UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7

IN THE MATTER OF

RELCO Locomotives, Inc.

Respondent

Docket No. RCRA-07-2017-0002

ORDER

Pursuant to 40 C.F.R. § 22.5(a)(1), electronic/facsimile filing of page 19 of the Consent Agreement and Final Order is authorized in this proceeding.

Dated: Feb. 6, 2017

Karina Borromeo

Karina Borromeo
Regional Judicial Officer

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

IN THE MATTER OF:	)	
	)	
RELCO Locomotives, Inc.,	)	**CONSENT AGREEMENT AND FINAL ORDER**
	)	
Respondent.	)	
	)	Docket No. RCRA-07-2017-0002
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 RELCO Locomotives, 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 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 Sections 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 EPA to the Regional Administrator to the Director of the Air and Waste Management Division. This authority has been further redelegated to the Chief of the Waste Enforcement and Materials Management Branch.

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, the standards for performing hazardous waste determinations (40 C.F.R. Part 261), the standards for the management of used oil (40 C.F.R. Part 279), and the hazardous waste manifesting standards (40 C.F.R. §§ 262.20 and 262.23).

Parties

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

4. Respondent is RELCO Locomotives, Inc., a corporation authorized to operate under the laws of Iowa.

Statutory and Regulatory Framework

5. 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. 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 $37,500 per day are authorized for violations of Subchapter III of RCRA that occur after January 12, 2009. Based upon the facts alleged in this Consent Agreement and Final Order 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), and to take the actions required by the Final Order, for the violations of RCRA alleged in this Consent Agreement and Final Order.

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 2074 653rd Avenue, Albia, Iowa. Respondent is a locomotive manufacturing and repair facility. Respondent employs approximately 130 people.

9. On or about April 28-29, 2015, an EPA inspector 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 Small Quantity Generator of hazardous waste, and a marketer of off-specification used oil to burn.

10. On or about March 22, 2006, Respondent notified EPA, pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, as a Small Quantity Generator (SQG) of hazardous waste pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930. SQGs generate more than 100 kilograms, but less than 1,000 kilograms, per month of hazardous waste.

11. Respondent has been assigned the following EPA ID Number: IAR00506105.

12. At the time of the inspection, the following solid wastes were generated at Respondent's facility:

a. Shop rags generated at a rate of approximately 200-300 rags per week;
b. Halide lamps generated at a rate of approximately 10 lamps per year;
c. One 55-gallon container of centrifuge sludge located in the centrifuge room;
d. Two 55-gallon containers of paint-related waste in the paint kitchen;
e. One 55-gallon container of centrifuge sludge/still bottoms located in the Warehouse central accumulation area; and
f. Three 55-gallon containers of waste solvent, still bottoms, and centrifuge sludge at the CONEX central accumulation area.

13. At the time of the inspection, the following hazardous wastes were generated at Respondent's facility:

a. Shop rags generated at a rate of approximately 200-300 rags per week. Shop rags are D001, F003, and F005 hazardous waste;
b. Halide lamps generated at a rate of approximately 10 lamps per year. Halide lamps are considered D009 hazardous waste unless managed as universal waste;
c. One 55-gallon container of centrifuge sludge. Centrifuge sludge is considered D001, F003, and F005 hazardous waste;
d. Two 55-gallon containers of paint-related waste in the paint kitchen. Paint waste is considered D001, F003, and F005 hazardous waste;
e. One 55-gallon container of centrifuge sludge/still bottoms located in the Warehouse central accumulation area. Centrifuge sludge/still bottoms are considered D001, F003 and F005 hazardous waste; and
f. Three 55-gallon containers of waste solvent, still bottoms, and centrifuge sludge at the CONEX central accumulation area. This waste stream is considered D001, F003, and F005 hazardous waste.

14. At the time of the inspection, the following used oil containers were present:

a. One 300-gallon tote of used oil located between tracks 1 and 2;
b. One tote containing approximately ten (10) unpunctured used oil filters; and
c. One tote containing approximately sixty (60) unpunctured used oil filters.

15. At the time of the inspection, the inspector observed an approximately four square foot spill of used oil.

16. At the time of the inspection, the inspector reviewed Respondent's hazardous waste manifests.

Violations

17. 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 Determinations

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

19. 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.

20. At the time of the inspection, it was determined that Respondent was generating the following solid waste streams:

a. Shop rags generated at a rate of approximately 200-300 rags per week. Shop rags are considered D001, F003, and F005 hazardous waste; and
b. Halide lamps generated at a rate of approximately 10 lamps per year. Halide lamps are considered D009 hazardous waste.

21. At the time of the inspection, Respondent had not conducted hazardous waste determinations on any of the solid waste streams described in Paragraph 20 above.

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

Count 2

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

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

Generator Requirements

24. The regulations at 40 C.F.R. § 262.34(d) state that a generator may accumulate hazardous waste on-site for one hundred and eighty days (180) days or less without a permit or without interim status, provided the conditions listed in 40 C.F.R. § 262.34(d)(1)-(5) are met. If a generator fails to comply with any of these conditions, the generator is not allowed to store hazardous waste at its facility for any length of time. Respondent failed to comply with the following conditions:

Failure to conduct weekly hazardous waste inspections

25. The regulations at 40 C.F.R. § 262.34(d)(2) 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.

26. Pursuant to 40 C.F.R. § 265.174, as found in 40 C.F.R. Part 265, Subpart I, the owner or operator must inspect, at least weekly, areas where containers of hazardous waste are accumulated, looking for leaking containers and deteriorating containers caused by corrosion or other factors.

27. At the time of the inspection, Respondent failed to inspect the central accumulation area weekly.

Failure to date hazardous waste accumulation containers

28. The regulations at 40 C.F.R. § 262.34(d)(4), which incorporate 40 C.F.R. § 262.34(a)(2) by reference, require generators to clearly mark the date upon which each period of accumulation began on each container.

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

a. One 55-gallon containers of paint-related waste in the paint kitchen;
b. One 55-gallon container of centrifuge sludge/still bottoms located in the Warehouse central accumulation area; and
c. Three 55-gallon containers of waste solvent, still bottoms, and centrifuge sludge at the CONEX central accumulation area.

Failure to label hazardous waste accumulation containers

30. The regulations at 40 C.F.R. § 262.34(d)(4), which incorporate 40 C.F.R. § 262.34(a)(3) by reference, require generators to clearly mark each container of hazardous waste with the words "Hazardous Waste" while accumulating on-site.

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

a. One 55-gallon container of paint-related waste in the paint kitchen;
b. One 55-gallon container of centrifuge sludge/still bottoms located in the Warehouse central accumulation area; and
c. Three 55-gallon containers of waste solvent, still bottoms, and centrifuge sludge at the CONEX central accumulation area.

Failure to Provide an Internal Communications or Alarm System

32. The regulations at 40 C.F.R. § 262.34(d)(4) require, in part, that the generator comply with Subpart C in 40 C.F.R. Part 265.

33. Pursuant to 40 C.F.R. § 265.32(a), as found in 40 C.F.R. Part 265 Subpart C, all facilities must be equipped with an internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel.

34. At the time of the inspection, the central accumulation area was not equipped with an internal communication or alarm system.

Failure to provide Spill Control and Decontamination Equipment

35. The regulations at 40 C.F.R. § 262.34(d)(4) require, in part, that the generator comply with Subpart C in 40 C.F.R. Part 265.

36. Pursuant to 40 C.F.R. § 265.32(c), as found in 40 C.F.R. Part 265 Subpart C, all facilities must provide portable fire extinguishers fire control equipment (including special extinguishing equipment), spill control equipment, and decontamination equipment.

37. At the time of the inspection, Respondent failed to provide adequate spill control, decontamination and safety equipment in the central accumulation area.

Failure to Make Arrangements with Emergency Responders

38. The regulations at 40 C.F.R. § 262.34(d)(4) require, in part, that the generator comply with Subpart C in 40 C.F.R. Part 265

39. Pursuant to 40 C.F.R. § 265.37, as found in 40 C.F.R. Part 265, the owner or operator must attempt to make the following arrangements as appropriate for the type of waste handled at the facility and the potential need for the services of these organizations:

a. Arrangements with police, fire departments and emergency response teams (40 C.F.R. § 265.37(a)(1));
b. Agreements with State emergency response teams, emergency response contractors, and equipment suppliers (40 C.F.R. § 265.37(a)(3)); and

c. Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and types of injuries or illnesses which could result from fires, explosions, or releases at the facility (40 C.F.R. § 265.37(a)(4)).

40. At the time of the inspection, Respondent had not made arrangements with local authorities or document the State or local authorities' refusal to enter into such agreements as allowed by 40 C.F.R. § 265.37(b).

Failure to Designate an Emergency Coordinator

41. The regulations at 40 C.F.R. § 262.34(d)(5)(i) require that at all times there must be at least one employee either on the premises or on call with the responsibility of coordinating all emergency response measures specified in 40 C.F.R. § 262.34(d)(5)(iv). This employee is the emergency coordinator.

42. At the time of the inspection, Respondent had not designated an emergency coordinator.

Failure to Familiarize Employees with Proper Waste Handling and Emergency Procedures

43. The regulations at 40 C.F.R. § 262.34(d)(5)(iii) require that the generator ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.

44. At the time of the inspection, Respondent failed to ensure that all employees were familiar with proper waste handling and emergency procedures.

45. Because Respondent failed to comply with the generator requirements as set forth in Paragraphs 24 through 44 above, Respondent was not authorized to store hazardous waste at its facility for any length of time, and therefore was operating a hazardous waste storage facility without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

Count 3
Failure to Comply with Used Oil Regulations

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

Failure to Label Used Oil Containers

47. The regulations at 40 C.F.R. § 279.22(c)(1) require used oil generators to label or clearly mark containers and above ground tanks used to store used oil at generator facilities with the words "Used Oil."

48. At the time of the inspection, Respondent failed to label or clearly mark the following used oil containers:

a. One 300-gallon tote of used oil located between tracks one and two;
b. One tote of approximately ten (10) used oil filters located on the west side of the warehouse building; and
c. One tote of approximately sixty (60) used oil filters located on the west side of the warehouse building.

49. Respondent's failure to label the containers of used oil described above is a violation of 40 C.F.R. § 279.22(c)(1).

Failure to Respond to a Release of Used Oil

50. The regulations at 40 C.F.R. § 279.22(d) required used oil generators, upon detection of a release of used oil to the environment, to stop the release, contain the released used oil, clean up and properly manage the released used oil and other materials, and if necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

51. At the time of the inspection, a four square foot release of used oil was documented below the hose on a used oil storage tank.

52. Respondent's failure to clean up and properly manage the release of used oil as described above is a violation of 40 C.F.R. § 279.22(d).

Count 4
Failure to Properly Manifest Hazardous Waste Shipments

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

Failure to Retain Manifests

54. The regulations at 40 C.F.R. § 262.34(a)(3) require that a generator retain one copy of each manifest in accordance with 40 C.F.R. § 262.40(a).

55. Pursuant to 40 C.F.R. § 262.40(a), a generator must keep a copy of each manifest signed in accordance with 40 C.F.R. § 262.23(a) for three years or until it receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

56. At the time of the inspection, the following manifests were not available for inspection:

a. Manifest number 004533726 dated June 5, 2012;
b. Manifest number 010871140 dated January 9, 2013; and
c. Manifest number 111200635 dated March 27, 2013.

57. Respondent's failure to maintain the manifests identified above is a violation of 40 C.F.R. § 262.40(a).

Failure to Dispose of Waste Under a Manifest

58. The regulations at 40 C.F.R. § 262.20(a)(1) require that a generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal must prepare a manifest according to the instructions included in the appendix to 40 C.F.R. Part 262.

59. At the time of the inspection, Respondent offered for transport halide lamps, which are a D009 waste, for disposal with the general trash.

60. Respondent's failure to properly manifest the halide lamps is a violation of 40 C.F.R § 262.20(a)(1).

CONSENT AGREEMENT

61. 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.

62. 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.

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

64. Respondent waives its right to contest any issue of fact or law set forth above and its right to appeal the Final Order accompanying this Consent Agreement.

65. 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.

66. 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.

67. Full payment of the penalty proposed in this CAFO shall only resolve Respondent's liability for the violations alleged in this Consent Agreement and Final Order. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

68. Full payment of the penalty proposed in this CAFO shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and regulations promulgated thereunder.

69. The effect of settlement described in Paragraph 67 above is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in Paragraph 70, below, of this Consent Agreement and Final Order.

70. Respondent certifies that by signing this Consent Agreement and Final Order that to the 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.

71. 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.

72. Respondent agrees that, in settlement of the claims alleged in this Consent Agreement and Final Order, Respondent shall pay a mitigated civil penalty of Thirty Thousand Dollars ($30,000), as set forth in Paragraph 1 of the Final Order below, and shall perform a Supplemental Environmental Project (SEP) as set forth in this Consent Agreement and Final Order. The projected cost of the SEP is Eleven Thousand Seven Hundred and Three Dollars ($11,703).

73. 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.

74. 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 above.

Supplemental Environmental Project

75. 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 SEP described in this Consent Agreement and

Final Order, which the parties agree is intended to secure significant environmental or public health protection and improvement.

76. Respondent shall complete the following SEP: replace sixty-two (62) metal halide lamps that are considered hazardous waste, with sixty-two (62) LED lamps as further described in the SEP proposal attached to this document and incorporated by reference. The projected cost of the SEP is Eleven Thousand Seven Hundred and Three Dollars ($11,703). The SEP shall be completed within three (3) months of the effective date of this Consent Agreement and Final Order.

77. Within three (3) months of the effective date of this Consent Agreement and Final Order, Respondent shall submit a SEP Completion Report to the EPA contact identified in Paragraph 80 below. The SEP Completion Report shall be subject to EPA review and approval as provided in Paragraph 81 below. The SEP Completion Report contain the following information:

a. Detailed description of the SEP as implemented, including but not limited to:

i. Invoices documenting the cost for LED lamps purchased (including shipping costs) to replace lamps in operation at the facility at the time of the Effective Date;

ii. Signed timesheets completed by the employees performing the SEP during overtime hours. For each day when SEP work is performed, the timesheets shall document regular hours worked and document the overtime hours worked where the overtime work is performed exclusively on the SEP. The timesheets shall be signed by the employee performing the SEP work and the RELCO Locomotive representative who signs the SEP Completion Report. The timesheets shall thoroughly document the wages paid to these employees while working during regular hours and in their overtime capacity;

iii. Invoices documenting proper disposal of lamps removed as part of the SEP; and

iv. Summary of how lamps removed as part of the SEP are managed in accordance with RCRA and its implementing regulations.

b. Description of any problems encountered in implementation of the project and the solution thereto;

c. Description of the specific environmental and/or public health benefits resulting from implementation of the SEP; and

d. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Agreement and Final Order.

78. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all SEP costs. 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.

79. 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.

80. The SEP Completion Report shall be submitted on or before the due date specified in Paragraph 77 to:

> Edwin G. Buckner PE, AWMD/WEMM
> *buckner.edwin@epa.gov*
>
> or
>
> U.S. Environmental Protection Agency, Region 7
> 11201 Renner Boulevard
> Lenexa, Kansas 66219.

81. SEP Completion Report Approval: The SEP Completion Report submitted pursuant to this CAFO shall be reviewed in accordance with the procedures outlined in this Paragraph. EPA will review the SEP Completion Report and may approve, approve with modifications, or disapprove and provide comments to Respondent. If the SEP Completion Report is disapproved with comments, Respondent shall incorporate EPA's comments and resubmit the SEP Completion Report within thirty (30) days of receipt of EPA's comments. If Respondent fails to revise the SEP Completion Report in accordance with EPA's comments, Respondent shall be subject to the stipulated penalties as set forth in Paragraph 85 below.

82. Any public statement, oral or written, in print, film, internet, or other media, made by Respondent making reference to the SEP 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 to enforce Federal laws.

83. Respondent hereby certifies that, as of the date of this Consent Agreement and Final Order, Respondent is not required to perform or develop the SEP described in this Consent Agreement and Final Order by any federal, state, or local law or regulation; nor is Respondent required to perform or develop the SEP 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 SEP.

84. For federal income tax purposes, Respondent agrees not to claim the costs expended in the performance of the SEP as a deductible business expense and agrees not to capitalize the costs expended in the performance of the SEP in order to increase the basis of Respondent's assets.

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

a. In the event Respondent fails to comply with any of the terms or provisions of this Agreement relating to the performance of the SEP, above, and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP described in this Consent Agreement and Final Order, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

i. If a SEP has not been completed satisfactorily and timely pursuant to this Consent Agreement and Final Order, Respondent shall pay a stipulated penalty to the United States in the amount of Four Thousand Five Hundred Thirty-Nine Dollars ($4,539), minus any documented expenditures determined by EPA to be acceptable for the SEP.

ii. If the SEP is completed in accordance with this CAFO, but Respondent spent less than the proposed SEP amount of $11,703, Respondent shall pay a stipulated penalty to the United States which equals the difference between the proposed SEP amount of $11,703 and the actual cost of SEP.

iii. If Respondent fails to timely and completely submit the SEP Completion Report required by Paragraph 77, Respondent shall be liable for and shall pay a stipulated penalty in the amount of Two Hundred and Fifty Dollars ($250) per day. This stipulated penalty shall begin to accrue on the first day after the SEP Completion Report is due and continue to accrue through the day the SEP Completion report is submitted.

b. The determinations of whether the SEP has been satisfactorily completed and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.

c. Stipulated penalties set forth above shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity or other resolution under this Consent Agreement and Final Order.

d. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of Paragraph 2 of the Final Order. Interest and late charges shall be paid as stated in paragraph 86 herein.

e. Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.

f. The United States may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this Consent Agreement and Final Order.

86. Respondent understands that its failure to timely pay any portion of the civil penalty or any portion of a stipulated penalty as stated in Paragraph 85 may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and 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. 31 U.S.C. § 3717(e)(2).

87. 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

88. 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

89. 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 Fifty-Six Thousand Four Hundred Sixty-Seven Dollars ($56,467.00) 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.

90. 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.

91. 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.

92. 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.

93. 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.

94. 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 Sections 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 Thirty Thousand Dollars ($30,000).

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.

or by alternate payment method described at *http://www.epa.gov/financial/makepayment.*

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

Kelley Catlin, Attorney
Office of Regional Counsel
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.

5. Respondent shall complete the Supplemental Environmental Project in accordance with the provisions set forth in the Consent Agreement and shall be liable for any stipulated penalty for failure to complete such project as specified in the Consent Agreement.

B. Compliance Actions

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

7. Respondent shall submit the following documentation to EPA, in accordance with Paragraph 9 below within thirty (30) days of the Effective Date of this Consent Agreement and Final Order:

a. A copy of Respondent's Standard Operating Procedure which explains how Respondent will ensure that all wastes undergo an appropriate hazardous waste determination;

b. A complete inventory of all current waste streams with corresponding hazardous waste determinations for each waste stream and disposition of each waste;

c. Documentation showing that arrangements have been made with

emergency authorities; and

d. Evidence that Respondent has ensured that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.

8. Respondent shall submit a Quarterly Compliance Report to EPA, in accordance with Paragraph 9 below. The first submission is due within thirty (30) days of the Effective Date of this Consent Agreement and Final Order. The subsequent four (4) submissions shall be submitted within ninety (90) days of the previous submission. Each Quarterly Compliance Report shall include the following:

a. A narrative description with supporting photographic documentation showing all hazardous waste containers are managed in accordance with 40 C.F.R. § 262.34;

b. Legible copies of all laundry invoices for solvent wipes;

c. Evidence showing that weekly inspections are being completed;

d. A narrative description with supporting photographic documentation showing all used oil containers are managed in accordance with 40 C.F.R. § 279; and

e. Legible copies of all signed, returned manifest generated during the quarter.

9. Respondent shall submit all documentation generated to comply with the requirements as set forth in the preceding paragraphs to the following address:

Edwin G. Buckner PE, AWMD/WEMM
buckner.edwin@epa.gov

or

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

C. Parties Bound

10. 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

1 Feb 17
Date

Mary Goetz, Chief
Waste Enforcement and Materials Management Branch
Air and Waste Management Division

2/1/17
Date

Kelley Catlin
Office of Regional Counsel

[1]

For Respondent, RELCO Locomotives, Inc.

2/1/17
Date

Signature

Doug Bachman[2]
Printed Name

C.A.O.[3]
Title

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

Feb. 6, 2017
Date

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

IN THE MATTER Of RELCO Locomotives, Inc., Respondent
Docket No. RCRA-07-2017-0002

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 via Email to Attorney for Complainant:

catlin.kelley@epa.gov

Copy via First Class Mail to Respondent:

Charles F. Helsten
Henshaw & Culbertson LLP
100 Park Avenue
PO Box 1389
Rockford, Illinois 61105

Dated: 2/6/17

Kathy Robinson
Hearing Clerk, Region 7