



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

July 21, 2021

**ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED**

Mr. Lin Taibl
Vice President of Environmental Health Safety Security and Sustainability
Voyant Beauty
6710 River Road
Hodgkins, Illinois 60525
lin.taibl@voyantbeauty.com

Re: Compliance Agreement and Final Order
Aerosols Danville
Docket No: **RCRA-05-2021-0036**

Dear Mr. Taibl:

Attached please find a copy of the signed, full executed Compliance Agreement and Final Order (CAFO) in resolution of the above case. The original was filed with the Regional Hearing Clerk on July 21, 2021.

Please pay the civil penalty in the amount of \$175,000 in the manner described in paragraph 57 of the CAFO, and reference all checks with the docket number RCRA-05-2021-0036. The payment is due within 30 calendar days of the effective date of the CAFO.

Thank you for your payment and for your cooperation in resolving this matter.

Sincerely,

Cunningham, Michael
Digitally signed by
Cunningham, Michael
Date: 2021.07.12
12:03:13 -05'00'

Michael Cunningham, Chief
RCRA Compliance Section 1

Enclosure

cc: Mr. Thomas W. Dimond, Ice Miller LLP (thomas.diamond@icemiller.com)
Mr. Paul Eisenbrandt, Illinois EPA (paul.eisenbrandt@illinois.gov)
Mr. James M. Jennings, Illinois EPA (james.m.jennings@illinois.gov)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No.
)	
Aerosols Danville, Inc.)	Proceeding to Commence and Conclude
Danville, Illinois)	an Action to Assess a Civil Penalty
U.S. EPA ID No. ILD005141726)	Under Section 3008(a) of the Resource
)	Conservation and Recovery Act,
Respondent.)	42 U.S.C. § 6928(a)
<hr/>)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. U.S. EPA provided notice of commencement of this action to the State of Illinois pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

4. Respondent is Aerosols Danville, Inc., (formerly known as KIK Customs Products, Inc.), a corporation doing business in the State of Illinois.

5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the

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

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

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

Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 and 6928.

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

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

Statutory and Regulatory Background

11. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste and used oil, pursuant to Sections 300, 3004, and 3006 of RCRA, 42 U.S.C. §§ 6924 and 6926.

12. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions.

13. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA constitutes a violation of RCRA, subject to the assessment of civil penalties and

issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Illinois final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986. 51 Fed. Reg. 3778 (January 31, 1986).

15. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both.

Factual Allegations and Alleged Violations

16. Respondent is a "person" as defined by 35 Ill. Adm. Code § 720.110, 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. Respondent is the "owner" or "operator," as those terms are defined under 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 260.10, of a facility located at 1 West Hegeler Lane, Danville, Illinois 61832 (Facility).

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

19. Respondent's Facility is a "facility" as that term is defined under 35 Ill. Adm. Code § 720.110, 40 C.F.R. § 260.10.

20. At all times relevant to this CAFO, Respondent generated hazardous waste at its Facility.

21. At all times relevant to this CAFO, Respondent stored hazardous waste at its Facility.

22. Spent ethanol generated at the Facility is a hazardous waste that exhibits the

ignitability characteristic (D001) as defined by 35 Ill. Adm. Code 721, Subparts C and D [40 C.F.R. Part 261, Subparts C and D].

23. On November 5, 2018, U.S. EPA issued a Notice of Violation (NOV) to Respondent alleging certain violations of RCRA discovered during the inspection.

24. On various dates between December 19, 2018 and June 11, 2020, Respondent submitted to U.S. EPA written responses to the NOV.

25. In its Hazardous Waste Notification dated January 20, 2020, Respondent (formerly known as KIK Custom Products) identified itself as a hazardous waste generator.

26. In its Hazardous Waste Notification dated February 27, 2020, Respondent (current owner) identified itself as a hazardous waste generator.

27. At all times relevant in this CAFO, Respondent generated during each month more than 1000 kilograms of hazardous waste at the Facility.

28. At all times relevant to this CAFO, Respondent was a “large quantity generator” of hazardous waste.

29. At the time relevant to this complaint, the State of Illinois had not issued a permit to Respondent to treat, store, or dispose of hazardous waste at its Facility.

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

RCRA Subpart BB: Air Emission Standards for Equipment Leaks

31. According to 35 Ill. Adm. Code § 722.117(A)(1)(a), a large quantity generator may store hazardous waste without a permit or interim status provided the generator complies with the applicable requirements of Subparts AA, BB, and CC of 35 Ill. Adm. Code 725.

32. 35 Ill. Adm. Code § 725.950(b) states that Subpart BB applies to equipment that

contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight.

33. The spent ethanol generated at the Facility has an organic concentration of at least 10 percent by weight.

34. Respondent's Facility has equipment that contacts or contains the spent ethanol generated on-site and, therefore, to which Subpart BB applies.

Failure to Maintain Records

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

36. According to 35 Ill. Adm. Code § 725.964(b)(1), owners and operators of facilities subject to Subpart BB shall record certain information in the facility operating record for each piece of equipment to which Subpart BB applies.

37. Respondent's Facility contains pieces of equipment to which Subpart BB applies.

38. At the time of U.S. EPA inspection, Respondent failed to record the information required by 35 Ill. Adm. Code § 725.964(b)(1) in a facility operating record.

Failure to Mark Equipment

39. Complainant incorporates paragraphs 1 through 38 of this CAFO as though set forth in full in this paragraph.

40. According to 35 Ill. Adm. Code § 725.950(c), owners and operators of facilities subject to Subpart BB shall mark each piece of equipment to which Subpart BB applies in a manner that allows it to be readily distinguished from other pieces of equipment.

41. At the time of U.S. EPA inspection, Respondent failed to mark each piece of equipment to which Subpart BB applies.

Failure to Monitor Pumps/Valves for Leaks

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

43. According to 35 Ill. Adm. Code §§ 725.952(a) and 725.957(a), owners and operators of facilities subject to RCRA Subpart BB shall monitor pumps and valves in light liquid service monthly for leaks by specified methods and shall visually inspect each pump weekly for indications of liquids dripping from the pump seal.

44. At the time of U.S. EPA inspection, Respondent failed to monitor the pumps and valves in light liquid service for leaks as required by 35 Ill. Adm. Code §§ 725.952(a) and 725.957(a).

RCRA Subpart CC: Air Emission Standards for Tanks, Surface Impoundments and Containers

45. According to 35 Ill. Adm. Code § 722.117(A)(1)(a), a large quantity generator may store hazardous waste without a permit or interim status provided the generator complies with the applicable requirements of Subparts AA, BB, and CC of 35 Ill. Adm. Code 725.

46. According to 35 Ill. Adm. Code § 725.980(a), Subpart CC applies to owners and operators of all facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers subject to either Subpart I, J, or K of 35 Ill. Adm. Code 725.

47. According to 35 Ill. Adm. Code § 725.983, owners and operators of facilities that store hazardous waste in tanks are required to control air pollutant emissions from each tank in accordance with the standards specified in subpart CC unless all hazardous waste entering the unit has an average volatile organic (VO) concentration at the point of origination of less than 500 parts per million by weight (ppmw).

48. The spent ethanol generated at the Facility has a VO concentration at the point of

origination of more than 500 ppmw.

49. Respondent's Facility has at least one tank that stores the spent ethanol generated on site, and is therefore subject to the standards specified in Subpart CC.

Failure to Inspect Tank-238 Roof and Closures

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

51. According to 35 Ill. Adm. Code § 725.985(c)(4)(B), owners and operators of facilities subject to Subpart CC are required to inspect visually the air emission control equipment (fixed roof and its closure devices) annually for defects that could result in air pollutant emissions.

52. At the time of U.S. EPA inspection, Respondent failed to inspect the tank and its closure devices.

Failure to Obtain a Written Tank Assessment

53. Complainant incorporates paragraphs 1 through 52 of this CAFO as though set forth in full in this paragraph.

54. According to 35 Ill. Adm. Code § 722.117(A)(1)(a), a large quantity generator may store hazardous waste without a permit or interim status provided the generator complies with the applicable requirements of Subpart J of 35 Ill. Adm. Code 725.

55. According to 35 Ill. Adm. Code 725.292(g), the owners or operator must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the requirements of subsections (b) through (f) of this part to attest that the tank system was properly designed and installed.

56. At the time of U.S. EPA inspection, Respondent had not obtained and kept on file the written statements required by 35 Ill. Adm. Code 725.292(g).

Civil Penalty

57. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is one hundred seventy-five thousand dollars (\$175,000). In determining the penalty amount, Complainant took into account the seriousness of the violation, any good faith efforts to comply with the applicable requirements, and Respondent's inability to pay claim. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

58. Within 30 days after the effective date of this CAFO, Respondent must pay a \$175,000 civil penalty for the RCRA violations by electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message is
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state Aerosols Danville, Inc., and the docket number of this CAFO.

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

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

validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

61. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

62. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: nagle.richard@epa.gov and burrus.sheila@epa.gov (for Complainant), and lin.taibl@voyantbeauty.com and thomas.dimond@icemiller.com (for Respondent).

63. Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for the violations alleged in this CAFO.

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

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

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

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

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

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

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

Aerosols Danville, Inc., Respondent

Lin K Taibl VP of EHS3

July 7, 2021

Date

Lin K Taibl

Digitally signed by Lin K Taibl
DN: cn=Lin K Taibl, o=Voyant Beauty, ou=Executive,
email=ltaibl@voyantbeauty.com, c=US
Date: 2021.07.07 08:17:07 -05'00'

NAME

TITLE

Aerosols Danville, Inc.

United States Environmental Protection Agency, Complainant

Harris,
Michael

Digitally signed by Harris,
Michael
Date: 2021.07.13
11:17:20 -05'00'

Date

Michael D. Harris

Division Director

Enforcement and Compliance Assurance Division

In the Matter of:
Aerosols Danville
Docket No. RCRA-05-2021-0036

Final Order

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

Date

ANN COYLE Digitally signed by ANN
COYLE
Date: 2021.07.13
15:42:55 -05'00'

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

Compliance Agreement and Final Order
In the matter of: Aerosols Danville, Inc.
Docket Number: **RCRA-05-2021-0036**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number **RCRA-05-2021-0036**, which was filed on

July 21, 2021

in the following manner to the following addresses:

Copy by e-mail to
Respondent:

Lin Taibl
Aerosols Danville, Inc.
Vice President of Environmental Health Safety Security
and Sustainability
lin.taibl@voyantbeauty.com

Copy by e-mail to
Attorney for Respondent:

Thomas W. Dimond
Ice Miller LLP
thomas.diamond@icemiller.com

Copy by e-mail to
Attorney for Complainant:

Richard Nagle
nagle.richard@epa.gov

Copy by e-mail to
Technical Contact for
Complainant:

Sheila Burrus
burrus.sheila@epa.gov

Copy by e-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: _____

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