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

IN THE MATTER OF:	)	
	)	
EFCO Corporation	)	
	)	
1000 County Road	)	**CONSENT AGREEMENT**
Monett, Missouri 65708	)	**AND FINAL ORDER**
	)	
EPA I.D. No. MOD981715824	)	
	)	Docket No. RCRA-07-2014-0030
Respondent.	)	
	)	
Proceeding under Sections 3008(a) and (g)	)	
of the Resource Conservation and	)	
Recovery Act as amended,	)	
42 U.S.C. § 6928(a) and (g)	)	
	)	

CONSENT AGREEMENT AND FINAL ORDER

The United States Environmental Protection Agency, Region 7 (EPA or Complainant) and EFCO Corporation (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), 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 (Consolidated Rules of Practice), 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b) and 22.18(b)(2), and 22.18(b)(3).

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 (HSWA), 42 U.S.C. § 6928(a) and (g), and in accordance with the Consolidated Rules of Practice.

2. This Consent Agreement and Final Order ("CAFO") serves as notice that the EPA has reason to believe that Respondent violated Section 3005 of RCRA, 42 U.S.C § 6925 and the regulations found at 40 C.F.R. Part 262, as incorporated at 10 C.S.R. 25-5.262(1).

Parties

3. The Complainant is the Chief of the Waste Enforcement and Materials Management Branch in the Air and Waste Management Division of EPA, Region 7, pursuant to the following delegations: Delegation No. 8-9-A, dated May 11, 1994; Delegation No. R7-8-009-A, as revised on September 16, 2007; and Delegation No. R7-Div-8-9-A, as revised on April 11, 2010.

4. Respondent is EFCO Corporation ("EFCO"), a Missouri corporation authorized to do business in the State of Missouri.

Statutory and Regulatory Framework

5. The State of Missouri (Missouri) has been granted authorization to administer and enforce a hazardous waste program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926. Missouri has adopted by reference the federal regulations cited herein at pertinent parts of Title 10, Division 25 of the Missouri Code of State Regulations (hereinafter "10 C.S.R. 25"). When EPA determines that any person has violated or is in violation of any RCRA requirement, 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. When a RCRA violation occurs in a state that is authorized to implement a hazardous waste program pursuant to Section 3006, 42 U.S.C. § 6926, EPA shall give notice to the state in which such violation has occurred or is occurring prior to issuing an order. Missouri has been notified of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

7. 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 now 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.

General Factual Allegations

8. Respondent is a commercial window and door products manufacturer and a subsidiary of Pella Corporation, a privately held window and door manufacturer. Respondent's principal office address is 1000 County Road, Monett, Missouri 65708.

9. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

10. Respondent has three locations in Monett, Missouri: a manufacturing facility and two office buildings. Respondent has been in operation since approximately 1961, and has performed manufacturing operations at the same facility since about 1983. Respondent employs approximately 1,300 people.

11. Respondent manufactures commercial windows and door products. The processes include processing and painting raw aluminum billets and extrusion, anodizing some extrusions, and working with glass.

12. On or about October 25-26, 2011, an EPA representative conducted a RCRA Compliance Evaluation Inspection at Respondent's facility (hereinafter "the October 2011 inspection"). 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 inspection, as a Large Quantity Generator of hazardous waste, a Small Quantity Handler of universal waste, and a Generator of used oil.

13. Respondent generates numerous types of hazardous and non-hazardous wastes. Hazardous waste is stored in the main hazardous waste less-than-90-day storage area in the Hazardous Waste Storage Building ("HW Storage Building") and is comprised of anodizing corrosive mixed tank waste (D002), spent solvent (D001/D005/D007/D008/D035/F003/F005), aerosol liquid waste (D001/D005/D007/D008/D035/F003/F005), waste paint related materials (D001/D005/D006/D007/D010/D035), chromating pit waste (F019/D007), chromating waste water treatment sludge (F019/D007), primer paint booth filters (D007/F003), immersion cleaner waste (D006/D008/D018/D027/D039), waste battery acid/floor dry from spill cleanup (D002), and broken lamps (D009). These wastes are managed at one less-than-90-day hazardous waste container storage area in HW Storage Building, which is located on the north side of the facility.

14. Respondent also generates and stores spent solvent (D001/D005/D007/D008/D035/F003/F005) in satellite accumulation containers located in each of the four hand spray final finish paint booths, the paint kitchen, and the paint kitchen lab.

15. Respondent generates the following universal wastes: spent lamps (D009), old mercury containing equipment, e-waste, and spent batteries.

16. Used oil from the presses is processed on-site for reuse in a metal containment area on the northeast side of the facility. The small amount of used oil collected in drums is stored in the HW Storage Building.

17. At the time of the inspection, the wastes listed in paragraphs 13 and 14 were solid

and hazardous wastes as determined in 10 C.S.R. 25-4.261.

18. At the time of the inspection, the following wastes listed in paragraph 16 were used oil as defined in 10 C.S.R. 25-11.279(1).

19. On or about July 28, 1987, Respondent notified as a Large Quantity Generator (LQG) of hazardous waste pursuant to Section 3013 of RCRA, 42 U.S.C. § 6930. LQGs generate 1,000 kilograms per month or more of hazardous waste, or more than 1 kilogram per month of acutely hazardous waste.

20. Respondent has been assigned the following EPA ID Number: MOD981715824.

21. On or about October 25-26, 2011, EPA inspectors 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, a Small Quantity Handler of universal waste, and used oil generator.

Violations

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

Count 1
Failure to Conduct Hazardous Waste Determinations

23. Complainant hereby incorporates the allegations contained in Paragraphs 8 through 21 above, as if fully set forth herein.

24. Pursuant to 10 CSR 25-5.262(1) incorporating 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.

25. At the time of the inspection, Respondent was generating the following solid waste stream at EFCO:

a. Broken Lamps, which at the time of inspection, were in a 5-gallon container labeled as waste profile 0901-01048.

26. At the time of the inspection, Respondent had not conducted hazardous waste determinations on the solid waste stream described in Paragraph 25 above.

27. Respondent's failure to perform a hazardous waste determination on the above-referenced solid waste streams is a violation of 10 CSR 25-5.262(1), incorporating by reference 40 C.F.R. § 262.11.

Count 2

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

28. Complainant hereby incorporates the allegations contained in Paragraphs 8 through 27 above, as if fully set forth herein.

29. Section 3005 of RCRA, 42 U.S.C. § 6925 and 10 C.S.R. 25-7.270 incorporating by reference 40 C.F.R. § 270.1(b) require each person owning or operating a facility for the treatment, storage, or disposal of a hazardous waste identified or listed under Subchapter III of RCRA to have a permit for such activities.

30. The regulations at 10 C.S.R. 25-5.262(1), which incorporate by reference 40 C.F.R. § 262.34(a), allow a generator to accumulate hazardous waste on-site for ninety (90) days or less without a permit or without interim status, provided the conditions listed in 40 C.F.R. § 262.34(a)(1)-(4) are met. These conditions include compliance with other hazardous waste regulatory requirements.

31. At all times relevant to the matters alleged herein, Respondent did not meet the conditions specified in 40 C.F.R. § 262.34(a)(1)-(4) as described in detail below. Respondent was therefore in violation of Section 3005 of RCRA, 42 U.S.C. § 6925 and 10 C.S.R. 25-7.270 because it did not have a RCRA Permit or Interim Status to operate as a storage facility.

Failure to Comply with Generator Requirements

32. At the time of the October 2011 inspection, Respondent was not complying with the following regulatory requirements:

Failure to date and label hazardous waste accumulation containers

33. The regulations at 10 C.S.R. 25-5.262(1), which incorporate by reference 40 C.F.R. § 262.34(a)(2), require generators to clearly mark each container of hazardous waste with the date upon which each period of accumulation begins.

34. The regulations at 10 C.S.R. 25-5.262(1), which incorporate by reference 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.

35. During the October 2011 inspection, the inspector documented a full, 1-gallon can of paint waste in the flammable cabinet that was labeled "Please Trash," but was not labeled as "Hazardous Waste" and was not dated.

36. The failure to mark the container with the date that the accumulation period began is a violation of 40 C.F.R. § 262.34(a)(2), which is incorporated by reference at 10 C.S.R. 25-5.262(1).

37. The failure to label the container with the words "Hazardous Waste" is a violation of 40 C.F.R. § 262.34(a)(3), which is incorporated by reference at 10 C.S.R. 25-5.262(1).

Failure to close hazardous waste accumulation containers

38. The regulations in 10 C.S.R. 25-5.262(1), which incorporate by reference 40 C.F.R. § 265.173(a), require that a container holding hazardous waste must always be kept closed except when it is necessary to add or remove waste.

39. At the time of the October 2011 inspection, the following hazardous waste accumulation containers were open:

a. An open drum that was about 1/3 full of spent solvent, and
b. A 5-gallon pail of D009 broken lamps in which the lid was not making contact with the rim.

40. Respondent's failure to close the accumulation containers listed in the paragraph above is a violation of 40 C.F.R. § 265.173(a), incorporated by reference at 10 C.S.R. 25-5.262(1).

Failure to label satellite accumulation containers

41. The regulations at 40 C.F.R. § 262.34(c)(1), incorporated by reference at 10 C.S.R. 25-5.262(1), allow a generator to accumulate as much as fifty-five (55) gallons of hazardous waste or one quart of acutely hazardous waste listed in 40 C.F.R. § 261.33(e) in containers at or near any point of generation where waste initially accumulates, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with § 262.34(a) provided the generator comply with various handling requirements. This type of accumulation is known as "satellite accumulation."

42. In accordance with 40 C.F.R. § 262.34(c)(1)(ii) and 10 C.S.R. 25-5.262(2)(C)(3), generators must mark the satellite containers either with the words, "Hazardous Waste," or with other words that identify the contents of the container.

43. At the time of the October 2011 inspection, the following satellite accumulation containers containing hazardous waste were not labeled with the words, "Hazardous Waste" or other words to identify the contents of the container:

a. Four unlabeled 2-gallon cans of spent solvent
b. One open, unlabeled, and undated approximately 2/3 full, 2-gallon can of spent solvent

44. Respondent's failure to label the satellite accumulation containers listed in the paragraph above is a violation of 10 C.S.R. 25-5.262(2)(C)(3) and 40 C.F.R. § 262.34(c)(1)(i), incorporated by reference at 10 C.S.R. 25-5.262(1).

Failure to close satellite accumulation containers

45. The regulations at 40 C.F.R. § 262.34(c)(1)(i), incorporated by reference at 10 C.S.R. 25-5.262(1), referencing 40 C.F.R. § 265.173(a) allow a generator to accumulate as much as fifty-five (55) gallons of hazardous waste in a satellite accumulation area, provided the container holding hazardous waste is always closed during storage, except when it is necessary to add or remove waste.

46. At the time of the October 2011 inspection, the following satellite accumulation containers containing hazardous waste were open:

a. One unsealed drum with about 15 gallons of spent solvent with a broken lid clip
b. One open, unlabeled, and undated approximately 2/3 full, 2-gallon can of spent solvent

47. Respondent's failure to close the satellite accumulation containers listed in the paragraph above is a violation of 40 C.F.R. § 262.34(c)(1)(i), incorporated by reference at 10 C.S.R. 25-5.262(1), referencing 40 C.F.R. § 265.173(a)

Failure to date satellite accumulation container

48. 10 C.S.R. 25-5.262(2)(C)(3) and 40 C.F.R. § 262.34(c)(2), incorporated by reference at 10 C.S.R. 25-5.262(1) allow a generator to accumulate hazardous waste in a satellite accumulation area provided the generator mark the beginning date of satellite storage on each container.

49. At the time of the October 2011 inspection, the following hazardous waste container was not marked with the date upon which the excess accumulation began: one open, unlabeled, and undated approximately 2/3 full, 2-gallon can of spent solvent.

50. Respondent's failure to mark the beginning date of satellite storage on the satellite accumulation container listed in the paragraph above is a violation of 10 C.S.R. 25-5.262(2)(C)(3) and 40 C.F.R. § 262.34(c)(2), incorporated by reference at 10 C.S.R. 25-5.262(1).

Failure to maintain a proper containment system

51. The regulations at 10 C.S.R. 25-5.262(2)(C)2.D.(III)(a)-(b) require a containment system to be designed, maintained, and operated in certain ways.

52. 10 C.S.R. 25-5.262(2)(C)2.D.(III)(a) requires a containment system to include a base under storage containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed.

53. At the time of the October 2011 inspection, the containment system failed to have a base for accumulation containers that was impervious and free of cracks and gaps. At the time of the inspection, the containment area did not appear to be coated or sealed with an impervious coating. The connection between the west wall and concrete floor was not sealed. Additionally, spalling along the ramp leading out of the overhead door was observed.

54. Respondent's failure to fill all cracks and gaps and to apply impervious coating to the base for the accumulation area described in the Paragraph 53 is a violation of 10 C.S.R. 25-5.262(2)(C)2.D.(III)(a).

55. 10 C.S.R. 25-5.262(2)(C)2.D.(III)(b) requires containers be placed in a containment system to include a base that is sloped or the containment system must be designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids.

56. At the time of the October 2011 inspection, two hazardous waste containers were not protected by the containment system from contact with accumulated liquids. There were two hazardous waste accumulation containers of spent aerosol waste that were not elevated on pallets. One of the drums was full and one was ¼ full. The hazardous waste accumulation area did not appear to be sloped to drain any accumulation liquids to a specific area and the facility representative did not believe that the floor was sloped.

57. Respondent's failure to protect the hazardous waste containers described in Paragraph 56 from being in a position such that that hazardous wastes could contact accumulated liquid is a violation of 10 C.S.R. 25-5.262(2)(C)2.D.(III)(b).

Storage of incompatible wastes

58. The regulations at 40 C.F.R. § 262.34(a)(1)(i), incorporated by reference at 10 C.S.R. 25-5.262(1), require that while being accumulated on-site, the hazardous waste must be placed in containers and the generator must comply with the applicable requirements of Subpart I of 40 C.F.R. Part 265.

59. Pursuant to 40 C.F.R. § 265.177(c), a storage container holding a hazardous waste that is incompatible with any other waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

60. At the time of the October 2011 inspection, the following incompatible items were stored without separation:

a. Dry Citric Acid Product
b. Dry Sodium Carbonate Product
c. Anodizing Corrosive Mixed Tank Waste
d. Spent Solvent
e. Waste Paint Related Materials
f. Waste Battery Acid/Floor Dry from Spill Cleanup

61. The products and wastes listed in paragraph 60 are incompatible for the following reasons: Pursuant to 40 C.F.R. Part 265, Appendix V, spent caustics and spent acids are incompatible because of the potential to generate heat and a violent reaction. Dry citric acid is incompatible with heavy metals, strong oxidizers, and bases. Dry sodium carbonate is incompatible with acids. The acetone in spent solvent is incompatible with concentrated sulfuric acid mixtures, alkalis and acids. Organics and corrosives are potentially incompatible as they may cause fire, explosions, or violent reaction. Acids and bases are potentially incompatible as mutual contact may cause heat generation and a violent reaction.

62. Respondent's storage of incompatible wastes in close proximity to each other is a violation of 40 C.F.R. § 265.177(c) as incorporated by reference at 10 C.S.R. 25-5.262(1).

Failure to maintain hazardous waste job descriptions and to maintain training descriptions

63. The regulations at 40 C.F.R. § 262.34(a)(4), incorporated by reference at 10 C.S.R. 25-262(1), require, in part, that the generator comply with the requirements of Subparts C and D in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16, and with 40 C.F.R. § 268.7(a)(4).

64. Pursuant to 40 C.F.R. § 265.16(d)(2), the owner or operator must maintain a written job description for each position at the facility related to hazardous waste management including the requisite skill, education, or other qualifications.

65. At the time of the October 2011 inspection, the two employees of Respondent who transport hazardous waste from the satellite accumulation area to the hazardous waste accumulation area were titled Environmental Technicians. The Environmental Technician's job descriptions did not include the specific hazardous waste management duties.

66. Respondent's failure to provide the appropriate job descriptions for positions related to hazardous waste management as described in Paragraph 65 is a violation of 40 C.F.R. § 265.16(d)(2), incorporated by reference at 10 C.S.R. 25-262(1).

67. Pursuant to 40 C.F.R. § 265.16(d)(3), the owner or operator must maintain a written description of the type and amount of both introductory and continuing training that will be given to each person whose position at the facility is listed in the regulations and related to hazardous waste management.

68. At the time of the October 2011 inspection, the training program did not have a written description of the introductory and continuing RCRA training requirements for each position.

69. Respondent's failure to include a written description of RCRA training requirements for each position as described in Paragraph 68 is a violation of 40 C.F.R. § 265.16(d)(3), incorporated by reference at 10 C.S.R. 25-262(1).

Failure to properly maintain facility

70. 40 C.F.R. § 262.34, incorporated by reference at 10 C.S.R. 25-262(1), requires facilities to comply with 40 C.F.R. § 265.31. Pursuant to 40 C.F.R. § 265.31 facilities must be maintained and operated in a way to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

71. At the time of the October 2011 inspection, the inspector found that within chromating pre-treatment process, there is a shallow pit located under the tanks. Solids

accumulate in the pit, which are cleaned by washing the solids to the on-site waste water treatment system. Some residues may also accumulate outside the pit due to spills and overflows. At the time of the inspection, there was a walking traffic pattern of spill/overflow residue from the chromating pit to an employee sitting area. There was an approximately 3-4 foot diameter spill/overflow near the employee chair. Along the south and east edges of the pit, there was spill/overflow staining that was approximately 6 to 18 inches wide. The inspector was informed that the chromating waste accumulating outside the pit is handled with the chromating waste water treatment system sludge (F019/D004/D007).

72. Respondent's failure to minimize the threat of an event, which could threaten human health or the environment as described in Paragraph 71 is a violation of 40 C.F.R. § 265.31, incorporated by reference at 10 C.S.R. 25-262(1).

Failure to maintain an adequate contingency plan

73. 10 C.S.R. 25-5.262(1), incorporating by reference 40 C.F.R. § 262.34(a)(4), which in turn references 40 C.F.R. §§ 265.52(c)-(f), requires the generator to provide within the contingency plan all emergency equipment, its location and capabilities; descriptions of arrangements with the local authorities; and an updated emergency coordinator's list.

74. Pursuant to 40 C.F.R. § 265.52(c), incorporated by reference in 10 C.S.R. 25-5.262(1), the owner or operator must prepare a contingency plan which describes arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services.

75. At the time of the October 2011 inspection, the contingency plan for Respondent's facility states that Respondent has coordinated with local authorities, but the arrangements were not described within the contingency plan.

76. Respondent's failure to describe arrangements with local authorities in its contingency plan, as described in Paragraph 75, is a violation of 40 C.F.R. § 265.52(c), incorporated by reference in 10 C.S.R. 25-5.262(1).

77. Pursuant to 40 C.F.R. § 265.52(d), incorporated by reference in 10 C.S.R. 25-5.262(1), the owner or operator must prepare a contingency plan which lists names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and the others must be listed in the order in which they will assume responsibility as alternates.

78. At the time of the October 2011 inspection, the contingency plan for Respondent's facility listed Jackie Prescott as the second alternate coordinator. Ms. Prescott left her position around June 1, 2011, four months prior to inspection.

79. Respondent's failure to keep the list of emergency coordinators up to date in its contingency plan, as described in Paragraph 78, is a violation of 40 C.F.R. § 265.52(d), as found in 40 C.F.R. § 265 Subpart D, incorporated by reference in 10 C.S.R. 25-5.262(1).

80. Pursuant to 40 C.F.R. § 265.52(e), incorporated by reference in 10 C.S.R. 25-5.262(1), the owner or operator must prepare a contingency plan which includes a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and physical description of each item on the list, and a brief outline of its capabilities.

81. At the time of the October 2011 inspection, the contingency plan for Respondent's facility did not list citric acid and sodium carbonate that is located in the hazardous waste accumulation area for corrosive spill neutralization, nor did it include an inventory of the capabilities of the equipment in the spill kits.

82. Respondent's failure to report the existence, location, and capabilities of certain emergency equipment as described in Paragraph 81 is a violation of 40 C.F.R. § 265.52(e), incorporated by reference in 10 C.S.R. 25-5.262(1).

Failure to submit a complete copy of contingency plan to local agencies

83. 10 C.S.R. 25-5.262(1), incorporating by reference 40 C.F.R. § 262.34(a)(4), which in turn references 40 C.F.R. §§ 265.53, the owner or operator must maintain a copy of the contingency plan at the facility and submit a copy of the contingency plan to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

84. At the time of the October 2011 inspection, the Respondent's facility had not included the fire extinguisher locations and additional spill kit inventory as part of the contingency plan submitted to local authorities.

85. Respondent's failure to submit the appropriate contingency plan to local authorities, as described in Paragraph 84, is a violation of 10 C.S.R. 25-5.262(1), incorporating by reference 40 C.F.R. § 262.34(a)(4), which in turn references 40 C.F.R. §§ 265.53.

86. Because Respondent failed to comply with the generator requirements as set forth in Paragraphs 28 through 85 above, Respondent was not authorized to store hazardous waste at its facility for any length of time. Respondent was therefore, operating a hazardous waste storage facility without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925 and 10 C.S.R. 25-7.270.

CONSENT AGREEMENT

1. Respondent and EPA agree to the terms of this Consent Agreement and Final Order and Respondent agrees to comply with the terms of the Final Order portion of this Consent Agreement and Final Order.

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

3. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this Consent Agreement and Final Order.

4. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above, and its right to appeal the proposed Final Order portion of the Consent Agreement and Final Order.

5. Respondent and Complainant agree to conciliate the matters set forth in this Consent Agreement and Final Order without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

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

7. This Consent Agreement and Final Order 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.

8. The effect of settlement described in Paragraph 7 above is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in Paragraph 9, below, of this Consent Agreement and Final Order.

9. Respondent certifies that by signing this Consent Agreement and Final order 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.

10. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

11. Respondent agrees that, in settlement of the claims alleged in this Consent Agreement and Final Order, Respondent shall pay a penalty of Fifty-One Thousand and Three Hundred and Sixty-Nine Dollars ($51,369) as set forth in Paragraph 1 of the Final Order portion of this Consent Agreement and Final Order, below.

12. The penalty specified in the paragraph above shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.

13. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty cited in the immediately preceding paragraph.

14. 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 attorney 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).

15. Respondent understands that failure to pay any portion of the civil penalty on the date the same is due may result in the commencement of a civil action in Federal District Court to collect said penalty, along with interest thereon at the applicable statutory rate

Effective Date

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

Reservation of Rights

17. Notwithstanding any other provision of this Consent Agreement and Final Order,

EPA reserves the right to enforce the terms of the Final Order portion of this Consent Agreement and Final Order 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.

18. 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 Consent Agreement and Final Order.

19. Except as expressly provided herein, nothing in this Consent Agreement and Final Order 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.

20. Notwithstanding any other provisions of the Consent Agreement and Final Order, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should 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.

21. The headings in this Consent Agreement and Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement and Final Order.

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

FINAL ORDER

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

A. Payment of Civil Penalty

1. Within thirty (30) days of the effective date of this Consent Agreement and Final Order, Respondent will pay a civil penalty of Fifty-One Thousand and Three Hundred and Sixty-

Nine Dollars ($51,369).

2. Payment of the penalty shall be made by cashier or certified check, by wire transfer, or on-line. 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

Demetra O. Salisbury
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

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

B. Compliance Actions

5. Respondent shall take the following actions within the time periods specified, according to the terms and conditions specified below:

a. Within 30 days of the Effective Date of this Consent Agreement and Final Order, and once per quarter thereafter, for a period of one (1) year, Respondent shall submit the following information:
   i. Container Base: Respondent shall provide photographic documentation that the container base is properly etched and sealed and free of cracks and gaps.
   ii. Chromating Pit Residue: Respondent shall provide photographs with descriptive captions confirming continuing compliance pertaining to chromating pit residue.
   iii. Container Handling: Respondent shall provide photographic documentation that 25% of its containers in use are appropriately labeled and closed.

6. Respondent shall submit all documentation generated to comply with the requirements as set forth in Paragraph 5 of this Final Order to the following address:

Nicole Moran, AWMD/WEMM
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

7. For matters pertaining to this CAFO, Respondent's point of contact shall be:

Vice-President of Operations
EFCO Corporation
1000 County Road
Monett, Missouri 65708

C. Parties Bound

8. The Final Order portion of this Consent Agreement and Final Order 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 Consent Agreement and Final Order.

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

9/26/14
Date

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

9-26-14
Date

Demetra O. Salisbury
Assistant Regional Counsel
Office of Regional Counsel

RESPONDENT:

EFCO CORPORATION

09/23/14
Date

Signature

Doug Dieleman
Printed Name

V.P. Operations
Title

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

9-29-14
Date

Karina Borromeo
Regional Judicial Officer

IN THE MATTER OF EPCO Corporation, Respondent
Docket No. RCRA-07-2014-0030

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:

salisbury.demetra@epa.gov

Copy by First Class Mail to:

VP of Operations
EFCO Corporation
1000 County Road
Monett, Missouri 65708

Dated: 9/29/14

Kathy Robinson
Hearing Clerk, Region 7