



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Certified Mail No. 7017 0660 0000 0681 8390
Return Receipt Requested

Matt Marra, Senior Vice President
Safety Health & Compliance
Stericycle, Inc.
28161 North Keith Drive
Lake Forest, IL 60045

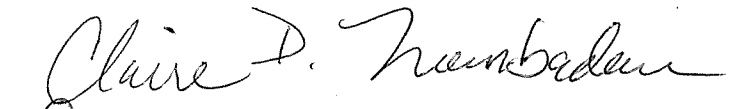
JUL - 3 2018

**RE: Consent Agreement and Final Order
In the Matter of Rho-Chem, LLC**

Dear Mr. Marra:

Please find enclosed a copy of the final executed Consent Agreement and Final Order (CA/FO) negotiated between the United States Environmental Protection Agency, Region IX (EPA) and Rho-Chem, LLC (Rho-Chem). This CA/FO sets out the terms for resolution of the Resource Conservation and Recovery Act violations discovered during routine compliance evaluation inspections at your facility in Inglewood, California. Rho-Chem's full compliance with the terms of this CA/FO will close this case. If you have any questions regarding the regulations governing your operations or the rules which govern the proceedings terminated by the enclosed document, please have your counsel contact Rebekah Reynolds, in the Office of Regional Counsel, at (415) 972-3916.

Sincerely


For Kathleen H. Johnson, Director
Enforcement Division

Enclosure

cc: Keith Kihara, California Department of Toxic Substances Control

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

** FILED **
03 JUL 2018 - 04:10 PM
U.S. EPA - Region 09

In the matter of:)	U.S. EPA Docket No.
)	
)	RCRA(3008)-09-2018- <u>0002</u>
Rho-Chem, LLC)	
425 Isis Avenue)	CONSENT AGREEMENT AND
Inglewood, California)	FINAL ORDER PURSUANT TO
)	40 C.F.R. SECTIONS 22.13 AND
)	22.18
<u>Respondent.</u>)	

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, as codified at 40 Code of Federal Regulations (C.F.R.) Part 22 ("Consolidated Rules").
2. Complainant is the United States Environmental Protection Agency, Region IX ("EPA").
3. Respondent is Rho-Chem, LLC, a California limited liability company ("Respondent").
4. This Consent Agreement and Final Order ("CA/FO"), pursuant to 40 C.F.R. §§ 22.13 and 22.18, simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent violated Section 3008 of RCRA, 42 U.S.C. § 6928, and its implementing regulations.
5. 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 respective interest and in the public interest.

B. STATUTORY AND REGULATORY FRAMEWORK

6. Subtitle C of RCRA requires the EPA Administrator to promulgate regulations establishing a hazardous waste management program. Section 3006 of RCRA, 42 U.S.C. § 6926, provides, *inter alia*, that authorized state hazardous waste management programs are carried out under Subtitle C of RCRA.
7. The State of California ("State") received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271, on August 1, 1992. The authorized hazardous waste

program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 C.C.R. §§ 66001 *et seq.* The State has been authorized for all the hazardous waste management regulations referenced in this CA/FO.

8. A violation of California's authorized hazardous waste program, found at Health & Safety Code § 25100 *et seq.*, constitutes a violation of Subtitle C of RCRA and, therefore, a person who violates California's authorized hazardous waste program is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.

C. EPA's GENERAL ALLEGATIONS

9. Respondent owns and operates a facility located at 425 Isis Avenue, Inglewood, California (the "Facility"). The Facility is engaged in fuel blending, solvent recycling, solvent re-packaging, and distribution, consolidation, lab pack de-packing, solidification and storage. The Facility accepts hazardous wastes for consolidation, and or trans-shipment to a variety of off-site recycling and disposal facilities.

10. On September 21-25, 2015, EPA, with representatives of California Department of Toxic Substances Control ("DTSC"), performed a compliance evaluation inspection of the Facility pursuant to Subtitle C of RCRA. Based upon the information gathered during this inspection and subsequent investigation, EPA determined that Respondent violated certain provisions of RCRA.

11. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders assessing a civil penalty and/or requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA *et seq.*, 42 U.S.C. § 6921 *et seq.*

12. The Administrator has delegated enforcement authority under Section 3008 of RCRA, 42 U.S.C. § 6928, to the EPA Regional Administrators, with delegation 8-9-A, last revised February 4, 2016. The Regional Administrator, EPA Region IX, in turn, re-delegated that authority to the Director of the Enforcement Division, Region IX, with delegation R9-120 TN 111, dated January 22, 2016.

13. Respondent is a "person" as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].¹

14. Respondent is the "operator" of a facility as defined in 22 C.C.R. § 66260.10 [*see also* 40

¹ All citations to the "C.C.R." refer to Division 4.5 of Title 22 of the current California Code of Regulations. EPA is enforcing California hazardous waste management program requirements as approved and authorized by the United States. As a convenience, corresponding Federal citations are provided in brackets.

C.F.R. § 260.10].

15. Respondent is a “generator” of hazardous waste as defined in 22 C.C.R. § 66260.10 [40 C.F.R. § 260.10].

16. Respondent is or has been engaged in “treatment,” “storage,” or “disposal” of “hazardous waste” as defined in 22 C.C.R. §§ 66260.10 and 66261.3 [*see also* 40 C.F.R. §§ 260.10 and 261.3].

17. The hazardous wastes that Respondent treats, stores, or disposes of at the Facility include, but are not limited to, the following waste codes: D001, D002, D004, D007, D035, F001, F002, F003, F005, F006, F007, U002, and U159.

18. On March 28, 2008, Respondent submitted a Part B Application (“Part B”) to DTSC. Part B was incorporated into the July 25, 2008 Hazardous Waste Facility Permit issued by DTSC (“Permit”).

D. EPA’s ALLEGED VIOLATIONS

COUNT I

(failure to make a hazardous waste determination)

19. Paragraphs 1 through 18 above are incorporated herein by this reference as if they were set forth here in their entirety.

20. 22 C.C.R. § 66262.11 states that a person who generates a waste, as defined by 22 C.C.R. § 66261.2, must make an accurate determination as to whether that waste is a hazardous waste [40 C.F.R. § 262.11].

21. During the inspection, EPA observed discarded personal protective equipment and other debris in an open and unlabeled waste accumulation container in Area A.

22. Therefore, EPA alleges that Respondent failed to determine if all solid waste generated at the Facility was hazardous, a violation of 22 C.C.R. § 66262.11 [40 C.F.R. § 262.11].

COUNT II

(failure to comply with permit condition to inspect and maintain secondary containment)

23. Paragraphs 1 through 18 above are incorporated herein by this reference as if they were set forth here in their entirety.

24. 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)] requires a permittee to comply with all conditions of its permit.

25. Appendix D-2 of Section D of Part B of the Permit requires Respondent to certify that secondary containment areas at the Facility shall be maintained free of cracks and gaps and the impermeable coating and joint seals shall be maintained to prevent leaks and spills from escaping into the support soil.

26. During the inspection, EPA observed gouges and scrapes in the concrete base and peeling of the impermeable coating in the Area A secondary containment system.

27. Therefore, EPA alleges that Respondent failed to comply with permit conditions by inadequately inspecting and maintaining the secondary containment system in Area A, as required by Appendix D-2 of Section D of Part B of the Permit, in violation of 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)].

COUNT III

(failure to comply with permit condition to identify spills during an inspection)

28. Paragraphs 1 through 18 above are incorporated herein by this reference as if they were set forth here in their entirety.

29. 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)] requires a permittee to comply with all conditions of its permit.

30. Section F of the Permit (Procedures to Prevent Hazards of the Part B) provides that Respondent shall conduct "regular inspections of its hazardous waste operation areas to detect equipment malfunction, deterioration, leaks, discharges, operational errors, and other problems that may cause or lead to: a threat to human health and the environment; the release of hazardous waste constituents to the environment or non-compliance with applicable regulations."

31. During the inspection, EPA observed a dried spill of hazardous waste in Area H that was not identified in Respondent's inspection logs for the Facility.

32. Therefore, EPA alleges that Respondent failed to detect a spill in Area H during an inspection, as required by Section F of the Permit, in violation of 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)].

COUNT IV

(failure to comply with permit condition to prevent liquid waste from being placed in containers)

33. Paragraphs 1 through 18 above are incorporated herein by this reference as if they were set forth here in their entirety.
34. 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)] requires a permittee to comply with all conditions of its permit.
35. Section D.2.0 of the Permit (Hazardous Waste Storage and Treatment Tanks) provides as follows:
- Planned outside Containment System H (Area H) is for the storage of consolidated hazardous and non-hazardous waste solids in two 30 cubic yard roll-off bins. The secondary containment system consists of a sloped design that allows for collection and removal of precipitation. The wastes stored in the roll-off bins in Area H will not contain free liquids, and as specified in the secondary containment requirements of Title 22 Section 66264.175(d) secondary containment is not required.

36. During the inspection, EPA observed free liquids in containers located in Area H.
37. Therefore, EPA alleges that Respondent failed to comply with permit conditions by failing to prevent free liquids from being placed in containers located in Area H, as required by Section D of the Permit, in violation of 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)].

COUNT V

(failure to comply with permit condition to inspect for leaks in its closed vent monitoring system)

38. Paragraphs 1 through 18 above are incorporated herein by this reference as if they were set forth here in their entirety.
39. 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)] requires a permittee to comply with all conditions of its permit.
40. Section M.3, Part B of the Permit provides that the RCRA air emissions control system at the Facility, including the closed vent monitoring system, will be inspected and maintained.
41. During the inspection, EPA observed that a one inch pipe to a knock-out pot located adjacent to the loading dock and Area D was broken.

42. Therefore, EPA alleges that Respondent failed to inspect for leaks at the Facility, as required by Section M.3, Part B of the Permit, in violation of 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)].

COUNT VI

(failure to operate Area A in compliance with permit condition)

43. Paragraphs 1 through 18 above are incorporated herein by this reference as if they were set forth here in their entirety.

44. 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)] requires a permittee to comply with all conditions of its permit.

45. Part IV of Attachment A to the Permit provides that ignitable hazardous waste is not allowed in Area A and that Area A will be divided into five sub-areas A-1 through A-5, based on specific operation activities.

46. During the inspection, EPA observed ignitable hazardous waste, D001, and hazardous waste listed on the basis of ignitability, F003 and F005, being stored and treated within Area A.

47. During the inspection, EPA observed that Area A was not divided into five distinct areas.

48. Therefore, EPA alleges that in Area A, Respondent failed to operate in five distinct areas and failed to refrain from managing ignitable hazardous waste, as required by Part IV of Attachment A to the Permit, in violation of 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)].

COUNT VII

(failure to comply with permit condition regarding operating records)

49. Paragraphs 1 through 18 above are incorporated herein by this reference as if they were set forth here in their entirety.

50. 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)] requires a permittee to comply with all conditions of its permit.

51. Sections A, C, D, F G, H, I, M, N, and O of the Permit require Respondent to accurately document the amounts and types of hazardous waste received, treated, stored, and/or consolidated for off-site disposal in its operating record.

52. Based on information gathered as part of its investigation of the Facility, EPA determined

that Respondent's operating record files, referred to as manifest packets, contained discrepancies in the amount of hazardous waste received and the amount of hazardous waste shipped off-site.

53. Therefore, EPA alleges that Respondent failed to maintain an adequate operating record that accurately documents the amounts and types of hazardous wastes received, treated, stored and/or consolidated for off-site disposal, as required by Sections A, C, D, F G, H, I, M, N, and O of the Permit, in violation of 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)].

COUNT VIII

(failure to comply with permit condition to determine appropriate land disposal restriction treatment standard)

54. Paragraphs 1 through 18 above are incorporated herein by this reference as if they were set forth here in their entirety.

55. 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)] requires permittees to comply with all conditions of its permit.

56. Section C of Part B of the Permit provides that "all waste streams will be evaluated to determine all applicable land disposal restrictions or prohibitions."

57. Based on information gathered as part of its investigation of the Facility, EPA determined that Respondent did not determine the appropriate land disposal restriction standard for certain waste. Specifically, Respondent determined that macro or micro encapsulation was appropriate for certain non-debris hazardous waste.

58. Therefore, EPA alleges that Respondent failed to determine the appropriate land disposal restriction treatment standards for certain non-debris wastes, as required by Section C of Part B of the Permit and 22 C.C.R. § 66268.45 [40 C.F.R. § 268.45], in violation of 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)].

COUNT IX

(failure to comply with permit condition to operate and maintain tanks associated with the Thin Film Extraction Unit)

59. Paragraphs 1 through 18 above are incorporated herein by this reference as if they were set forth here in their entirety.

60. 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)] requires a permittee to comply with all conditions of its permit.

61. Part III of the Permit requires Tanks 30 and 31 to be maintained and operated by the Respondent.
62. Part IV of the Permit authorizes operation of Tanks 30 and 31 only in accordance with the Permit and any modification requires the written approval of DTSC in accordance with the permit modification process set forth in California Code of Regulations, title 22, division 4.5.
63. During the inspection, EPA observed that Tanks 30 and 31 associated with the Thin Film Extraction Unit in Area E were out of service. EPA determined that this modification had not been approved by DTSC.
64. Therefore, EPA alleges that Respondent failed to operate and maintain Tanks 30 and 31 associated with the Thin Film Extraction Unit in Area E, in accordance with Parts III and IV of the Permit, in violation of 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)].

COUNT X

(failure to comply with permit condition to determine whether the connections, valves and flanges in certain areas of the Facility are exempt from monitoring)

65. Paragraphs 1 through 18 above are incorporated herein by this reference as if they were set forth here in their entirety.
66. 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)] requires a permittee to comply with all conditions of its permit.
67. 22 C.C.R. § 66264.1064(k) [40 C.F.R. § 264.1064(k)] requires owners and operators to record in a log that is kept in the facility operating records information for use in determining exemptions, including an up-to-date analysis and the supporting information and data used to determine whether equipment is exempt from monitoring.
68. Section N of Part B of the Permit requires that the operating record for each regulated piece of equipment shall contain the method for determining compliance.
69. Based on information gathered at part of its investigation of the Facility, EPA determined that Respondent had not documented the method for determining compliance for its connections, valves and flanges in Areas A, B, D and E.
70. Therefore, EPA alleges that Respondent failed to document the hazardous waste streams to determine whether the connections, valves and flanges in Areas A, B, D and E are exempt from monitoring, as required by Section N, Part B of the Permit and 22 C.C.R. § 66264.1064(k) [40 C.F.R. § 264.1064(k)], in violation of 22 C.C.R. § 66270.30(a) [40 C.F.R. § 270.30(a)].

Count XI

(failure to comply with container management requirements)

71. Paragraphs 1 through 18 above are incorporated herein by this reference as if they were set forth here in their entirety.

72. 22 C.C.R. § 66265.173 requires that “[a] container holding hazardous waste shall always be closed during transfer and storage, except when it is necessary to add or remove waste.” [*see also* 40 C.F.R. § 265.173].

73. During the inspection, EPA inspectors observed an open 55-gallon drum containing D001 hazardous waste in Area A.

74. Therefore, EPA alleges that Respondent failed to keep a 55-gallon drum containing D001 hazardous waste in Area A closed, in violation of 22 C.C.R. § 66264.173(a) [40 C.F.R. § 264.173(a)].

COUNT XII

(failure to obtain a permit for storage of hazardous waste)

75. Paragraphs 1 through 18 above are incorporated herein by this reference as if they were set forth here in their entirety.

76. 22 C.C.R. § 66270.1(c) requires that each person owning or operating a facility where hazardous waste is treated, stored, or disposed have a permit [*see also* 40 C.F.R. § 270.1(c)].

77. Based on evidence gathered during the inspection and subsequent investigation, EPA determined that Respondent was storing and treating hazardous waste (U035, U210, and/or F001) in tanks 50, 51, 52, 53 and 54 in Area D and tanks 77 and 78 in Area J for greater than 90 days.

78. At the time of the inspection, Respondent did not have a permit or grant of interim status to store, treat, or dispose of hazardous waste (U035, U210, and/or F001) in tanks 50, 51, 52, 53 and 54 in Area D and tanks 77 and 78 in Area J.

79. Therefore, EPA alleges that Respondent failed to obtain a permit to treat or store hazardous waste in tanks 50, 51, 52, 53 and 54 in Area D and tanks 77 and 78 in Area J, in violation of 22 C.C.R. § 66270.1(c) [40 C.F.R. § 270.1(c)].

E. CIVIL PENALTY

80. The Complainant proposes that Respondent be assessed, and Respondent agrees to pay ONE HUNDRED TWENTY THOUSAND FIVE HUNDRED TWENTY-SEVEN DOLLARS (\$120,527), as the civil penalty for the violations alleged herein.

81. The proposed penalty was calculated in accordance with the "June 2003 RCRA Civil Penalty Policy," and was adjusted for inflation by the Federal Civil Penalties Inflation Adjustment Act, as amended, and the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19.

F. ADMISSIONS AND WAIVERS OF RIGHTS

82. For the purposes of this proceeding, Respondent admits and agrees that EPA has jurisdiction and authority over the subject matter of the action commenced in this CA/FO and over Respondent. Respondent consents to and agrees not to contest EPA's jurisdiction and authority to enter into and issue this CA/FO and to enforce its terms. Further, Respondent will not contest EPA's jurisdiction and authority to compel compliance with this CA/FO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CA/FO.

83. Respondent neither admits nor denies any allegations of fact or law set forth in Section D of this CA/FO and does not admit any liability arising out of the occurrences alleged in this CA/FO. Respondent hereby waives any rights Respondent may have to contest the allegations and to appeal the proposed Final Order accompanying this Consent Agreement and made part of this CA/FO.

G. PARTIES BOUND

84. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns, until the civil penalty required under Sections E and I has been paid in accordance with Section I, the compliance tasks required under Section H have been completed in accordance with Section H, the SEP required under Section J has been completed in accordance with Section J, and any delays in performance and/or stipulated penalties have been resolved. When those matters are concluded, this CA/FO shall terminate and constitute full settlement of the violations alleged herein.

85. No change in ownership or corporate, partnership or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.

86. The undersigned representative of Respondent hereby certifies that he or she is fully

authorized by Respondent to enter into this CA/FO, to execute and to legally bind Respondent to it.

H. COMPLIANCE TASKS

87. All submissions to EPA in this section shall be to John Schofield at schofield.john@epa.gov and Aisha Kennedy at kennedy.aisha@epa.gov.

88. By July 1, 2020, Respondent shall fully implement the waste-tracking system to electronically document the amounts and types of hazardous waste received, treated, stored, and/or consolidated for off-site disposal in the Facility's operating record. Within thirty (30) days of the Effective Date, Respondent shall submit a progress report to EPA which includes a description of each waste-tracking system phase and the status of implementation of each phase. Thereafter and until the waste-tracking system is fully implemented, Respondent shall submit quarterly progress reports to EPA within fifteen (15) days of the beginning of each quarter (October 1, January 1, April 1, July 1). If Respondent is unable to fully implement the waste-tracking system by July 1, 2020, Respondent may submit a written request, including the basis for the request, for an extension to EPA. The schedule may be modified in writing upon mutual agreement by Respondent and EPA.

89. Within sixty (60) days of the Effective Date of the CA/FO, Respondent shall complete a third-party Subpart AA/BB/CC compliance audit to ensure compliance with 22 C.C.R. § 66264, Articles 27, 28, and 28.5. The audit will be performed in accordance with the Scope of Work attached to this CA/FO as Appendix A. Within ninety (90) days of the Effective Date of this CA/FO, Respondent shall submit the audit report to EPA (item 4 of Appendix A), and a description and schedule of corrective actions to address any noncompliance identified during the audit.

90. As part of its renewal application for a RCRA Hazardous Waste Facility Permit with DTSC, Respondent shall submit (i) a revised Waste Analysis Plan that includes procedures for accurately determining Land Disposal Restriction treatment standards for hazardous waste, including hazardous waste debris; and (ii) a revised Closure Plan to partially close non-operating units including Tank 30, Tank 31 and Thin-Film Extraction units.

I. PAYMENT OF CIVIL PENALTY

91. Respondent consents to the assessment of and agrees to pay a civil penalty of ONE HUNDRED TWENTY THOUSAND FIVE HUNDRED TWENTY-SEVEN DOLLARS (\$120,527) in full settlement of the federal civil penalty claims set forth in this CA/FO.

92. Respondent shall submit payment of ONE HUNDRED TWENTY THOUSAND FIVE HUNDRED TWENTY-SEVEN DOLLARS (\$120,527) within thirty (30) calendar days of the Effective Date of this CA/FO, in accordance with one of the options set forth below. The

In the Matter of Rho-Chem, LLC
Consent Agreement and Final Order

Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk. All payments shall indicate the name of the Facility, the Respondent's name and address, and the EPA docket number of this action.

Regular Mail:

Payment shall be made by certified or cashier's check payable to "Treasurer, United States of America," and sent as follows:
U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Overnight Mail:

Payment shall be made by certified or cashier's check payable to "Treasurer, United States of America," and sent as follows:
U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Craig Steffen (513) 487-2091

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York

ABA = 021030004

Account = 68010727

SWIFT address = FRNYUS33

33 Liberty Street

New York, NY 10045

Beneficiary: US Environmental Protection Agency

*Note: Foreign banks **must** use a United States Bank to send a wire transfer to the US EPA.

ACH (also known as REX or remittance express):

US Treasury REX/Cashlink ACH Receiver

ABA: 051036706

Account Number: 310006, Environmental Protection Agency

CTX Format Transaction Code 22 – checking

Physical location of US Treasury Facility:

5700 Rivertech Court

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Consent Agreement and Final Order

Riverdale, MD 20737
Remittance Express (REX): 1-866-234-5681

On Line Payment:

Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments.

This payment option can be accessed from the information below:

www.pay.gov

Enter "sfol.1" in the search field

Open form and complete required fields

If clarification regarding a particular method of payment remittance is needed, contact the EPA Cincinnati Finance Center at 513-487-2091.

93. At the time payment is made, a copy of the check shall be sent to:

Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105

With an electronic copy to:

John Schofield (ENF-2-2)
Enforcement Division
U.S. Environmental Protection Agency - Region 9
schofield.john@epa.gov

Aisha Kennedy (ENF-2-2)
Enforcement Division
U.S. Environmental Protection Agency - Region 9
kennedy.aisha@epa.gov.

And

Rebekah Reynolds (ORC-3-2)
Office of Regional Counsel
U.S. Environmental Protection Agency – Region 9
Reynolds.Rebekah@epa.gov

94. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM

6-8000), each payment must be received by the due date set forth in this CA/FO to avoid additional charges. If payment is not received by the due date, interest will accrue from the Effective Date of this CA/FO at the current rate published by the United States Treasury as described at 40 C.F.R. § 13.11. In addition, a 6% per annum penalty assessed monthly will further apply on any principal amount not paid within ninety (90) calendar days of its due date. Respondent further will be liable for stipulated penalties as set forth below for any payment not received by its due date.

95. The penalties specified in this CA/FO shall represent civil penalties assessed by EPA and shall not be deducted by Respondent or any other person or entity for federal, state, or local taxation purposes.

J. SUPPLEMENTAL ENVIRONMENTAL PROJECT

96. As a condition of settlement, Respondent shall perform the supplemental environmental project ("SEP") specified in this Section to enhance the emergency response capabilities of the County of Los Angeles Fire Department's Homeland Security/HazMat Response Section ("Hazardous Materials Response Section"). Performance of the tasks detailed in this Section shall constitute satisfactory performance of the SEP, which the parties agree are intended to provide significant environmental and/or public health protection and improvements.

97. The Hazardous Materials Response Section provides, among other things, emergency response services to Los Angeles County. In developing this SEP, Respondent contacted the Hazardous Materials Response Section and inquired whether it could utilize emergency planning and preparedness assistance to better plan for and respond to spills or releases. In response to this inquiry, the Hazardous Materials Response Section requested that Respondent purchase certain equipment to improve the Hazardous Materials Response Section's ability to provide response services by identifying and monitoring chemicals and other hazardous materials in the field, which will be needed for emergency planning and preparedness.

98. Within forty-five (45) days of the Effective Date of this CA/FO, Respondent shall purchase four AreaRAE Pro instruments, associated communication and computing equipment, and extended service plans. The AreaRAE Pro is a wireless transportable area monitor that can simultaneously detect toxic and combustible gases, volatile organic compounds, radiation, and meteorological factors. Specifically, Respondent shall purchase the following items: (i) four (4) RAE RDK KIT-AREARAE PRO-CSA / ISM 900MHz/Wi-Fi / Mesh / PID ppb / LEL / O2 / CO / H2S / Gamma /RAEMet P/N W01R-111101-056079 (\$188,023.88+tax); (ii) four (4) RAE SYSTEMS-RDK RUGGEDIZED HOST KIT-TURN KEY PRORAE GUARDIAN PACKAGE INCLUDES AMREL RUGGEDIZED LAPTOP WITH RESITIVE TOUCHSCREEN EMBEDDED RAELINK MODEM DEVICE BAY MAGNESIUM ALLOY HOUSING, CERTIFIED TO MILITARY STANDARD 810F & IP54# 029-S301-001 (\$42,000.00+ tax); and (iii) four (4) RAE RDK Extended Service Plans

(\$92,344.00 + tax). Upon receipt of the equipment described above, Respondent shall make delivery of the equipment to the Hazardous Materials Response Section.

99. Respondent shall use all reasonable efforts to provide equipment to the Hazardous Materials Response Section as described above, but may substitute equipment that supports emergency planning and preparedness that is similar in total cost to the equipment described above with the consent of the Hazardous Materials Response Section. Any substitution changing the total amount spent is subject to Section K.

100. Respondent shall expend at least THREE HUNDRED FIFTY-TWO THOUSAND NINE HUNDRED NINETY-TWO DOLLARS (\$352,992) to complete the SEP described herein.

101. Within ninety (90) days of the Effective Date of this CA/FO, Respondent shall submit a SEP Completion Report to EPA. The SEP Completion Report shall contain the following information: (i) a detailed description of the SEP as implemented with an accounting showing the amount Respondent expended for the implementation of the SEP and substantiating documentation, including but not limited to (i) invoices, purchase orders, checks or receipts, and correspondence with the Hazardous Materials Response Section; (ii) a brief, narrative description of the environmental and public health benefits resulting from implementation of the SEP; and (iii) certification that the project has been fully implemented pursuant to the provisions of the CA/FO, as described in further detail below.

102. In the SEP Completion Report, Respondent shall, by one of its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement: "I certify under penalty of law that I have examined and am familiar with the information submitted in this document and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment." The Final SEP Completion Report shall be submitted via hard copy or electronic mail to:

John Schofield (ENF-2-2)
Enforcement Division
U.S. Environmental Protection Agency - Region 9
schofield.john@epa.gov

Aisha Kennedy (ENF-2-2)
Enforcement Division
U.S. Environmental Protection Agency - Region 9
kennedy.aisha@epa.gov.

103. Failure to complete the SEP Completion Report required herein shall be deemed a

penalties already paid for failure to submit the SEP Completion Report pursuant to Paragraph 110.

108. If Respondent demonstrates that the SEP tasks described in Section J were completed, but Respondent incurs less than 90 percent of the costs required to be incurred pursuant to Section J, Respondent shall pay a stipulated penalty to the United States that is the difference between THREE HUNDRED FIFTY-TWO THOUSAND NINE HUNDRED NINETY-TWO DOLLARS (\$352,992) and the actual costs incurred by Respondent toward completion of the tasks described in Section J.

109. If Respondent fails to demonstrate that the SEP tasks in Section J were completed, but EPA determines that the Respondent: (i) made good faith and timely efforts to complete these tasks; and (ii) certifies, with supporting documentation, that at least 90 percent of the costs that were required to be incurred pursuant to Section J were incurred for the SEP tasks described in Section J, Respondent shall not be liable for any stipulated penalty under Section K.

110. For failure to submit the SEP Completion Report required by Section J, Respondent shall pay a stipulated penalty in the amount of FIVE HUNDRED DOLLARS (\$500) for each day after the date the SEP Completion Report was due until it is submitted. Stipulated penalties for failure to submit the SEP Completion Report shall begin to accrue on the day after the report is due, and shall continue to accrue through the final day of EPA's receipt of this document. Notwithstanding the penalty amounts described in this paragraph, the total stipulated penalty paid by Respondent pursuant to this paragraph shall not exceed FIVE HUNDRED TWENTY-NINE THOUSAND FOUR HUNDRED EIGHTY-EIGHT (\$529,488).

111. All penalties owed to EPA under this Section shall be due within thirty (30) days of receipt of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R. §13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.

112. All penalties shall be remitted in the same manner described in Section I.

113. The payment of stipulated penalties shall not alter in any way Respondent's obligation to complete the performance required hereunder.

114. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CA/FO.

115. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions that may be available to EPA because of Respondent's failure to comply with any of the requirements of this CA/FO.

116. The payment of stipulated penalties specified in the Section shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.

L. CERTIFICATION OF COMPLIANCE

117. In executing this CA/FO, subject to the provisions of Section H, above, Respondent certifies under penalty of law to EPA that it has fully complied with Section 3008 of RCRA, 42 U.S.C. § 6928, and its implementing regulations that formed the basis for the violations alleged in Section D, above.

118. This certification of compliance is based upon true, accurate, and complete information, which the signatory can verify personally or regarding which the signatory has inquired of the person or persons directly responsible for gathering the information.

M. RESERVATION OF RIGHTS

119. Except as addressed in this CA/FO, EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under Section 3008 of RCRA, 42 U.S.C. § 6928. This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under RCRA, or any other statutory, regulatory or common law enforcement authority of the United States.

120. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, State or federal laws and regulations.

121. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted except as they relate to Respondent's liability for federal civil penalties for the alleged violations and facts as set forth in Section D of this CA/FO.

122. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, State or federal permits.

N. OTHER CLAIMS

123. Nothing in this CA/FO shall constitute or be construed as a release from any other claim, 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 the Facility.

O. MISCELLANEOUS

124. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.

125. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

126. Each party to this action shall bear its own costs and attorneys' fees.

127. EPA and Respondent consent to entry of this CA/FO without further notice.

P. APPENDIX

128. The following appendix is attached to and incorporated into this CA/FO: Subpart AA/BB/CC Compliance Audit Scope of Work.

Q. EFFECTIVE DATE


129. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective on the date that the Final Order contained in this CA/FO, having been approved and issued by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

IT IS SO AGREED.

In the Matter of Rho-Chem, LLC
Consent Agreement and Final Order

FOR RESPONDENT RHO-CHEM, LLC:


6/14/18
Date



Matt Marra, Senior Vice President
Safety, Health & Compliance

FOR COMPLAINANT U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 9:

6/26/2018
Date



for Kathleen H. Johnson, Director
Enforcement Division

In the Matter of Rho-Chem, LLC
Consent Agreement and Final Order

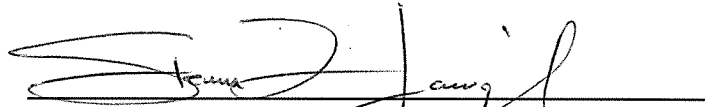
FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 (U.S. EPA Docket No. RCRA(3008)-09-2018-00~~01~~⁰²) be entered and that Respondent pay a civil penalty of ONE HUNDRED TWENTY THOUSAND FIVE HUNDRED TWENTY-SEVEN (\$120,527), due within thirty (30) days from the Effective Date of this Consent Agreement and Final Order, implement the compliance tasks described in Section H, and implement the Supplemental Environmental Project described in Section J of this CA/FO, in accordance with all terms and conditions of this Consent Agreement and Final Order.

This Final Order shall be effective upon filing by the Regional Hearing Clerk.

07/03/18

Date

A handwritten signature in black ink, appearing to read "Steven Jawgiel", is written over a horizontal line.

Steven Jawgiel
Regional Judicial Officer
United States Environmental Protection Agency,
Region 9

Appendix A

Subpart AA/BB/CC Compliance Audit

Scope of Work

Goal

Determine whether the facility is in compliance with all of the provisions of California Code of Regulations, title 22, division 4.5, chapter 14, articles 27, 28, and 28.5 (California equivalent of Title 40 Code of Federal Regulations, Part 264, Subparts AA, BB, and CC).

Approach

1. Document facility hazardous waste management activities and operations
2. Identify applicable and potentially applicable requirements under California Code of Regulations, title 22, division 4.5, chapter 14, articles 27, 28, and 28.5 (California equivalent of federal Subparts AA, BB, and CC).
 - a. Article 27
 - i. Applicability of article generally
 - ii. Compliance with subdivisions referenced in article 28 and/or 28.5
 - b. Article 28
 - i. Applicability determinations
 - ii. Compliance methods
 - iii. Records review
 - iv. Field verification
 - c. Article 28.5
 - i. Applicability determinations
 - ii. Compliance methods
 - iii. Records review
 - iv. Field verification
3. Through interviews, examination of waste handling equipment, examination of closed-vent system and control device(s), review of documentation, and observation of facility processes and procedures, determine the extent to which the facility is in compliance with each requirement identified above.
4. Prepare a report including the following:
 - Executive summary
 - Overall compliance status with respect to Articles 27, 28, and 28.5
 - Item-by-item (i.e., lowest level regulatory subdivision) status—whether the requirement is applicable; if applicable, whether the facility is in compliance with the requirement; and description and/or documentation of compliance or noncompliance

- A description and schedule of corrective actions developed with the facility to address any noncompliance identified during the audit.

Auditor Biography

Mr. Wayne Kiso, Principal, is proposed to conduct this audit. Mr. Kiso has extensive and varied experience with permitted hazardous waste facility operations. He has been responsible for environmental management, worker health & safety, operations management, and general management for several hazardous waste service providers, including TSDFs that manage organic hazardous waste.

Mr. Kiso has the following direct Subpart AA/BB/CC experience :

Chemical Waste Management, Inc., Azusa, California 1995-1997

Mr. Kiso was employed at the CWM-Azusa Facility, now known as the Veolia Azusa facility, in Azusa, California. As the EH&S Manager, he was responsible for all aspects of environmental compliance, including Subpart AA, BB, and CC. The facility managed organic hazardous wastes; onsite processes including distillation, fractionation, thin-film evaporation, organic tank storage, and container storage. He was directly involved in implementing, improving, and maintaining the Subpart AA, BB, and CC compliance programs as follows:

- Responsible for maintaining, periodic troubleshooting, and data review and retention for the Subpart AA control device, a chiller that used a liquid nitrogen heat exchanger to reduce VOC emissions.
- Provided oversight of Subpart BB leak detection and repair program, including equipment identification, supervision of consultant contracted to provide leak detection services, ensuring timely leak repair, reviewing leak monitoring data, and data retention/recordkeeping.
- Developed and implemented Subpart CC/Article 28.5 compliance program for tank and container storage operations. Maintained compliance program and periodically reviewed compliance with regulatory standard.

Rho-Chem, Inc., Inglewood, California 1999

As the Regulatory Affairs Manager at Rho-Chem, Inc., in Inglewood, California, now known as Rho-Chem, LLC, Mr. Kiso was responsible for implementing the Subpart AA, BB, and CC compliance programs. The facility's fractionation and thin-film evaporation processes were not being operated during the time he was employed at the facility. He conducted leak monitoring, ensured timely completion of repairs, and maintained leak detection and repair program records.

Romic Environmental Technologies Corp., East Palo Alto, California 2001-2006

Provided assistance to facility conducting distillation, fractionation, thin-film evaporation, tank storage, and container storage operations. Assisted facility in responding to EPA inspection findings concerning Subparts AA, BB, and CC.

Provided services to improve Subpart AA/BB/CC compliance programs, including:

- Troubleshooting of Subpart AA control device; procured and oversaw source testing; implemented system improvements.
- Review of Subpart BB recordkeeping software application; specified changes that needed to be made by supplier.
- Periodic compliance audits to evaluate program and implementation performance.

Romic Environmental Technologies Corp., Gila River Indian Community, Arizona 2004-2006

Provided assistance to facility conducting distillation, fractionation, thin-film evaporation, tank storage, and container storage operations. Assisted facility in responding to EPA inspection findings concerning Subparts AA, BB, and CC.

Provided services to improve Subpart AA/BB/CC compliance programs, including:

- Conducted engineering review of Subpart AA control device design.
- Evaluated control device performance; worked with refrigeration contractor and in-house engineering staff to change system parameters and replace internal components to improve performance.
- Evaluated Subpart CC closed-vent system for storage tanks, implemented system changes to improve performance.

Evergreen Oil, Inc., Newark, California 2011-2012

As interim Health, Safety, Security, and Environmental Manager for the DTSC-permitted facility in Newark, California, was responsible for implementing, maintaining, and improving the facility's existing leak detection and repair program for Subpart BB compliance.

Pacific Resource Recovery Services, Los Angeles, California 2003-present

Consultant to off-site RCRA-permitted organic hazardous waste treatment and storage facility. Facility conducted distillation, thin-film evaporation, tank storage, and container storage operations. Prepared RCRA permit renewal application,

including sections for Subpart AA, BB, and CC compliance. Assisting facility in reviewing Subpart BB and Subpart CC compliance in response to EPA inspection.

Tinker Air Force Base, Oklahoma City, Oklahoma 2011

Member of team preparing RCRA Permit renewal application; responsible for preparation of section concerning Subpart CC provisions.

21st Century Environmental Management of Nevada, LLC, Fernley, Nevada 2018

Member of team preparing RCRA Permit renewal application; responsible for preparation of sections concerning Subpart BB and Subpart CC provisions.

Education

Mr. Kiso was graduated from the Massachusetts Institute of Technology in Cambridge, Massachusetts, having been awarded a Bachelor of Science degree in Chemical Engineering.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the matter of *Rho-Chem, LLC* (RCRA-09-2018-0002), signed by the Regional Judicial Officer, has been filed with the Regional Hearing Clerk and was served on Respondent, and Counsel for EPA, as indicated below:

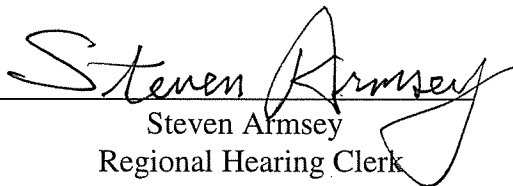
BY FIRST CLASS MAIL:
(Certified w/Return Receipt)

Respondent - Matt Marra, Senior Vice President
Safety Health & Compliance
Stericycle, Inc.
28161 North Keith Drive
Lake Forest, IL 60045

HAND DELIVERED:

Complainant - Rebekah Reynolds, Esq.
Office of Regional Counsel
ENVIRONMENTAL PROTECTION AGENCY
75 Hawthorne Street
San Francisco, CA 94105

Date: JUL - 3 2018


Steven Armsey
Regional Hearing Clerk
EPA, Region 9