

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

10 JUL -1 PM 12:32
ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF:)
)
Cemen Tech, Inc.)
)
1700 North 14th Street)
Indianola, Iowa 50125)
)
RCRA I.D. No. IAD984569921)
)
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-07-2010-0027

CONSENT AGREEMENT AND FINAL ORDER

The United States Environmental Protection Agency (EPA), Region 7 (Complainant) and Cemen Tech, 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), 22.18(b)(2), and 22.18(b)(3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules of Practice), 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b), 22.18(b)(2), and 22.18(b)(3).

Section I

Jurisdiction

1. This administrative action is being conducted pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA) and the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. §§ 6928(a) and (g), and in accordance with the Consolidated Rules of Practice.

2. This Consent Agreement and Final Order (CAFO) serves as notice that EPA has reason to believe that Respondent violated Section 3005 of RCRA, 42 U.S.C. § 6925, and the regulations found at 40 C.F.R. Part 262 and Part 279.

Section II

Parties

3. The Complainant is the Chief of the Waste Enforcement and Materials Management Branch in the Air and Waste Management Division of EPA, Region 7, pursuant to the following delegations by the Administrator of EPA: Delegation No. 8-9-A, dated May 11, 1994; Delegation No. R7-8-9-A, dated June 14, 2005; and Delegation No. R7-Div-8-9-A, dated June 15, 2005.

4. The Respondent is Cemen Tech, Inc. (Cemen Tech), a company incorporated under the laws of Iowa.

Statutory and Regulatory Framework

5. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), provides that if EPA determines that any person has violated or is in violation of any requirement of Subchapter III, EPA may issue an order assessing a civil penalty for any past or current violation, require compliance, or both.

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 now authorized for violations of Subchapter III of RCRA that occur after March 15, 2004, though January 12, 2009. For violations of Subchapter III of RCRA that occur after January 12, 2009, penalties of up to \$37,500 per day are now authorized.

General Factual Allegations

7. Respondent is an Iowa corporation authorized to conduct business in the State of Iowa and is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

8. Respondent, located at 1700 North 14th Street in Indianola, Iowa (Facility), conducts metal fabrication, including cutting and shaping, parts machining, welding, cleaning, painting and equipment maintenance for the purpose of fabricating concrete mixing units.

9. Respondent began operations at the Facility in 2000 and currently employs approximately 120 people.

10. As part of its operations, during each calendar month, Respondent generates approximately 125 gallons of paint and solvent waste (F005) and 110 gallons of still bottom waste (F005, F003, D001, D035). Respondent generates approximately 55-gallons of paint booth filters (F003) each quarter. Respondent also generates used oil and used oil filters.

11. The regulations for determining whether a waste is a solid and/or hazardous waste are set forth at 40 C.F.R. Part 261. Each of the wastes listed in paragraph 10 are a "solid waste" and all of the wastes except the used oil are also "hazardous wastes" within the meaning of these regulations.

12. Respondent is considered a Small Quantity Generator (SQG) of hazardous waste due to both its monthly generation (between 100 kg and 1,000 kg) and accumulation of hazardous waste according to 40 C.F.R. Part 262.34.

13. Respondent has been assigned a RCRA facility identification number of IAD984569921.

14. Respondent accumulates waste in one less-than-180 day hazardous waste container storage area (CSA) and two satellite accumulation areas (SAA) at the Facility. The CSA is located outside on a concrete pad on the east side of the facility. The SAAs are located in the paint kitchen and paint booth.

15. On or about July 24, 2007, (hereinafter "the 2007 inspection"), and on or about June 17, 2009 (hereinafter "the 2009 inspection"), an EPA representative conducted Compliance Evaluation Inspections at Respondent's facility (collectively, "the Inspections").

16. Based on the information provided during the Inspections by facility personnel, it was determined that Respondent was operating, at the time of each inspection, as a SQG of hazardous wastes, pursuant to 40 C.F.R. Part 260 - 262.

Violations

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

Count 1

Failure to Make Hazardous Waste Determinations

18. The allegations stated in paragraphs 7 through 16 are realleged and incorporated as if fully set forth herein.

19. 40 C.F.R. § 262.11 requires a generator of solid waste, as defined in 40 C.F.R. 260.10, to determine if a solid waste is a hazardous waste using methods prescribed in the regulations.

20. During the 2007 inspection, it was documented that Respondent was generating and storing for approximately two years, used batteries without making a hazardous waste determination.

21. During the 2007 inspection, it was documented that Respondent operated a sandblasting station at the facility that generated sandblasting waste; however, Respondent failed to make a hazardous waste determination for the sandblasting waste.

22. During the 2009 inspection it was observed that the Respondent was disposing of oil filters into the general waste stream without properly draining them, thus failing to meet the exemption for oil filters found at 40 C.F.R. § 261.4(b)(13). As a result, Respondent was required to conduct a hazardous waste determination.

23. During the 2009 inspection, it was documented that Respondent was disposing of used batteries generated from replacing batteries in cameras, flashlights, etc., into the general waste stream without performing a hazardous waste determination.

24. It was documented that during both the 2007 and 2009 inspections, Respondent was disposing silver-tipped fluorescent and mercury vapor lamps into the general waste stream without performing a hazardous waste determination.

25. Respondent's failure to make a hazardous waste determination on the waste streams referenced in paragraphs 20 through 24 is a violation of 40 C.F.R. § 262.11.

Count 2

Operation of a Hazardous Waste Treatment, Storage or Disposal Facility Without a Permit

26. The allegations stated in paragraphs 7 through 25 are realleged and incorporated as if fully set forth herein.

27. 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 III of RCRA to have a permit for such activities.

28. The regulations at 40 C.F.R. § 262.34(d) allow a generator to accumulate hazardous waste on-site for 180 days or less without a permit or obtaining interim status

provided the conditions listed in 40 C.F.R. § 262.34(d)(1)-(5) are met. These conditions include compliance with other hazardous waste regulatory requirements.

29. During the 2007 and 2009 inspections, it was documented that Respondent failed to comply with a number of the conditions set forth in 40 C.F.R. § 262.34(d)(1)-(5), as described in greater detail below.

30. Respondent does not have a RCRA Permit or Interim Status to operate as a treatment, storage, or disposal facility, and is therefore, in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

Failure to Minimize Release

31. The regulations at 40 C.F.R. § 265.31 require facilities to be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste.

32. At the time of the 2009 inspection, Respondent operated its paint booth and SAA containers with significant quantities of hazardous waste spilt on the floor around the SAA containers and on the outside of the containers themselves.

33. Respondent's failure to minimize release by keeping hazardous waste from reaching the floor or the outside of the container is a violation of 40 C.F.R. § 265.31.

Maintaining Emergency Response Equipment and Process

34. The regulations at 40 C.F.R. § 262.34(d)(4) and 40 C.F.R. § 265.32(c) require facilities to be equipped with and maintain fire control and spill response equipment in the central accumulation area (CAA).

35. At the time of the 2009 inspection it was observed that a spill response kit was not near the (CAA).

36. Respondent failed to equip and maintain spill response and control equipment in its (CAA) in violation of 40 C.F.R. § 262.34(d)(4) and 40 C.F.R. § 265.32(c).

37. The regulations at 40 C.F.R. § 262.34(d)(5)(ii) require facilities to post the name and telephone number of the emergency coordinator, location of fire extinguishers and spill control material, and the telephone number of the fire department next to the telephone.

38. At the time of the 2007 and 2009 inspections, Respondent located a telephone and a list of emergency contact numbers next to the phone outside the paint kitchen.

39. At the time of the 2007 and 2009 inspections the telephone located near the paint kitchen was for internal use only and was unable to make external calls.

40. At the time of the 2007 and 2009 inspections, Respondent's list of emergency information next to the telephone did not include the location of the spill control or fire suppression equipment.

41. Respondent failed to properly provide a working phone to contact emergency personnel and failed to provide and maintain a list next to the phone listing the location of the spill control and fire suppression equipment in violation of 40 C.F.R. § 262.34(d)(5)(ii).

Accumulation Start Date

42. The regulations at 40 C.F.R. § 262.34(d)(4) and 40 C.F.R. § 262.34(a)(2) require a facility to mark containers in its less-than 180-day (CAA) with an accumulation start date.

43. At the time of the 2009 inspection it was observed that three, 55-gallon containers of still bottoms and four 55-gallon containers of paint and solvent waste were located in a less-than 180-day (CAA) on a concrete pad outside the paint kitchen.

44. At the time of the 2009 inspection the seven containers had been in the facility's (CAA) since May 11, 2009, for a total of 38 days.

45. At the time of the 2009 inspection none of the seven containers were marked with an accumulation start date.

46. Respondent failed to mark containers in a less-than 180-day (CAA) with an accumulation start date, in violation of 40 C.F.R. § 262.34(d)(4) and 40 C.F.R. § 262.34(a)(2).

Use of Containers in Good Condition

47. The regulations at 40 C.F.R. § 262.34(d)(2) and 40 C.F.R. § 265.171 require facilities to use containers for hazardous waste storage that are in good condition.

48. At the time of the 2009 inspection it was observed that two of the four 55-gallon paint and solvent waste containers in the facility's (CAA) were not in good condition.

49. Respondent failed to utilize and maintain hazardous waste storage containers in good condition in violation of 40 C.F.R. § 262.34(d)(2) and 40 C.F.R. § 265.171.

Proper Satellite Accumulation Area Procedures

50. The regulations at 40 C.F.R. § 262.34(c)(1) and 40 C.F.R. § 265.173(a) require a facility wishing to operate a satellite accumulation area (SAA) to store hazardous waste in

55-gallon containers which are under the control of the operator of the process generating the waste, that this container be closed during storage and labeled with the words "Hazardous Waste" or other words which identify the contents of the container.

51. At the time of the 2007 and 2009 inspections, Respondent filled two 5-gallon containers with paint and solvent waste from the active paint booth.

52. At the time of the 2007 and 2009 inspections, the waste from these 5-gallon containers was emptied into a 55-gallon container daily.

53. At the time of the 2007 and 2009 inspections, the 55-gallon container was located in the southeast corner of the paint kitchen adjacent to the paint booth and was only moved to the facility's (CAA) when the container was full.

54. At the time of the 2007 and 2009 inspections, Respondents use of the 5-gallon and 55-gallon container meets the definition of an SAA as defined in 40 C.F.R. § 262.34(c)(1).

55. At the time of the 2007 and 2009 inspections, it was observed that the 5-gallon containers were not closed.

56. At the time of the 2007 and 2009 inspections, it was observed that the 55-gallon container had an open funnel in the bung and this funnel was not closed.

57. At the time of the 2007 and 2009 inspections, it was observed that the 5-gallon SAA container in the paint booth was not labeled.

58. Respondent failed to keep its hazardous waste containers in its SAA closed in violation of 40 C.F.R. § 262.34(c)(1)(i) and 40 C.F.R. § 265.173(a).

59. Respondent failed to label or mark satellite waste containers with words identifying the contents in violation of 40 C.F.R. § 262.34(c)(1)(ii).

Count 3

Improper Manifests

60. The allegations stated in paragraphs 7 through 59 are realleged and incorporated as if fully set forth herein.

Manifest without unique number

61. The regulations at 40 C.F.R. § 262.20(a)(1) require a generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, to prepare a manifest with a unique control number.

62. At the time of the 2007 inspection, it was observed that the Respondent had shipped a potentially D001 hazardous waste, around June 2006, without a manifest or assigning the shipment a unique control number.

63. Respondent failed to create a manifest or include a unique control number on a manifest prior to shipping a hazardous waste in violation of 40 C.F.R. § 262.20(a)(1).

Land Disposal Restriction (LDR) Notice for First Shipment to Treatment Storage or Disposal Facility (TSDF)

64. The regulations at 40 C.F.R. § 268.7(a)(7) require a generator that determines it is managing a prohibited waste that is excluded from the definition of hazardous or solid waste or is exempted from Subtitle C regulation under 40 C.F.R. § 261.2 through 261.6 subsequent to the point of generation, to place a one-time notice describing such generation, subsequent exclusion from the definition of hazardous or solid waste or exemption from RCRA Subtitle C regulation, and the disposition of the waste, in the facility's on-site files.

65. At the time of the 2007 inspection, Respondent indicated that it had started to ship its paint wastes to a new TSDF in 2006.

66. At the time of the 2007 inspection, Respondent indicated that it had sent a LDR notice to the new TSDF. However, it was observed that Respondent did not possess any records regarding its shipping of paint related waste to the new TSDF.

67. Respondent's failure to retain a LDR notice from its first shipment to the TSDF is a violation of 40 C.F.R. § 268.7(a)(7).

Manifest Exception Report

68. The regulations at 40 C.F.R. § 262.42(b) require a SQG who does not receive a copy of a manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter to submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery ("manifest exception report") to the EPA Regional Administrator for the Region in which the generator is located.

69. At the time of the 2009 inspection it was observed that one 2009 manifest and four 2008 manifests did not have handwritten signatures from the destination facility. This oversight requires that Respondent send in manifest exception reports to the Regional Administrator of EPA Region 7.

70. At the time of the 2009 inspection, it was observed that Respondent had failed to

send manifest exception reports to EPA.

71. Respondent's failure to obtain signatures from the destination facility and send exception reports to EPA is a violation of 40 C.F.R. § 262.42(b).

Count 4

Improper Used Oil Management

72. The allegations stated in paragraphs 7 through 71 are realleged and incorporated as if fully set forth herein.

Unlabeled Used Oil Containers

73. The regulations at 40 C.F.R. § 279.22(c) require containers and aboveground tanks used to store used oil at generator facilities to be labeled or marked clearly with the words "Used Oil."

74. At the time of the 2007 inspection it was observed that six containers stored in the oil storage berm contained used oil.

75. At the time of the 2007 inspection all six containers lacked any labeling, including the words "Used Oil."

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

Used Oil Transport and Use

77. The regulations at 40 C.F.R. § 279.24 require generators to ensure that their used oil is transported only by transporters who have obtained EPA identification numbers.

78. The regulations at 40 C.F.R. § 279.71 only allows the shipment of used oil fuel to a burner who has an EPA identification number and burns the used oil in an industrial furnace or identified boiler.

79. The regulations at 40 C.F.R. §§ 279.74(a) and (c) require any used oil marketer shipping off-specification used oil to generate and retain records of the used oil shipments to the burner. These records must be retained for a minimum of three years.

80. The regulations at 40 C.F.R. § 279.75 require a used oil generator wishing to ship the off-specification used oil to obtain a one-time written and signed notice from the burner certifying that the burner has notified EPA of the location and description of used oil

management activities, and that the burner will burn the off-specification used oil only in an industrial furnace or identified boiler. The used oil generator is required to maintain these records for three years from the last date of shipment of off-specification used oil is shipped to the burner.

81. According to 40 C.F.R. § 279.1, a used oil fuel marketer means any person who directs a shipment of off-specification used oil from their facility to a used oil burner.

82. Off-specification used oil means used oil that does not meet the definition of 40 C.F.R. § 279.11 and 279.72.

83. At the time of the 2007 inspection, Respondent generated used oil from its facility and contracted with a local farmer to transport the used oil to his farm to burn in his heating system. Respondent is, therefore, a used oil fuel marketer.

84. At the time of the 2007 inspection, neither Respondent nor the farmer (transporter/burner) had conducted specification testing of the used oil.

85. At the time of the 2007 inspection the farmer (transporter/burner) did not have an EPA identification number.

86. At the time of the 2007 inspection, Respondent did not retain or produce any certification from the farmer (transporter/burner) prior to the first shipment of used oil.

87. At the time of the 2007 inspection, Respondent did not retain any records of the shipments made to the farmer (transporter/burner).

88. Respondent failed to use a transporter with an EPA identification number in violation of 40 C.F.R. § 279.24.

89. Respondent shipped the used oil to a burner lacking an EPA identification number in violation of 40 C.F.R. § 279.71.

90. Respondent failed to generate or retain records of the used oil shipments to the burner in violation of 40 C.F.R. §§ 279.74(a) and (c).

91. Respondent failed to obtain a signed notice from the burner regarding the management and use of the used oil in violation of 40 C.F.R. § 279.75.

CONSENT AGREEMENT

92. Respondent and Complainant agree to the terms of this CAFO and Respondent agrees to comply with the terms of the Final Order portion of this CAFO. The terms of this

CAFO shall not be modified except by a subsequent written agreement between the parties.

93. Respondent admits the jurisdictional allegations of this CAFO 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 CAFO set forth below.

94. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this CAFO, but agrees to settle all claims alleged by Complainant under the terms set forth herein without further cost or delay.

95. 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 CAFO.

96. Respondent and Complainant agree to conciliate the matters set forth in this CAFO without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

97. This CAFO 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 and its implementing regulations or any other applicable law.

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

99. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this CAFO and to execute and legally bind Respondent to it.

100. Respondent agrees that, in settlement of the claims alleged in this CAFO, Respondent shall pay a penalty of \$59,775 as set forth in Paragraph 1 of the Final Order.

101. By signing this CAFO, Respondent certifies 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.

102. The effect of settlement described in Paragraph 97 above is conditional upon the accuracy of the Respondent's representations to EPA, as memorialized in Paragraph 101 of this CAFO.

103. 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.

104. This CAFO shall be effective upon the 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.

105. The headings in this CAFO are for convenience of reference only and shall not affect interpretation of this CAFO.

106. This CAFO shall remain in full force and effect until Complainant provides Respondent with written notice, in accordance with Paragraph 10 of the Final Order, that Respondent has fully implemented the actions required in the Final Order and that all requirements hereunder have been satisfied

Reservation of Rights

107. Notwithstanding any other provision of this CAFO, EPA reserves the right to enforce the terms of the Final Order portion of this CAFO 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-two Thousand Five Hundred Dollars (\$32,500) per day per violation pursuant to Section 3008(c) and/or Section 3008(g) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law. Pursuant to the Civil Monetary Penalties Inflation Adjustment Rule, 40 C.F.R. Part 19, penalties of up to \$32,500 per day are now authorized for violations of Subchapter III of RCRA that occur after March 15, 2004, though 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.

108. Complainant reserves the right to take enforcement action against Respondent to enforce the terms and conditions of this CAFO.

109. Except as expressly provided herein, nothing in this CAFO 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.

110. Notwithstanding any other provisions of the CAFO, 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.

FINAL ORDER

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

A. Payment of Civil Penalty

1. Within thirty (30) days of the effective date of this CAFO, Respondent will pay a civil penalty of \$59,775. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, Missouri 63197-9000.

2. Wire transfers should be directed to the Federal Reserve Bank of New York:

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"

3. A copy of the payment documentation shall also be mailed to:

Regional Hearing Clerk
U.S. EPA Region 7
901 North 5th Street
Kansas City, Kansas 66101

and to:

Demetra Salisbury,
Office of Regional Counsel
U.S. EPA Region 7
901 North 5th Street
Kansas City, Kansas 66101.

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

B. Compliance Actions

5. Within thirty (30) days of the effective date of the CAFO, Respondent shall conduct hazardous waste determinations for the fluorescent lamps, mercury vapor lamps, used batteries, and used oil filters. Respondent shall provide written documentation of the results of the determination. Respondent shall also provide documentation, including manifests, that any hazardous wastes have been properly disposed.

6. Within thirty (30) days of the effective date of the CAFO, Respondent shall demonstrate (using affidavits, photographs, etc.), that the following actions have occurred:

- a) all areas of spilled paint have been cleaned;
- b) all hazardous waste containers are properly closed, labeled, and dated.

7. At the end of each quarter, for the period of one year, Respondent shall demonstrate (using affidavits, photographs, etc.), that the following actions have occurred:

- a) all areas of spilled paint have been cleaned;
- b) all hazardous waste containers are properly closed, labeled, and dated.

8. At the end of each quarter, for the period of one year, Respondent shall provide copies of all hazardous waste manifests for all wastes shipped off in that quarter.

9. The documentation required above shall be sent to

Edwin G. Buckner, PE,
AWMD/WEMM
U.S. EPA, Region 7
901 North 5th Street
Kansas City, Kansas 66101.

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

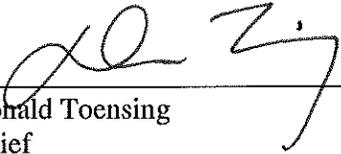
C. Parties Bound

11. This Final Order portion of this CAFO shall apply to and be binding upon Complainant and 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 CAFO.

FOR COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

6-29-10

Date

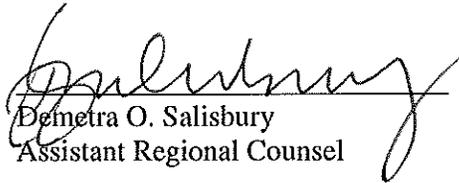


Donald Toensing
Chief

Waste Enforcement and Materials Management Branch
Air and Waste Management Division

6/28/10

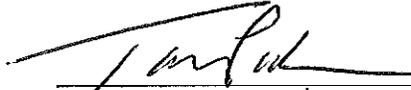
Date



Demetra O. Salisbury
Assistant Regional Counsel

FOR RESPONDENT
Cemen Tech, Inc.

6-4-10
Date



Signature
Tom Palmer

Printed Name
President

Title

IT IS SO ORDERED. This Final Order is effective upon its final entry by the Regional Judicial Officer.

August, 2010
Date

Robert Patrick
Robert Patrick
Regional Judicial Officer

IN THE MATTER OF Cemen Tech, Inc., Respondent
Docket No. RCRA-07-2010-0027

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Demetra O. Salisbury
Assistant Regional Counsel
Region 7
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Marcus F. Abels
Dreher, Simpson and Jensen, P.C.
604 Locust Street, Suite 222
Des Moines, Iowa 50309-3723

Dated: 7/1/10


Kathy Robinson
Hearing Clerk, Region 7