



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

MAY 31 2018

REPLY TO THE ATTENTION OF:

VIA EMAIL

Mr. Adam Meek
Attorney for Respondent
EMCO Chemical Distributors, Inc.
2100 Commonwealth Avenue
North Chicago, Illinois 60064
ameek@cameronlaw.net

Re: Consent Agreement and Final Order
EMCO Chemical Distributors, Inc.
Docket No: **RCRA-05-2018-0011**

Dear Mr. Meek:

Attached please find a copy of the signed, fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The original was filed with the Regional Hearing Clerk on **MAY 31 2018**.

Please pay the civil penalty in the amount of \$131,193 in the manner prescribed in paragraphs 69 through 73 of the CAFO, and in the comment or description field of the electronic funds transfer, state the case title and the docket number **RCRA-05-2018-0011**. Your payment is due within thirty (30) calendar days of the effective date of the CAFO.

Thank you for your cooperation in resolving this matter.

If you have any questions or concerns regarding this matter, please contact Jamie L. Paulin, of my staff, at 312-886-1771.

Sincerely,

Gary J. Victorine, Chief
RCRA Branch

Attachment

cc: Todd Marvel, Illinois EPA, (todd.marvel@illinois.gov) (w/attachments)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF: EMCO Chemical Distributors, Inc. 2100 Commonwealth Avenue North Chicago, Illinois 60064 U.S. EPA ID No.: ILD 005 070 495 Respondent.) Docket No. RCRA-05-2018-0011)) Proceeding to Commence and) Conclude an Action to Assess a Civil) Penalty Under Section 3008(a) of the) Resource Conservation and Recovery) Act, 42 U.S.C. § 6928(a)))))
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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, by lawful delegation, the Director of the Land and Chemicals 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 EMCO Chemical Distributors, 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.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6992k.

Statutory and Regulatory Background

12. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, or dispose of hazardous waste or used oil, pursuant to Sections 3001 – 3007, 3013, and 3014, among others, of RCRA, 42 U.S.C. §§ 6921 – 6927, 6934, and 6935.

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

Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of 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. Sections 3002 and 3004 of RCRA, 42 U.S.C. §§ 6922 and 6924, directed U.S. EPA to promulgate regulations governing generators of hazardous waste and facilities that treat, store or dispose of hazardous waste, and governing the owners and operators of such facilities. Pursuant to Sections 3002 and 3004 of RCRA, 42 U.S.C. §§ 6922 and 6924, U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, respectively governing generators of hazardous waste, and facilities that treat, store or dispose of hazardous waste, and governing the owners and operators of such facilities.

16. Section 3005 of RCRA, 42 U.S.C. § 6925, directed U.S. EPA to promulgate regulations prohibiting the treatment, storage, or disposal of hazardous waste except in accordance with a permit, and requiring each person owning or operating a facility at which hazardous waste is treated, stored or disposed (TSD facility) to have a permit issued by U.S. EPA or the authorized state, or to have interim status under Section 3005(e) or RCRA, 42 U.S.C. § 6925(e).

17. Pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), U.S. EPA has promulgated regulations at 40 C.F.R. Part 270 that establish permitting requirements and procedures.

18. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), provides U.S. EPA with the authority to enforce State regulations in those States authorized to administer a hazardous waste program.

19. 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.

20. The Illinois regulations at 35 IAC § 720.110 define the term “generator” as any person, by site, whose act or process produces hazardous waste identified or listed in 35 Ill. Adm. Code 721 or whose act first causes a hazardous waste to become subject to regulation.

21. 35 IAC § 720.110 defines the term “facility” as, *inter alia*, all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste.

22. 35 IAC § 720.110 and 40 C.F.R. § 261.2 define the term “solid waste” as any discarded material that is not excluded by 40 C.F.R. § 261.4(a) or that is not excluded by variance granted under 40 C.F.R. §§ 260.30 and 260.31.

23. Under 40 C.F.R. § 261.3 and 35 IAC § 721.103, a solid waste is a hazardous waste if, *inter alia*, (1) it is not excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b), and (2) it exhibits any of the characteristics of hazardous waste identified in 40 C.F.R. Part 261, Subpart C, §§ 261.20 to 261.24 (i.e., the characteristics of ignitability, corrosivity, reactivity, or toxicity), or it is listed under 40 C.F.R. Part 261, subpart D, and has not been excluded from the lists in subpart D by virtue of 40 C.F.R. §§ 260.20 and 260.22.

24. Any violation of regulations promulgated pursuant to Subtitle C, Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6039, or of any State regulations approved by U.S. EPA pursuant to Section 3006 of RCRA, 42 U.S.C. § 6912, constitutes a violation of RCRA, subject

to the assessment of civil or criminal penalties and compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

Factual Allegations and Alleged Violations

At all times relevant to this CAFO, except as noted:

25. Respondent was and is the “owner” or “operator,” as those terms are defined under 35 IAC § 720.110 [40 C.F.R. § 260.10], of a facility located at 2100 Commonwealth Avenue, North Chicago, Illinois (Facility) with operations that include the generation and storage of hazardous waste.

26. Respondent’s Facility consisted and consists of land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.

27. The EMCO Chemical Distributors, Inc. facility has been in operation since at least December 20, 1980.

28. Respondent is, and was at all times relevant to this CAFO, a corporation incorporated under the laws of the State of Illinois.

29. Respondent is a “person” as defined by 35 IAC § 720.110 [40 C.F.R. 260.10], and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

30. Respondent is, and was at all times relevant to this CAFO, the owner and operator of a “facility” as defined by 35 IAC § 720.110 and 40 C.F.R. § 260.10, which is located at 2100 Commonwealth Avenue, North Chicago, Illinois.

31. Respondent is, and was, at all times relevant to this CAFO, a “generator” of hazardous waste as defined in 35 IAC § 720.110 and 40 C.F.R. § 260.10.

32. At all times relevant to this CAFO, Respondent generated more than 1,000 kilograms of hazardous waste per month, qualifying it as a “large quantity generator” of hazardous waste.

33. As a large quantity generator of hazardous wastes, Respondent is, and was, at all times relevant to this CAFO, subject to, *inter alia*, the requirements set forth in 35 IAC § 722.134 [40 C.F.R. § 262.34].

34. At all times relevant to this CAFO, Respondent did not have a RCRA permit or interim status to treat, store, or dispose of hazardous waste at its facility

35. On June July 23, 2015, U.S. EPA conducted a Compliance Evaluation Inspection of Respondent’s facility (the Inspection).

36. On December 5, 2016, U.S. EPA issued a Notice of Intent to File Civil Administrative Complaint to Respondent alleging certain violations of RCRA discovered during the Inspection.

Alleged Violations

Count 1: Failure to Apply for and Obtain a Hazardous Waste Storage Permit

37. Complainant incorporates paragraphs 1 through 36 of this CAFO as though set forth in this paragraph.

38. Under 35 § 722.134(b) [40 C.F.R. § 262.34(b)], a generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 35 IAC 724, 725, and 727, and the permit requirements of 35 IAC 702, 703, and 705.

39. On the day of the Inspection, Respondent was storing at least four drums and two totes of hazardous waste for over 90 days.

40. Therefore, Respondent violated the above-referenced permitting requirements by storing hazardous waste for more than 90 days without first applying for and obtaining a hazardous waste storage permit.

Count 2: Failure to Manage Satellite Accumulation Areas Properly

41. Complainant incorporates paragraphs 1 through 36 of this CAFO as though set forth in this paragraph.

42. Under 35 IAC § 722.134(c)(2) [40 C.F.R. § 262.34(c)(1)], a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste without a permit or interim status provided that the generator complies with the requirements of 35 §§ 722.134(a) and 725 Subpart I [40 C.F.R. §§ 262.34(a) and 265 Subpart I] with respect to any excess amount over 55 gallons.

43. At the time of the Inspection, Respondent was storing greater than 55 gallons of hazardous waste in satellite accumulation areas without complying with the requirements of 35 §§ 722.134(a) and 725 Subpart I.

44. Respondent, therefore, violated the permitting requirements of 35 IAC 702, 703, and 705 by failing to comply with the exemption requirement under 35 § 722.134(c)(2).

Count 3: Failure to put an Accumulation Start Date on

Hazardous Waste Containers

45. Complainant incorporates paragraphs 1 through 36 of this CAFO as though set forth in this paragraph.

46. Under 35 IAC § 722.134(a)(2) [40 C.F.R. § 262.34(a)(2)], a generator may accumulate hazardous waste for up to 90 days without a permit or without having interim status

provided that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

47. At the time of the inspection, Respondent was storing hazardous waste in at least thirty-four containers without marked start dates of accumulation.

48. Respondent, therefore, violated the permitting requirements of 35 IAC 702, 703, and 705 by failing to comply with the exemption requirement under 35 IAC § 722.134(a)(2).

Count 4: Failure to Label Hazardous Waste

Containers with the words, "Hazardous Waste."

49. Complainant incorporates paragraphs 1 through 36 of this CAFO as though set forth in this paragraph.

50. Under 35 IAC § 722.134(a)(3) [40 C.F.R. § 262.34(a)(3)], a generator may accumulate hazardous waste for up to 90 days without a permit or without having interim status provided that each container and tank is labeled or marked clearly with the words, "Hazardous Waste."

51. At the time of the inspection, Respondent was storing hazardous waste in at least twenty-six containers without marking them with the words, "Hazardous Waste."

52. Respondent violated the above-referenced storage requirement by not clearly marking the words, "Hazardous Waste," on hazardous waste storage containers.

Count 5: Failure to Maintain a Contingency Plan at the Facility

53. Complainant incorporates paragraphs 1 through 36 of this CAFO as though set forth in this paragraph.

54. Under 35 IAC §§ 722.134(a)(4) and 725.153(a) [40 C.F.R. §§ 262.34(a)(4) and 265.53(a)], a generator may accumulate hazardous waste for up to 90 days without a permit

or without having interim status provided that a copy of the contingency plan and all revisions to the plan is maintained at the facility.

55. At the time of the inspection, Respondent was not maintaining a copy of the Contingency Plan at the facility.

56. Respondent, therefore, violated the permitting requirements of 35 IAC 702, 703, and 705 by failing to comply with the exemption requirement under 35 IAC §§ 722.134(a)(4) and 725.153(a).

Count 6: Failure to Conduct Weekly Inspections of the Hazardous Waste Storage Areas

57. Complainant incorporates paragraphs 1 through 36 of this CAFO as though set forth in this paragraph.

58. Under 35 IAC §§ 722.134(a)(1)(A) and 725.274 [40 C.F.R. §§ 262.34(a)(1)(i) and 265.174], a generator may accumulate hazardous waste for up to 90 days without a permit or without having interim status provided that, at least weekly, the owner or operator inspects areas where containers are stored.

59. At the time of the inspection, Respondent was not conducting weekly inspections of the hazardous waste container storage areas.

60. Respondent, therefore, violated the permitting requirements of 35 IAC 702, 703, and 705 by failing to comply with the exemption requirement under 35 IAC §§ 722.134(a)(1)(A) and 725.274.

Count 7: Failure to Make Hazardous Waste Determinations

61. Complainant incorporates paragraphs 1 through 36 of this CAFO as though set forth in this paragraph.

62. Under 35 IAC § 722.111 [40 C.F.R. § 262.11], a generator must determine whether its solid waste is hazardous.

63. At the time of the inspection, Respondent had not made a hazardous waste determination on at least nine containers of solid waste.

64. Respondent, therefore, violated the above-referenced waste determination requirement.

Count 8: Failure to Maintain Land Disposal Restriction Notifications

65. Complainant incorporates paragraphs 1 through 36 of this CAFO as though set forth in this paragraph

66. Under 35 IAC § 728.107(a)(8) [40 CFR § 268.7(a)(8)], a generator of hazardous waste must retain on-site a copy of all notices, certifications, waste analysis data, and other documentation produced pursuant to Section 728.107.

67. At the time of the inspection, the Respondent did not maintain a copy of the land disposal restriction notifications required under Section 728.107 for the hazardous waste shipped off site.

68. Respondent, therefore, violated the above-referenced Land Disposal Restriction recordkeeping requirement.

Civil Penalty

69. In consideration of Respondent's agreement to perform a Supplemental Environmental Project (SEP) and other factors as justice may require, Complainant agrees to mitigate the proposed penalty of \$291,540 to \$131,193.

70. Within 30 days after the effective date of this CAFO, Respondent must pay a \$131,193 civil penalty for the RCRA violations by the method specified in either Paragraph 70.a or 70.b below:

- a. by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

For checks sent by regular U.S. Postal Service mail:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Or, for checks sent by express mail:

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The check must state the case title and the docket number of this CAFO.

- b. 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 the case title and the docket number of this CAFO.

71. A transmittal letter stating Respondent's name, the case title and the case docket number must accompany the payment if payment is made by check. Respondent must send a copy of the check and transmittal letter to:

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

Jamie Paulin (LR-17J)
RCRA Branch
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

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

73. 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. 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.

Supplemental Environmental Project

74. Respondent must complete a SEP designed to protect the environment and public health by purchasing, installing and operating an electronic tracking system utilizing sensors, RFID tags, document/information aggregation, and data analytics, combined with a cloud-based

technological platform, to manage, track, and process facility operations, which will be used to properly manage and store hazardous waste.

75. At its North Chicago, Illinois facility, Respondent must complete the SEP as follows:

- a. Within thirty days of the date of this CAFO, Respondent must purchase all of the equipment necessary to install and operate Phase 1 of the SEP – Platform Startup and Development.
- b. Within thirty days after completion of Phase 1, Respondent must purchase all of the equipment necessary to install and operate Phase 2 of the SEP – Platform Enhancements and Additions.
- c. Within thirty days after completion of Phase 2, Respondent must purchase all of the equipment necessary to install and operate Phase 3 of the SEP – Platform Enhancements and Additions.

See attached Scope of Work as Exhibit A for a detailed description of equipment, installation and implementation of the SEP.

76. Respondent must spend at least \$145,770 to purchase the equipment, install the equipment during a three-year time frame, and have operated the equipment for at least three years from the date the Respondent begins operating the system.

77. Respondent must continuously use or operate the electronic tracking system, except for the temporary shut-down of the system to conduct repair or routine maintenance, for at least three years from the date Respondent begins operating the system.

78. Respondent certifies that it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Respondent further certifies that it has not received, and is not negotiating to receive,

credit for the SEP in any other enforcement action.

79. Respondent must submit Periodic Reports on the first, second, and, third anniversary of the effective date of this CAFO. Each Periodic Report must contain the following information:

- a. all activities that have been undertaken and completed during the reporting year;
- b. a schedule of all activities for the next year of SEP implementation; and,
- c. an evaluation of the SEP as related to the objectives identified in Exhibit A, any SEP improvements or revisions, and how any findings or action plans were communicated to affected employees, on-site service providers, and contractors.

80. Respondent must submit a SEP Completion Report within thirty calendar days after completion of the SEP. The SEP will be considered completed after all phases are finished and the electronic tracking system is operational for at least three years from the date of operation.

The SEP Completion Report must contain the following information:

- a. detailed description of the SEP as completed;
- b. description of any operating problems and the actions taken to correct the problems;
- c. itemized costs of goods and services used to complete the SEP, documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services;
- d. certification that Respondent has completed the SEP in compliance with this CAFO; and
- e. description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

81. In determining the costs associated with the implementation of this SEP and reported in the Installation Completion Report and SEP Completion Report, Respondent must

exclude all costs necessary to assure compliance with statutory, regulatory, or permit requirements.

82. Respondent must submit all notices and reports required by this CAFO by first class mail to Jamie Paulin at the address in paragraph 71 above or via email to paulin.jamie@epa.gov.

83. In each report that Respondent submits as provided by this CAFO, Respondent must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

84. Following receipt of the SEP completion report described in paragraph 83, above, U.S. EPA must notify Respondent in writing that:

- a. Respondent has satisfactorily completed the SEP and the SEP report.
- b. There are deficiencies in the SEP as completed, or in a SEP report, and U.S. EPA will give Respondent thirty days to correct the deficiencies; or
- c. Respondent has not satisfactorily completed the SEP or a SEP report and U.S. EPA will seek stipulated penalties under paragraph 86.

85. IF U.S. EPA determines that there are deficiencies in the SEP as completed, or in a SEP report, and notifies Respondent that the deficiencies must be corrected in 30 days as provided by paragraph 84.b above, Respondent may object in writing to the deficiency notice within ten days of its receipt. The parties will have thirty days from U.S. EPA's receipt of

Respondent's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Respondent a written decision on its objection. Respondent will comply with any requirements to complete the SEP that U.S. EPA imposes in its decision. If Respondent does not complete the SEP as required by U.S. EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 86 below.

86. If Respondent violates any requirement of this CAFO relating to the SEP,

Respondent must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent did not complete the SEP satisfactorily according to the requirements of this CAFO including the schedule in paragraph 79, Respondent must pay a penalty of \$145,770.
- b. If Respondent did not complete the SEP satisfactorily, but U.S. EPA determines that Respondent (i) made good faith and timely efforts to complete the SEP and (ii) certified, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 76, Respondent will not be liable for a stipulated penalty under subparagraph a, above.
- c. If Respondent completed the SEP satisfactorily, but spent less than 90 percent of the amount set forth in paragraph 76, Respondent must pay a penalty of \$14,577.
- d. If Respondent did not timely submit the SEP completion report, or did not timely submit any other report required by paragraph 79, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$0.00	1 st through 14 th day
\$250.00	15 through 30 th day
\$500.00	31 st day and beyond

87. U.S. EPA's determinations of whether Respondent satisfactorily completed the SEP and whether Respondent made good faith and timely efforts to complete the SEP will bind Respondent.

88. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Respondent will use the method of payment

specified in paragraph 70, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

89. Any public statement that Respondent makes referring to the SEP must include the following language, “EMCO Chemical Distributors, Inc. undertook this project under the settlement of the United States Environmental Protection Agency’s enforcement action against EMCO Chemical Distributors, Inc. for violations of hazardous waste management regulations.”

90. For Federal Income Tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

Compliance Provisions

General Provisions

91. Consistent with the “Standing Order Authorizing E-Mail Service of Order and Other Documents Issued by the Regional Administrator or Regional Judicial Officer Under the Consolidated Rules,” dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: Lakhani.puja@epa.gov, and [ameek@cameronlaw.net] (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

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

93. 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.

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

95. 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).

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

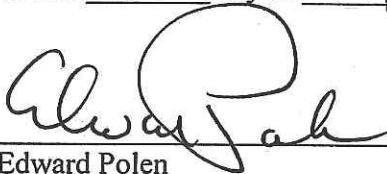
97. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

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

Agreed to this 7th day of MAY, 2018.

By:



Edward Polen
President
EMCO Chemical Distributors, Inc. Services, LLC
Respondent

Agreed to this 25th day of May, 2018.

By:



Michael D. Harris
Acting Division Director
Land and Chemicals Division
U.S. Environmental Protection Agency, Region 5
Complainant

Consent Agreement and Final Order

In the Matter of EMCO Chemical Distributors, Inc., LLC

Docket No. RCRA-05-2018-0011



V. ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. The Respondent is hereby ordered to comply with all of the terms and conditions of the Consent Agreement, effective immediately.

Date May 30, 2018

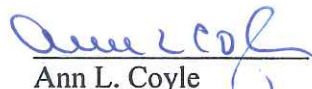

Ann L. Coyle
Regional Judicial Officer
U.S. EPA
Region 5

Exhibit A - SEP Scope of Work

EMCO Chemical Distributors, Inc. Internal Technology Platform

I. Objectives:

1. EMCO Chemical Distributors, Inc. (EMCO) will develop a technology driven platform integrated throughout the EMCO North Chicago facility;
2. EMCO will utilize sensors, RFID tags, document/information aggregation, and data analytics to manage, track, and process facility operations;
3. EMCO will intend to properly store and manage containers of hazardous waste using this electronic tracking system.

II. Project Description.

1. Installation of the following elements:

- a. *Sensors* – strategically placed throughout EMCO’s Facility to enhance real time management and tracking of waste accumulation levels.
- b. *RFID Tags* – attached to waste storage containers and integrated wirelessly with an advanced data collection network that transmits key data metrics regarding timing, status of material, etc. to the cloud-based platform. This RFID solution will be used to improve and/or replace EMCO’s current labeling process.
- c. *Video* – focusing on waste areas for real time visual monitoring.
- d. *Web-Based Platform* – aggregating and centralizing all information and documentation related to material tracking, storage, and management with alerts and key data points rolled up into a dashboard for a rapid and impactful overview allowing greater control of facility operations.
- e. *Modeling* – utilizing 2D and 3D visual modeling of the Facility to produce a virtual reality solution/application, providing efficient and effective training mechanisms and guided inspection capabilities

2. Basic Components to be installed in Phase 1/Year 1 of the Internal Technology Platform.

- a. *Sensors* – explosion-proof ultrasonic level sensor; network in satellite accumulation areas with router; and, server.
- b. *RFID* – stickers on all existing samples; stickers on all waste drums; network in retain sample room with router; network in the waste areas with router; and, reader.
- c. *Video* – explosion-proof cameras in all waste areas; “weather box” for exterior cameras; camera network hardwired with conduit/cables; video router; and separate server for data storage.
- d. *Web-based Platform* – large cloud storage monthly charge; base platform monthly charge; platform sensor plug-in monthly charge; platform VR application monthly charge.

3. Basic Components to be installed in Phase 2/Year 2 of the Internal Technology Platform.
 - a. Sensors – explosion-proof ultrasonic level sensor; network in additional satellite accumulation areas and blending area with additional networks with router.
 - b. RFID – stickers on all wash solvent drums; stickers on all new samples; printing equipment at all sample generation points.
 - c. Video – upgrade to 360 cameras to integrate into VR.
 - d. Web-based Platform – large cloud storage monthly charge; base platform monthly charge; platform sensor plug-in monthly charge; platform VR application monthly charge.
 - e. Modeling – scanning equipment rent and service fee; VR glasses; Samsung 8 mobile phone; mobile VR system set-up and gaming laptop.
4. Basic Components to be installed in Phase 3/Year 3 of the Internal Technology Platform.
 - a. Sensors – same as Phase 2 no upgrade needed.
 - b. RFID – stickers on all materials stored in facility.
 - c. Video – image recognition software.
 - d. Web-based Platform – large cloud storage monthly charge; base platform monthly charge; platform sensor plug-in monthly charge; platform VR application monthly charge.
5. Possible Commissioning of the Equipment.
 - a. Checking the installation after completion by buyer.
 - b. Test run of the equipment.
 - c. Instruction of personnel to work with the equipment.
 - d. Instruction of personnel to maintain the equipment.

III. Program Evaluation/Continuous Improvement.

Describes program for periodic (at least annually) evaluation of the SEP, including incorporating the results of the assessment into program improvements, revisions to the process, and communicating findings and action plans to affected employees, on-site service providers, and contractors.

IV. Schedule.

Identifies time frames and milestones for implementing the Internal Technology Platform.

V. SEP Implementation.

1. The Internal Technology Platform Schedule, when completed, shall be provided to U.S. EPA, as stipulated in the CAFO. EMCO shall commence implementation of the SEP, as documented.

2. The SEP shall be continuously used and operated for at least 3 years subsequent to commencement and implementation of the SEP.

VI. Accounting for SEP Costs.

1. EMCO shall keep track of costs associated with implementation of this SEP, and shall report such costs to U.S. EPA, as stipulated in the CAFO.
2. In determining the costs associated with implementation of this SEP, EMCO shall exclude all costs that are associated with assuring compliance with statutory, regulatory, or permit requirements in effect as of the date the CAFO was executed by U.S. EPA Region 5. The SEP is a *Supplemental* Environmental Project, outlining activities to address priority environmental aspects and improve environmental performance. Routine costs for ensuring compliance are incurred by the Respondent even without the SEP, and therefore must be excluded from the determination of the costs associated with implementation of this SEP.

Consent Agreement and Final Order
In the matter of: EMCO Chemical Distributors, Inc.
Docket Number: **RCRA-05-2018-0011**



CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number **RCRA-05-2018-0011**, which was filed on 5/31/2018 in the following manner to the following addressees:

Copy by E-mail to
Attorney for Complainant:

Puja Lakhani
lakhani.puja@epa.gov

Copy by E-mail to
EPA enforcement staff contact:

Jamie Paulin
paulin.jamie@epa.gov

Copy by E-mail to
Attorney for Respondent:

Adam Meek
ameek@cameronlaw.net

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: May 31, 2018 for 

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

