

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

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IN THE MATTER OF:)
)
GKN Armstrong Wheels, Inc.,)
)
Respondent)
)
Proceeding under Sections 3008(a) and (g))
of the Resource Conservation and)
Recovery Act as amended,)
42 U.S.C. § 6928(a) and (g))
)

**CONSENT AGREEMENT
AND FINAL ORDER**

Docket No. RCRA-07-2015-0021

I. PRELIMINARY STATEMENT

The U.S. Environmental Protection Agency (EPA), Region 7 (Complainant) and GKN Armstrong Wheels, Inc. (Respondent) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules of Practice), 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b) and 22.18(b)(2).

II. ALLEGATIONS

Jurisdiction

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

2. This Consent Agreement and Final Order serves as notice that the EPA has reason to believe that Respondent violated Section 3005 of RCRA, 42 U.S.C § 6925, the standards for the management of used oil (40 C.F.R. Part 279), and the standards for universal waste management (40 C.F.R. Part 273).

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 GKN Armstrong Wheels, Inc., a corporation authorized to operate under the laws of Iowa. Respondent operates facilities in Esterville, Iowa and Armstrong, 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 \$32,500 per day are authorized for violations of Subchapter III of RCRA that occur after March 15, 2004, through January 12, 2009. For violations of Subchapter III of RCRA that occur after January 12, 2009, penalties of up to \$37,500 per day are now authorized. Based upon the facts alleged in this 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 Esterville facility is located at 2420 South 7th Street, Esterville, Iowa (hereinafter “Esterville facility”). This facility manufactures steel wheels for the off road industry, primarily for the agricultural and construction industries. This facility employs approximately 230 people.

9. On or about March 12 and 13, 2012, an EPA contractor conducted a RCRA inspection at the Esterville facility (hereinafter “Esterville inspection”).

10. Respondent's Armstrong facility is located at 5453 6th Avenue, Armstrong, Iowa (hereinafter "Armstrong facility"). This facility manufactures wheels for the off road industry, primarily for the agricultural and construction industries. This facility employs approximately 195 people.

11. On or about November 20 and 21, 2013, an EPA inspector conducted a RCRA inspection at the Armstrong facility (hereinafter "Armstrong inspection").

12. At the time of the inspections, the following solid wastes were present:

- a. One 55-gallon container of paint booth gun cleaning solvent in the Estherville facility paint kitchen;
- b. Six 55-gallon containers of spent bead blast media in the Estherville facility south hazardous waste container accumulation area;
- c. One 5-gallon satellite accumulation container of paint gun cleaning solvent in the Estherville facility east paint booth;
- d. One 5-gallon satellite accumulation container of paint gun cleaning solvent and waste paint in the Estherville facility west paint booth;
- e. One 55-gallon satellite accumulation container of spent bead blast media in the Estherville facility bay location EM03 bead blast machine;
- f. One 55-gallon container waste paint related material (WPRM) in the Armstrong facility next to the paint kitchen;
- g. One 55-gallon container of waste aerosol cans in the Armstrong facility hazardous waste container accumulation area;
- h. Five 5-gallon satellite accumulation containers of WPRM in the Armstrong facility paint kitchen; and
- i. One 55-gallon satellite accumulation container of distillation bottoms in the Armstrong facility in the paint kitchen.

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

- a. One 55-gallon container of paint booth gun cleaning solvent in the Estherville facility paint kitchen. Paint booth gun cleaning solvent is a D001 characteristic waste and F003 and F005 listed hazardous waste;
- b. Six 55-gallon containers of spent bead blast media in the Estherville facility south hazardous waste container accumulation area. Spent bead blast media is a D007 listed hazardous waste;
- c. One 5-gallon satellite accumulation container of paint gun cleaning solvent in the Estherville facility east paint booth. Paint gun cleaning solvent is D001 characteristic waste and F003 and F005 listed hazardous waste;

- d. One 55-gallon satellite accumulation container of spent bead blast media in the Estherville facility bay location EM03 bead blast machine. Spent bead blast media is a D007 listed hazardous waste;
 - e. One 5-gallon satellite accumulation container of paint gun cleaning solvent and waste paint in the Estherville facility west paint booth. Paint gun cleaning solvent is D001 characteristic waste and F003 and F005 listed hazardous waste;
 - f. One 55-gallon container WPRM in the Armstrong facility next to the paint kitchen. WPRM is at least D001 characteristic waste and D005, D006 and D007 listed hazardous waste;
 - g. One 55-gallon container of waste aerosol cans in the Armstrong facility hazardous waste container accumulation area. Waste aerosol cans are a D001 characteristic hazardous waste;
 - h. Five 5-gallon satellite accumulation containers of WPRM in the Armstrong facility paint kitchen. WPRM is at least D001 characteristic waste and D005, D006 and D007 listed hazardous waste; and
 - i. One 55-gallon satellite accumulation container of distillation bottoms in the Armstrong facility in the paint kitchen. Distillation bottoms are D001 characteristic and F003 and F005 listed hazardous waste.
14. At the time of the inspection, the following used oil containers were present:
- a. Three 300-gallon containers of used oil adjacent to the hazardous waste container accumulation area at the Estherville facility; and
 - b. Ten 300-gallon containers of used oil adjacent to the waste water treatment facility at the Armstrong facility.
15. At the time of the inspection, the following universal waste containers were present:
- a. Five boxes of spent fluorescent lamps in the Estherville facility maintenance shop;
 - b. One box of spent fluorescent lamps in the Armstrong facility; and
 - c. One 5-gallon container of spent lead-acid batteries in the Estherville facility maintenance shop.
16. On or about September 10, 2009, Respondent provided notification the Estherville facility operated as a Large Quantity Generator (LQG) of hazardous waste pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930. LQGs generate 1,000 kilograms per month or more of hazardous waste, or more than 1 kilogram per month of acutely hazardous waste. Respondent has been assigned the following EPA ID Number for the Estherville facility: IAR000007278.

17. On or about November 20, 2008, Respondent provided notification the Armstrong facility operated as a LQG of hazardous waste. Respondent has been assigned the following EPA ID Number for the Armstrong facility: IAD984594697.

18. On or about March 12-13, 2012, a contractor on behalf of EPA conducted a RCRA Compliance Evaluation Inspection at the Estherville facility (hereinafter “the Estherville inspection”) of the hazardous waste management practices at Respondent’s Estherville facility. Based on a review of the inspection report and the information provided during the Estherville inspection by facility personnel, it was determined that Respondent was operating, at the time of the inspection, as a Large Quantity Generator of hazardous waste, a Small Quantity Handler of universal waste, and used oil generator.

19. On or about November 20-21, 2013, an EPA inspector conducted a RCRA Compliance Evaluation Inspection at the Armstrong facility (hereinafter “the Armstrong inspection”) of the hazardous waste management practices at Respondent’s Armstrong facility. Based on a review of the inspection report and the information provided during the Armstrong inspection by facility personnel, it was determined that Respondent was operating, at the time of the inspection, as a Large Quantity Generator of hazardous waste, a Small Quantity Handler of universal waste, and used oil generator.

Violations

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

Count 1

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

21. Complainant hereby incorporates the allegations contained in Paragraphs 7 through 19 above, as if fully set forth herein.

Generator Requirements

22. The regulations at 40 C.F.R. § 262.34(a) state that a generator may accumulate hazardous waste on-site for ninety (90) days or less without a permit or without interim status, provided the conditions listed in 40 C.F.R. § 262.34(a)(1)-(4) are met. If a generator fails to comply with any of these conditions, the generator is not allowed to store hazardous waste at their facility for any length of time. Respondent failed to comply with the following conditions:

Failure to conduct adequate weekly hazardous waste inspections

23. The regulations at 40 C.F.R. § 262.34(a)(1)(i) 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.

24. 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 stored, looking for leaking containers and deteriorating containers caused by corrosion or other factors.

25. At the time of the Estherville inspection, Respondent's representative stated that a 55-gallon container of paint booth gun cleaning solvent stored in the paint kitchen was not inspected.

26. At the time of the Estherville inspection, Respondent's representative provided log sheets for the south hazardous waste container accumulation area for February 29, 2012, and March 8, 2012. The log sheets showed boxes were checked indicating "all waste marked" and "hazardous waste labeled". At the time of the Estherville inspection six 55-gallon containers of spent bead blast media hazardous waste were not marked with the accumulation start date and three containers of hazardous waste were not marked as "hazardous waste".

27. At the time of the Armstrong inspection, Respondent's representative stated that a 55-gallon container of WPRM in the paint kitchen was not inspected.

28. At the time of the Armstrong inspection, Respondent's representative stated that a 55-gallon container of waste aerosol cans in the hazardous waste container accumulation area was not inspected.

Failure to close hazardous waste accumulation containers

29. The regulations at 40 C.F.R. § 262.34(a)(1)(i) 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.

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

31. At the time of the Estherville inspection, one 55-gallon container of paint booth gun cleaning solvent in the paint kitchen was open.

32. At the time of the Armstrong inspection, one 55-gallon container of WPRM in the paint kitchen was open.

Failure to date hazardous waste accumulation containers

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

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

- a. One 55-gallon container of paint booth gun cleaning solvent in the paint kitchen; and
- b. Six 55-gallon containers of spent bead blast media in the south hazardous waste container accumulation area.

35. At the time of the Armstrong inspection one 55-gallon container of WPRM in the paint kitchen was not marked with the date upon which accumulation began.

Failure to label hazardous waste accumulation containers

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

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

- a. One 55-gallon container of paint booth gun cleaning solvent in the paint kitchen; and
- b. Three 55-gallon containers of spent bead blast media in the south hazardous waste container accumulation area.

38. At the time of the Armstrong inspection one 55-gallon container of WPRM in the paint kitchen was not marked with the words "Hazardous Waste".

Failure to list emergency coordinator information in contingency plan

39. The regulations at 40 C.F.R. § 262.34(a)(4) require, in part, that the generator comply with the requirements of Subparts C and D in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16, and with 40 C.F.R. § 268.7(a)(4).

40. Pursuant to 40 C.F.R. § 265.52(d), as found in 40 C.F.R. § 265 Subpart D, the owner or operator must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, and this list must be kept up to date. Where

more than one person is listed, one must be named as primary emergency coordinator and the others must be listed in the order in which they will assume responsibility as alternates.

41. At the time of the Estherville inspection, the primary emergency coordinator was not identified and the others were not listed in the order in which they would assume responsibility as an alternative. Additionally the most up to date contingency plan did not contain the home telephone numbers and home addresses for emergency coordinator or the alternatives.

42. At the time of the Armstrong inspection, the names, addresses, and phone numbers (office and home) of the emergency coordinator and alternates were not included in the most up to date contingency plan.

Failure to maintain a copy of contingency plan at the facility

43. The regulations at 40 C.F.R. § 262.34(a)(4) require, in part, that the generator comply with the requirements of Subparts C and D in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16, and with 40 C.F.R. § 268.7(a)(4).

44. Pursuant to 40 C.F.R. § 265.53(a), as found in 40 C.F.R. § 265 Subpart D, the owner or operator must maintain a copy of the contingency plan and all revisions at the facility.

45. At the time of the Estherville inspection, Respondent did not have a copy of the contingency plan at the Estherville facility.

Failure to perform annual refresher of hazardous waste training

46. The regulations at 40 C.F.R. § 262.34(a)(4) require, in part, that the generator comply with the requirements of Subparts C and D in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16, and with 40 C.F.R. § 268.7(a)(4).

47. Pursuant to 40 C.F.R. § 265.16(c) facility personnel must take part in an annual review of the initial RCRA training program.

48. Pursuant to 40 C.F.R. § 265.16(a)(3) the training program must be designed to ensure facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems.

49. At the time of the Estherville inspection, the last training any employee received regarding hazardous waste management was October 7, 2010, therefore those employees whose positions relate to hazardous waste management had not completed annual refresher training. These employees also were not trained to respond effectively to emergencies.

50. At the time of the Armstrong inspection, at least four employees whose positions relate to hazardous waste management had not completed annual refresher training in the three years preceding the Armstrong inspection. These employees also were not trained to respond effectively to emergencies.

Failure to maintain training descriptions

51. The regulations at 40 C.F.R. § 262.34(a)(4) require, in part, that the generator comply with the requirements of Subparts C and D in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16, and with 40 C.F.R. § 268.7(a)(4).

52. Pursuant to 40 C.F.R. § 265.16(d)(3), as found in 40 C.F.R. § 265 Subpart B, the owner or operator must maintain a written description of the type and amount of both introductory and continuing training that will be given to each person whose position at the facility is listed in the regulations and related to hazardous waste management.

53. At the time of the Estherville inspection and the Armstrong inspection, Respondent's records failed to include a written description of training requirements for each position related to hazardous waste management.

Failure to provide adequate RCRA training

54. The regulations at 40 C.F.R. § 262.34(a)(4) require, in part, that the generator comply with the requirements of Subparts C and D in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16, and with 40 C.F.R. § 268.7(a)(4).

55. Pursuant to 40 C.F.R. §§ 265.16(a)(1), 265.16(d)(3) and 265.16(d)(1), as found in 40 C.F.R. § 265 Subpart B, facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of RCRA. The owner or operator must ensure that the program includes specific elements. Those elements include, but are not limited to, a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position at the facility related to hazardous waste management.

56. At the time of the Estherville inspection, Respondent's training program failed to meet the requirements set forth in 40 C.F.R. §§ 265.16(a) and (d).

Satellite Accumulation

57. The regulations at 40 C.F.R. § 262.34(c)(1) allow a generator to accumulate as much as fifty-five (55) gallons of hazardous waste or one quart of acutely hazardous waste listed in § 261.33(e) in containers at or near any point of generation where waste initially accumulates,

which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with § 262.34(a) provided the generator comply with various handling requirements. This type of accumulation is known as “satellite accumulation”. At the time of the inspection, Respondent failed to comply with the following satellite accumulation requirements:

Failure to close a satellite accumulation container

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

59. At the time of the Estherville inspection, a 5-gallon bucket of gun cleaning solvent in the east paint booth was open.

Failure to label satellite accumulation containers

60. The regulations at 40 C.F.R. § 262.34(c)(1)(ii) allow a generator to accumulate as much as fifty-five (55) gallons of hazardous waste in a satellite accumulation area, provided the generator mark the containers either with the words, “Hazardous Waste,” or with other words that identify the contents of the container.

61. At the time of the Estherville inspection, the following satellite accumulation containers containing hazardous waste were not labeled with the words, “Hazardous Waste” or other words to identify the contents of the container:

- a. One 5-gallon satellite accumulation container of paint gun cleaning solvent in the east paint booth;
- b. One 5-gallon satellite accumulation container of paint gun cleaning solvent and waste paint in the west paint booth; and
- c. One 55-gallon satellite accumulation container of spent bead blast media in bay location EM03 bead blast machine.

62. At the time of the Armstrong inspection, five 5-gallon satellite accumulation containers of WPRM in the paint kitchen were not labeled with the words, “Hazardous Waste” or other words to identify the contents of the container.

*Emergency Preparedness
Adequate safety equipment*

63. The regulations at 40 C.F.R. 262.34(a)(4) require, in part, that the generator comply with the requirement of Subparts C and D in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16, and with 40 C.F.R. § 268.7(a)(4).

64. Pursuant to 40 C.F.R. § 265.32(c), all facilities must be equipped with specified equipment, including but not limited to portable fire extinguishers, fire control equipment, spill control equipment, and decontamination equipment.

65. At the time of the Estherville inspection, Respondent failed to provide any fire extinguishers, spill control equipment or safety equipment in the primary hazardous waste container accumulation area. Also, Respondent failed to provide any spill control equipment or materials in the paint kitchen hazardous waste container accumulation area.

Device capable of summoning emergency assistance

66. The regulations at 40 C.F.R. 262.34(a)(4) require, in part, that the generator comply with the requirement of Subparts C and D in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16, and with 40 C.F.R. § 268.7(a)(4).

67. Pursuant to 40 C.F.R. § 265.32(b), all facilities must be equipped with specified equipment, including but not limited to a device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments or State or local emergency response teams.

68. At the time of the Estherville inspection, Respondent failed to provide a device capable of summoning emergency assistance in the paint kitchen hazardous waste container accumulation area.

69. Because Respondent failed to comply with the generator requirements as set forth in Paragraphs 21 through 68 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.

Storage Over Ninety Days

70. The regulations at 40 C.F.R. § 262.34(b) state that a generator who accumulates hazardous wastes for more than ninety (90) days is an operator of a storage facility and must comply with 40 C.F.R. Parts 264 and 265, and the permit requirements of 40 C.F.R. § 270 unless he has been granted an extension to the ninety (90) day period. Facilities classified as "Large

Quantity Generators” may store hazardous waste at their facility without a permit no more than ninety (90) days.

71. At the time of the Armstrong inspection, Respondent had been storing one 55-gallon container of aerosol cans in the hazardous waste accumulation storage area. The container was dated July 15, 2013. The container had been accumulating waste for 130 days.

72. By storing hazardous waste on-site for greater than 90 days, Respondent was operating as a hazardous waste storage facility and subjected itself to the requirements of 40 C.F.R. Parts 264, 265 and the permit requirements of 40 C.F.R. Part 270.

73. Section 3005 of RCRA, 42 U.S.C. § 6925, and the regulations at 40 C.F.R. § 270.1(b) require each person owning or operating a facility for the treatment, storage, or disposal of a hazardous waste identified or listed under Subchapter C of RCRA to have a permit or interim status for such activities.

74. Respondent’s failure to obtain a hazardous waste storage permit is a violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

Count 2
Failure to Comply with Manifest Requirements

75. Complainant hereby incorporates the allegations contained in Paragraphs 7 through 19 above, as if fully set forth herein.

Failure to Submit an Exception Report

76. The regulations at 40 C.F.R. § 262.42(a)(2) state that LQGs must submit an Exception Report to the EPA Regional Administrator if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter.

77. At the time of the Armstrong inspection, for manifest 003831225 dated September 24, 2013, Respondent did not have a copy of the signed manifest from the receiving facility and had not submitted an Exception Report to EPA.

78. Respondent’s failure to submit an Exception Report within 45 days of the date the waste was accepted by the initial transporter after not receiving a copy of the signed manifest from the receiving facility is a violation of 40 C.F.R. § 262.42(a)(2).

Failure to Include all Waste Codes on Hazardous Waste Manifest

79. The regulations at 40 C.F.R. § 262.20(a)(1) state 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 instruction included in the appendix to this part.

80. The appendix to Part 262, item 13 sets forth the waste code requirements for a manifest. Item 13 states that generators must enter up to six federal and state waste codes to describe each waste stream that must be listed on a manifest.

81. At the time of the Armstrong inspection, the manifests for the distillation bottoms only listed the waste code D001. The manifest for the distillation bottoms should have also included F003 and F005.

82. Respondent's failure to include the waste codes that describe each waste stream on the distillation bottoms is a violation of 40 C.F.R. § 262.20(a)(1).

Count 3

Failure to Comply with Universal Waste Management Requirements

83. Complainant hereby incorporates the allegations contained in Paragraphs 7 through 19 above, as if fully set forth herein.

Failure to label universal waste containers - lamps

84. The regulations at 40 C.F.R. § 273.14(e) require small quantity handlers of universal waste to clearly label or mark each lamp or container or package in which such lamps are contained with one of the following phrases: "Universal Waste—Lamp(s)" or "Waste Lamp(s)," or "Used Lamp(s)."

85. At the time of the Estherville inspection, one box of spent fluorescent lamps located in the maintenance shop was not properly labeled or marked.

86. Respondent's failure to properly label the universal waste lamp container described above is a violation of 40 C.F.R. § 273.14(e).

Failure to label universal waste containers - batteries

87. The regulations at 40 C.F.R. § 273.14(a) require small quantity handlers of universal waste to clearly label or mark each universal waste battery or a container in which the batteries are contained with the words: "Universal Waste-Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)."

88. At the time of the Estherville inspection, one 5-gallon container holding universal waste lead-acid batteries located in the maintenance shop was not properly labeled or marked.

89. Respondent's failure to properly label the universal waste battery container described above is a violation of 40 C.F.R. § 273.14(a).

Failure to close universal waste containers

90. The regulations at 40 C.F.R. § 273.13(d)(1) require a small quantity handler of universal waste to manage lamps in a way that prevents releases by containing the lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

91. At the time of the Estherville inspection, five boxes of spent fluorescent lamps located in the maintenance shop were not properly labeled or marked.

92. Respondent's failure to close the universal waste containers or packages described above to prevent releases and breakage is a violation of 40 C.F.R. § 273.13(d)(1).

Failure to demonstrate length of time universal waste has accumulated

93. The regulations at 40 C.F.R. § 273.15(c) state that a small quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulating from the date it becomes a waste or is received.

94. At the time of the Estherville inspection, one container of universal waste lamps was dated March 28, 2012. The date of the inspection was March 12, 2012.

95. Respondent's failure to properly demonstrate the length of time that this container of universal waste lamps is a violation of 40 C.F.R. § 273.15(c).

Count 4

Failure to Comply with Used Oil Regulations

96. Complainant hereby incorporates the allegations contained in Paragraphs 7 through 189 above, as if fully set forth herein.

Failure to properly label used oil containers

97. 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."

98. At the time of the Estherville inspection, Respondent failed to properly label or clearly mark three 300-gallon used oil storage containers.

99. At the time of the Armstrong inspection, Respondent failed to properly label or clearly mark 10 300-gallon used oil storage containers.

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

CONSENT AGREEMENT

101. 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.

102. 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.

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

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

105. 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.

106. 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.

107. This Consent Agreement and Final Order addresses all civil administrative claims for the RCRA violations identified above. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

108. The effect of settlement described in Paragraph 107 above is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in Paragraph 109, below, of

this Consent Agreement and Final Order.

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

110. 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.

111. Respondent agrees that, in settlement of the claims alleged in this Consent Agreement and Final Order, Respondent shall pay a penalty of One Hundred Fifty-Thousand and Thirty-One Dollars (\$150,031) as set forth in Paragraph 1 of the Final Order portion of this Consent Agreement and Final Order, below.

112. 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.

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

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

115. 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

116. 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

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

118. 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.

119. 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.

120. 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.

121. 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.

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

FINAL ORDER

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

A. Payment of Civil Penalty

1. Within thirty (30) days of the effective date of this Consent Agreement and Final Order, Respondent will pay a civil penalty of One Hundred Fifty-Thousand and Thirty-One Dollars (\$150,031).

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

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

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

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

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

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

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

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

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.

B. Compliance Actions

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

6. Within thirty (30) days of the Effective Date of this Consent Agreement and Final Order, Respondent shall submit the following documentation:

- a. An updated contingency plan as required by 40 C.F.R. Part 265 Subpart D for the Estherville and Armstrong facilities;
- b. Training plans, including training records management, as required by 40 C.F.R. § 265.16 for the Estherville and Armstrong facilities;
- c. Updated written descriptions of initial and continuing training for each employee who manages hazardous waste at the Estherville and Armstrong facilities;
- d. A list of the current employees who require annual RCRA training, and documentation illustrating that annual RCRA training was provided to those employees for the previous year at the Estherville and Armstrong facilities;
- e. A detailed description of how the Estherville and Armstrong facilities improved inspection and container management practices to eliminate container management and accumulation violations in the future;
- f. A current hazardous waste determination on the waste paint related material, including all applicable listed and characteristic waste code(s);
- g. A current copy of the TCLP for the distillation bottoms to demonstrate which listed and characteristic hazardous waste codes should be included on the hazardous waste manifests;
- h. A copy of a properly completed manifest and LDR for the distillation bottoms; and
- i. Documentation of the most recent universal waste management training that occurred at the Estherville facility and the Armstrong facility.

7. On a quarterly bases, for a period of one year, Respondent shall submit the

following documentation. The first submission is due within ninety (90) days of the Effective Date of this Consent Agreement and Final Order:

- a. Photographic documentation showing all accumulation containers are properly closed, labeled, dated and managed according to the regulations for the Estherville and Armstrong facilities;
- b. Photographic documentation of proper labeling, dating and closing of universal waste lamp and battery containers; and
- c. Photographic documentation that used oil containers are being properly labeled.

8. Respondent shall submit all documentation generated to comply with the requirements as set forth in Paragraphs 6 and 7 of this Final Order to the following address:

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

C. Parties Bound

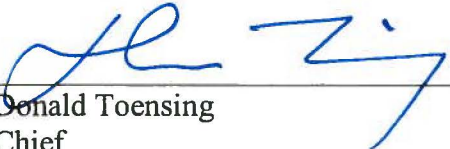
9. The Final Order portion of this Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect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

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

5-1-15

Date



Donald Toensing

Chief

Waste Enforcement and Materials Management
Branch

Air and Waste Management Division

4/30/15

Date

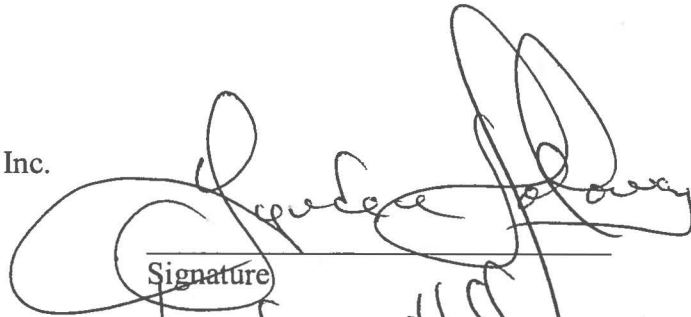


Kelley Catlin

Office of Regional Counsel

For Respondent
GKN Armstrong Wheels, Inc.

4/27/05
Date

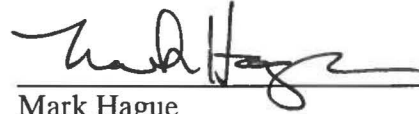

Signature

Lyndee Holway
Printed Name

SAS Manager
Title

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

05/08/15
Date



Mark Hague
Acting Regional Administrator