.ann@epa.gov

Dated: July 11, 2018

  
LaDawn Whitehead  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5