UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7

IN THE MATTER OF	)	
	)	
L & M Radiator, Inc.	)	Docket No. RCRA-07-2013-0006
	)	
	)	
	)	
	)	
	)	

ORDER

Pursuant to 40 C.F.R. § 22.5(a)(1), facsimile/electronic filing of page 16 of the Consent Agreement and Final Order is authorized in this proceeding.

Dated: 9-23-14

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

IN THE MATTER OF:	)	
	)	
L&M RADIATOR, INC.	)	**CONSENT AGREEMENT AND FINAL ORDER**
	)	
Respondent	)	
	)	Docket No. RCRA-07-2013-0006
Proceeding under Sections 3008(a) and (g) of the Resource Conservation and Recovery Act as amended, 42 U.S.C. § 6928(a) and (g)	)	

I. PRELIMINARY STATEMENT

The U.S. Environmental Protection Agency (EPA), Region 7 (Complainant) and L&M Radiator, Inc. (Respondent) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) 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 (Consolidated Rules of Practice), 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b) and 22.18(b)(2).

II. ALLEGATIONS

Jurisdiction

1. This administrative action is being conducted pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6928(a) and (g), and in accordance with the Consolidated Rules of Practice. This authority has been delegated by the Administrator of the EPA to the Regional Administrator and further delegated to the Chief of the Waste Enforcement and Materials Management Branch in the Air and Waste Management Division.

2. This CONSENT AGREEMENT AND FINAL ORDER serves as notice that the EPA has reason to believe that Respondent violated Section 3005 of RCRA, 42 U.S.C § 6925 and the requirement to make hazardous waste determinations (40 C.F.R. 262.11).

Parties

3. Complainant is the Chief of the Waste Enforcement and Materials Management Branch in the Air and Waste Management Division of the EPA, Region 7, as duly delegated from the Administrator of the EPA.

4. Respondent is L&M Radiator, Inc., a corporation authorized to operate in the State of Iowa.

Statutory and Regulatory Framework

5. When the EPA determines that any person has violated or is in violation of any RCRA requirement, the EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

6. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes a civil penalty of not more than $25,000 per day for violations of Subchapter III of RCRA (Hazardous Waste Management). This figure has been adjusted upward for inflation pursuant to the Civil Monetary Penalties Inflation Adjustment Rule, 40 C.F.R. Part 19, so that penalties of up to $32,500 per day are authorized for violations of Subchapter III of RCRA that occur after March 15, 2004, through January 12, 2009. For violations of Subchapter III of RCRA that occur after January 12, 2009, penalties of up to $37,500 per day are now authorized. Based upon the facts alleged in this CAFO and upon those factors which Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), as discussed in the RCRA Civil Penalty Policy issued by EPA in June 2003, the Complainant and Respondent agree to the payment of a civil penalty pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), for the violations of RCRA alleged in this CAFO.

General Factual Background

7. Respondent is a corporation and authorized to conduct business within the State of Iowa. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

8. Respondent's facility is located at 700 17th Street, SE, in Independence, Iowa. Respondent manufactures industrial cooling systems. Respondent began operation at this location in 2006. Respondent employed approximately 95 people. The facility, which is in the process of being closed, has ceased production operations.

9. At the time of the inspection, the following solid waste(s) were present:

a. Used oil filters.
b. Wastewater from process water system.
c. Spent filter board filters.
d. Test tank filters.

10. At the time of the inspection, the following hazardous waste(s) were present:

a. Wastewater from process water system (D006 and D008 listed hazardous waste).
b. Spent filter board filters (D006 and D008 listed hazardous waste).
c. Test tank filters (D008 listed hazardous waste).

11. On or about August 24, 2005, Respondent notified the EPA that it was a small quantity generator of hazardous waste. Small quantity generators of hazardous waste generate more than 100 kilograms and less than 1,000 kilograms of hazardous waste per month. Subsequently, on February 21, 2012, Respondent notified the EPA that it is a large quantity generator of hazardous waste.

12. Respondent has been assigned the following EPA ID Number: IAR000505164.

13. On or about September 8 and 28, 2011, a contract inspector for the EPA conducted a RCRA Compliance Evaluation Inspection (hereinafter "the inspection") of the hazardous waste management practices at Respondent's facility. Based on a review of the inspection report and the information provided during the inspection by facility personnel, it was determined that Respondent was operating, at the time of the inspection, as a Large Quantity Generator of hazardous waste and as a used oil generator.

14. Respondent has disputed the inspection report and provided EPA with additional information in support of its position. For purposes of this settlement, however, Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this CAFO.

Alleged Violations

15. Complainant hereby states and alleges that Respondent has violated RCRA and the federal regulations promulgated thereunder, as follows:

Count 1
Failure to Conduct Hazardous Waste Determination

16. Complainant hereby incorporates the allegations contained in Paragraphs 7 through 14 above, as if fully set forth herein.

17. Pursuant to 40 C.F.R. § 262.11, a generator of solid waste, as defined in 40 C.F.R. §§ 260.10 and 261.2, must determine if that waste is a hazardous waste using methods prescribed in the regulations.

18. At the time of the inspection, it was determined that Respondent was generating used oil filters as a solid waste stream.

19. At the time of the inspection, Respondent had not conducted a hazardous waste determination on the used oil filters solid waste stream.

20. Respondent's failure to perform a hazardous waste determination on the above-referenced solid waste stream is a violation of 40 C.F.R. § 262.11.

Count 2

Operating as a Treatment, Storage or Disposal Facility Without a RCRA Permit

21. Complainant hereby incorporates the allegations contained in Paragraphs 7 through 14 above, as if fully set forth herein.

22. Section 3005 of RCRA requires each person owning or operating a facility for treatment, storage, or disposal of hazardous waste identified or listed under Subtitle C of RCRA to have a permit for such activities.

Generator Requirements

23. The regulations at 40 C.F.R. § 262.34(a) state that a generator may accumulate waste for ninety (90) days or less without a permit or interim status provided that the conditions listed therein are met. If a generator fails to comply with any of these conditions, it is not allowed to store hazardous waste at its facility for any length of time. Respondent failed to comply with the following conditions:

Closure of hazardous waste accumulation containers

24. The regulations at 40 C.F.R. § 262.34(a)(1)(i) require that while hazardous waste is being accumulated on-site in containers, the generator must comply with the applicable requirements of Subpart I of 40 C.F.R. Part 265.

25. Pursuant to 40 C.F.R. § 265.173(a), as found in 40 C.F.R. § 265 Subpart I, generators must close hazardous waste storage containers during storage.

26. At the time of the inspection, the following hazardous waste accumulation containers were open:

a. One supersack container of spent filters;
b. Multiple containers of D006 and D008 wastewater.

Dating of hazardous waste accumulation containers

27. The regulations at 40 C.F.R. § 262.34(a)(2) require generators to clearly mark the date upon which each period of accumulation began on each container.

28. At the time of the inspection, the following hazardous waste accumulation containers were not marked with the date upon which accumulation began:

a. One supersack container of spent filters;
b. Multiple containers of D006 and D008 wastewater.

Labeling of hazardous waste accumulation containers

29. The regulations at 40 C.F.R. § 262.34(a)(3) require generators to clearly mark each container of hazardous waste with the words "Hazardous Waste" while accumulating on-site.

30. At the time of the inspection, the following hazardous waste accumulation containers were not marked with the with the words "Hazardous Waste":

a. Multiple containers of D006 and D008 wastewater.

Requirement to conduct weekly inspections

31. The regulations at 40 C.F.R. § 262.34(a)(1)(i), referencing 40 C.F.R. § 265.174, require that an owner or operator must inspect areas where hazardous waste containers are stored, at least weekly. The generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.

Closure of satellite accumulation containers

32. The regulations at 40 C.F.R. § 262.34(c)(1)(i), referencing 40 C.F.R. § 265.173(a), allow a generator to accumulate as much as fifty-five (55) gallons of hazardous waste in containers in a satellite accumulation area, provided, among other requirements, the

container holding hazardous waste is always closed during accumulation, except when it is necessary to add or remove waste.

33. At the time of the inspection, a hazardous waste satellite accumulation container located near an evaporator unit was open.

34. Because Respondent failed to comply with the satellite accumulation generator requirements, Respondent was not authorized to store hazardous waste in satellite accumulation at its facility for any length of time.

Treatment of Hazardous Waste

35. At the time of the inspection, Respondent was engaging in the practice of allowing water from filters containing hazardous waste to evaporate into the ambient air.

36. At the time of the inspection, Respondent was engaging in the practice of reducing the volume of water containing hazardous waste by evaporation in a low temperature evaporator unit that was not a totally enclosed treatment facility.

37. Allowing the water containing hazardous waste to evaporate from filters is "treatment" under 40 C.F.R. § 260.10.

38. Reducing the volume of wastewater by evaporation in a low temperature evaporator unit is "treatment" under 40 C.F.R. § 260.10.

39. Respondent has not obtained a permit to operate as a treatment, storage or disposal facility under Section 3005 of RCRA and has failed to comply with the generator permitting exemption requirements as set forth in Paragraphs 23 through 34 above.

40. Respondent's storage and treatment of hazardous waste constitutes operation of a treatment, storage, or disposal facility without a permit, in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

CONSENT AGREEMENT

41. Respondent and the EPA agree to the terms of this CAFO and Respondent agrees to comply with the terms of the Final Order portion of this CAFO.

42. Respondent admits the jurisdictional allegations of this CAFO and agrees not to contest the EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order portion of this CAFO set forth below.

43. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this CAFO.

44. Respondent waives its right to contest the allegations set forth above, and its right to appeal the proposed Final Order portion of the CAFO.

45. Respondent and Complainant agree to conciliate the matters set forth in this CAFO without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

46. Nothing contained in the Final Order portion of this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

47. This CAFO addresses all civil administrative claims for the RCRA violations identified above. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

48. The effect of settlement described in Paragraph 47 above is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in Paragraph 49, below, of this CAFO.

49. Respondent certifies that by signing this CAFO that to best of its knowledge, Respondent's facility is in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.* and all regulations promulgated thereunder referenced in this CAFO.

50. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this CAFO and to execute and legally bind Respondent to it.

51. Respondent agrees that, in settlement of the claims alleged in this CAFO, Respondent shall pay a penalty as set forth in Paragraph 1 of the Final Order portion of this CAFO, below, which shall represent civil penalties assessed by EPA and shall not be deductible for purposes of federal, state and local taxes.

52. Respondent consents to the issuance of this CAFO and consents for the purposes of settlement to the payment of the civil penalty cited in the immediately preceding paragraph.

Supplemental Environmental Projects

53. In response to the violations of RCRA alleged in this Consent Agreement and Final Order and in settlement of this matter, although not required by RCRA or any other federal, state or local law, Respondent shall complete the following Supplemental Environment Projects (SEPs) described in the immediately following two paragraphs, which the parties agree are intended to secure significant environmental or public health protection and improvement.

54. Respondent agrees to implement the following five SEPs:

(1) the replacement of soldering alloys containing lead with lead-free alloys;
(2) the installation of waste paint distillation equipment;
(3) the installation of a wastewater ion exchange system;
(4) the installation of new wash equipment; and
(5) the installation of duplex filtration equipment.

These five SEPs are described in Attachment 1 to this CAFO, hereby incorporated by reference. These projects will, respectively, eliminate the lead solder hazardous waste stream, recover the solvents from paint waste for reuse, and reduce the production of hazardous wastewater, thereby reducing the amount of hazardous waste generated.

55. Respondent shall expend a minimum of $24,950 in approvable costs to perform the lead-free solder SEP referenced in the preceding paragraph. Respondent shall expend a minimum of $15,500 in approvable costs on its waste paint distillation equipment SEP referenced in the preceding paragraph. Respondent shall expend, respectively, a minimum of $29,466, $46,450, and $48,827 in approvable costs for the wastewater ion exchange system, new wash equipment, and duplex filtration equipment. "Approvable costs" shall only include specific costs approved by EPA that are directly related to the implementation of the project pursuant to the requirements of this Consent Agreement and Final Order. By no later than sixty (60) days from the effective date of this Consent Agreement and Final Order, Respondent will provide a Work Plan detailing the timeframe for implementation, which will not exceed a period of 365 days from the effective date of this Consent Agreement and Final Order.

56. Respondent shall submit a SEP Status Report to EPA six (6) months from the effective date of this Consent Agreement and Final Order. The Status Report shall provide the status of the various SEPs referenced above, along with any encountered problems and/or expected delays. The report shall also provide a reasonable estimate of the amount (in weight or volume) of pollution prevented and/or pollution reduction achieved to date as a result of the project. To the extent that the project is implemented fully before the SEP Status Report is due and the SEP Completion Report described in the next paragraph has been submitted, the requirements of this paragraph will be deemed satisfied.

57. Within sixty (60) days after completion of the last of the SEPs to be completed, described in Paragraphs 54-55 above, Respondent shall submit to EPA a SEP Completion Report, which shall contain the following information:

a. A detailed description of the SEPs as implemented;

b. Documentation of all approvable costs incurred during the implementation of the SEPs;

c. A reasonable estimate of the amount (in weight or volume) of pollution prevented and/or pollution reduction achieved as a result of the SEPs;

d. A description of any problems encountered in implementation of the project and the solutions thereto;

e. A description of the specific environmental and/or public health benefits resulting from implementation of the SEPs; and

f. Certification that the SEPs have been fully implemented pursuant to the provisions of this Consent Agreement and Final Order.

58. In itemizing its costs in the SEP Status Report and the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Cancelled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

59. The SEP Status Report and the SEP Completion Report shall include the statement of Respondent, through an officer, signed and certifying under penalty of law the following:

> I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

60. The SEP Status Report and/or the SEP Completion Report shall be submitted on or before the due date to:

Edwin G. Buckner, P.E.
U.S. Environmental Protection Agency
Region 7, AWMD/WEMM
11201 Renner Boulevard
Lenexa, Kansas 66219.

61. Respondent agrees that failure to submit the SEP status report and the SEP Completion Report shall be deemed a violation of this Consent Agreement and Final Order, and Respondent shall become liable for stipulated penalties pursuant to Paragraph 68, below.

62. After receipt of the SEP Completion Report described in Paragraph 57 above, EPA will do one of the following:

a. Notify Respondent in writing of any deficiencies in the SEP Completion Report, in which case Respondent shall have an additional thirty (30) days to correct any deficiencies and resubmit the report;

b. Inform Respondent that the project has been completed in accordance with the requirements of this Consent Agreement and Final Order; or

c. Determine that the project has not been completed in accordance with the requirements of this Consent Agreement and Final Order and notify Respondent.

63. If Respondent receives notice pursuant to Paragraph 62.c., above that the SEP Completion Report is deficient, Respondent shall correct the deficiencies and resubmit the report within a sixty (60) day time period. If, upon resubmission, the deficiencies identified in the Final SEP Report have not been corrected, EPA reserves the right to determine that the project has not been completed in accordance with the requirements of this Consent Agreement and Final Order and to seek stipulated penalties pursuant to Paragraph 68 below.

64. Any public statement, oral or written, in print, film, internet, or other media, made by Respondent making reference to any of the SEPs shall include the following language:

> This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of the Resource Conservation and Recovery Act. 42 U.S.C. § 6901 *et. seq.*

65. EPA and its authorized representatives shall have access to Respondent's facility at all reasonable times, to monitor Respondent's implementation of the SEPs. Nothing herein shall be construed to limit EPA's access authority under RCRA or any other law.

66. Respondent hereby certifies that, as of the date of this Consent Agreement and Final Order, Respondent is not required to perform or develop the SEPs by any federal, state, or local law or regulation; nor is Respondent required to perform or develop the SEPs by any other agreement, grant or as injunctive relief in this or any other case. Respondent further certifies that it has not received, and is not presently negotiating to receive credit in any other enforcement action for the SEPs.

67. Respondent agrees not to claim any funds expended in the performance of the SEPs as a deductible business expense for the purpose of federal, state, or local taxes.

68. Respondent agrees to the payment of stipulated penalties as follows:

a. In the event Respondent fails to satisfactorily complete the SEPs identified in Paragraphs 54 through 55 above, then pursuant to EPA's SEP Policy, the Respondent shall pay a stipulated penalty not to exceed $144,000. If the SEP is not completed satisfactorily, but Respondent: (a) made good faith and timely efforts to complete the project; and (b) certifies, with supporting documentation, that at least 90 percent of the amount of the money required to be spent was expended on the SEP, then no stipulated penalty is necessary.

b. In the event the Respondent satisfactorily completes the SEP, but fails to spend at least $144,000 in approvable costs in performance of the SEP, stipulated penalties will be owed as follows (all ranges inclusive of the higher percentage number):

i. If Respondent spends less than twenty-five (25) percent of $144,000 in approvable costs, a stipulated penalty of $144,000 shall be paid to EPA;

ii. If Respondent spends between twenty-five (25) and fifty (50) percent of $144,000 in approvable costs, a stipulated penalty of $108,000 shall be paid to EPA;

iii. If Respondent spends between fifty (50) percent and seventy-five (75) percent of $144,000 in approvable costs, a stipulated penalty of $71,000 shall be paid to EPA;

iv. If Respondent spends between seventy-five (75) percent and ninety (90) percent of $144,000 in approvable costs, a stipulated penalty of $36,000 shall be paid to EPA;

v. If Respondent spends at least ninety (90) percent of $144,000 in approvable costs, no stipulated penalty is required.

c. In the event Respondent fails to timely submit the SEP status report required by Paragraph 56 above or the SEP Completion Report required by Paragraph 57 above, Respondent shall pay a stipulated penalty of $500 per day for each day the report is overdue, until the report is finally submitted.

d. The determinations of whether costs incurred are approvable costs, whether the SEP has been satisfactorily completed and whether the Respondent has made a good faith, timely effort to implement the SEP shall be within the sole discretion of the EPA. Subject to EPA's discretionary review, Respondent may address requests for extensions of time to meet deadlines in this Consent Agreement for good cause shown to the EPA contact identified in Paragraph 3 of the Final Order.

e. Respondent shall pay any stipulated penalties within thirty (30) days after the date of receipt of a written demand from EPA for payment. The method of payment shall be made in accordance with the provisions of Paragraph 2 of the Final Order. Interest and penalty on any failure to pay a demanded stipulated penalty shall be calculated in accordance with Paragraph 69 of the Consent Agreement.

Effective Date

69. This CAFO shall be effective upon filing of the Final Order by the Regional Hearing Clerk for the EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

70. Late Payment Provisions: Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if it is not paid by the date required. Interest will be assessed at a rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b). A charge will be assessed to cover the costs of debt collection including processing and handling costs and attorneys' fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 31 C.F.R. §§ 901.9(c) and (d).

Reservation of Rights

71. Notwithstanding any other provision of this CAFO, the EPA reserves the right to enforce the terms of the Final Order portion of this CAFO by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed Thirty-Seven Thousand Five Hundred Dollars ($37,500.00) per day per violation pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law.

72. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this CAFO.

73. Except as expressly provided herein, nothing in this CAFO shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

Notwithstanding any other provisions of the CAFO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the future handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health and the environment.

74. The headings in this CAFO are for convenience of reference only and shall not affect interpretation of this CAFO.

FINAL ORDER

Pursuant to the authority of Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), and according to the terms of this CAFO, IT IS HEREBY ORDERED THAT:

A. Payment of Civil Penalty

1. Within thirty (30) days of the effective date of this CAFO, Respondent will pay a civil penalty of Thirty-Eight Thousand Three Hundred and Thirty-Nine Dollars ($38,339.00).

2. Payment of the penalty shall be made by cashier or certified check, by wire transfer, or on-line, as listed below. The Payment shall reference the Docket Number on the check or wire transfer. If made by cashier or certified check, the check shall be made payable to "Treasurer of the United States" and remitted to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000.

Wire transfers shall be directed to the Federal Reserve Bank of New York as follows:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency"

On-line payments are available through the Department of Treasury:

www.pay.gov
Enter "sfo 1.1" in the search field.
Open the form and complete required files.

3. A copy of the check, transfer, or on-line payment confirmation shall simultaneously be sent to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219; and

Edwin G. Buckner, P.E.
U.S. Environmental Protection Agency
Region 7, AWMD/WEMM
11201 Renner Boulevard
Lenexa, Kansas 66219.

4. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this CAFO shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

B. Actions

5. Respondent shall perform the Supplemental Environmental Projects as described in the Consent Agreement portion of this CAFO, and will remit any stipulated penalties due in accordance therewith.

C. Parties Bound

6. The Final Order portion of this CAFO shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this CAFO.

D. Termination

7. The provisions of this CAFO shall be deemed satisfied upon a written determination by Complainant that Respondent has fully implemented the actions required in the Final Order.

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

9/22/14
Date

for Donald Toensing
Chief
Waste Enforcement and Materials Management Branch
Air and Waste Management Division

9/22/14
Date

Chris R. Dudding
Assistant Regional Counsel
Office of Regional Counsel

For Respondent, L&M RADIATOR, INC.

7/19/14
Date

Signature

Dan Christian
Printed Name

President
Title

IT IS SO ORDERED. This Final Order shall become effective upon filing.

9-23-14
Date

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

Attachment 1 to Consent Agreement and Final Order
RCRA-07-2013-0006

L&M Radiator Supplemental Environmental Projects (SEPs) related to Iowa EPA Action

1) Lead-Free Solder

L&M will replace its existing soldering alloys, which contain lead, with lead-free soldering alloys. For example, L&M currently uses a soldering alloy that is 40% tin and 60% lead. Through this SEP, L&M will replace this lead-based alloy with a tin, copper, silver soldering alloy. L&M will run tests to determine the feasibility of this proposal and to select acceptable lead-free solder alloy.

Estimated Costs

Location: Hibbing, Minnesota Plant.
Estimated total cost, including testing, equipment, installation, training and overhead: $ 24,950

2) Waste Paint Distillation Equipment

L&M will use waste paint distillation equipment to recover the solvents from the waste paint for reuse, thereby reducing the overall amount of hazardous waste generated.

Estimated Costs

Location: Hibbing, Minnesota Plant.
Estimated total cost, including testing, equipment, installation, training and overhead: $ 15,500

3) Wastewater Ion Exchange System (per pretreatment agreement with local POTW) Option

L&M will install a wastewater ion exchange system to treat mixed metals in the soldering wastestream. Through this SEP, the proposed ion exchange system will use resin to capture hazardous metals in the soldering wastestream prior to discharge. The hazardous metals and used ion exchange resin will be captured in replaceable tanks. L&M will contract with Siemens to pick up the material for recovery of metals and recycling at a RCRA permitted facility. Any remaining materials would be discharged to a publicly owned treatment works ("POTW").

Estimated Costs

Location: Hibbing, Minnesota Plant.
Estimated total cost, including testing, equipment, installation, training and overhead: $ 29,466

4) New Wash Equipment Option

As part of this SEP, L&M will construct new wash sections for all existing tube soldering lines to eliminate lead that has built up previously in the soldering line through the current use of lead-based soldering alloys. Replacing the lead contaminated wash equipment will provide a significant benefit to L&M's employees by reducing their risk of ongoing lead exposure in the work environment.

Estimated Costs

Location: Hibbing, Minnesota Plant.
Estimated total cost, including testing, equipment, installation, training and overhead:$ 46,450

Attachment 1 to Consent Agreement and Final Order
RCRA-07-2013-0006

5) Duplex Filtration Equipment Upgrade

As part of this SEP, L&M will remove used filters from their housings and place them directly into the hazardous waste storage container wet. As a way to remove some of the water from the filters prior to disposal, with input from EPA Region 7, the filter board system for each tube soldering line will be upgraded to allow the filters to be de-watered inside their housings prior to removal from the equipment. The water that drains from the filters will be allowed to gravity flow back into the process, and when the filters are removed they can be directly placed into the hazardous waste storage container.

Estimated Costs

Location: Hibbing, Minnesota Plant.
Estimated total cost, including testing, equipment, installation, training and overhead: $ 48,827

IN THE MATTER OF L & M Radiator, Inc., Respondent
Docket No. RCRA-07-2013-0006

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy by email to Attorney for Complainant:

dudding.chris@epa.gov

Copy by First Class Mail to:

Lynn M. Kornfeld
FAEGRE BAKER DANIELS LLP
3200 Wells Fargo Center
1700 Lincoln Street
Denver, Colorado 80203-4532

Dated: 9/23/14

Kathy Robinson
Hearing Clerk, Region 7