



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 26 2009

REPLY TO THE ATTENTION OF:

LR-8J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Dennis Nolan
President and Chief operating Officer
Bridgeview Aerosol, LLC
8401 South 77th Avenue
Bridgeview, Illinois 60455

Re: Consent Agreement and Final Order
Bridgeview Aerosol, LLC
U.S. EPA ID: ILD077001741 **RCRA-05-2010-0003**
Docket No: .

Dear Mr. Nolan:

Please find enclosed a copy of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The originals were filed on OCT 26 2009, 2009 with the Regional Hearing Clerk (RHC). The agreement contains the terms previously discussed to resolve this matter.

Please pay the civil penalty in the amount of \$30,000 in the manner prescribed in paragraph 32 of the CAFO, and reference all checks with the number BD 2751059R004 and docket number RCRA-05- **RCRA-05-2010-0003**. Also, enclosed is a *Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings*.

Thank you for your cooperation in resolving this matter.

Sincerely,

Willie H. Harris, P.E.
Chief, RCRA Branch
Land and Chemicals Division

Enclosure

cc: Todd Marvel, Illinois Environmental Protection Agency (w/enclosure)

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)
)
Bridgeview Aerosol, LLC,)
Bridgeview, Illinois,)
)
Respondent.)
_____)

Docket No. RCRA-05-2010-0003
Proceeding to Commence and Conclude
an Action to Assess a Civil Penalty
Under Section 3008(a) of the Resource
Conservation and Recovery Act,
42 U.S.C. § 6928(a)

RECEIVED
OCT 26 2009

Consent Agreement and Final Order

REGIONAL HEARING CLERK
USEPA
REGION 5

Preliminary Statement

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

2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.

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

4. Respondent is Bridgeview Aerosol, LLC, a corporation doing business in the State of Illinois.

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

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

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

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

Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon EPA by Sections 2002(a)(1), 3006(b), and 3008 of RCRA; 42 U.S.C. §§ 6912(a)(1), 6926(b), and 6928.

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

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

Statutory and Regulatory Background

11. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste pursuant to sections 3002, 3003 and 3004 of RCRA, 42 U.S.C. §§ 6922, 6923 and 6924.

12. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of

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

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

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

15. The Administrator of EPA may assess a civil penalty of up to \$25,000 per day for each violation of Subtitle C of RCRA according to Section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, required EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. Part 19, EPA may assess a civil penalty of up to \$32,500 per day for each violation of Subtitle C of RCRA that occurred after March 15, 2004.

Factual Allegations and Alleged Violations

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

17. Respondent is the "owner" and "operator," as defined by 35 IAC § 720.110 [40 C.F.R. § 260.10], of a facility located at 8407 South 77th Avenue, Bridgeview, Illinois (the facility).

18. On June 8, 2007, EPA conducted a compliance evaluation inspection of the facility (inspection).

19. The facility consists of land and structures, other appurtenances, and improvements on the land used for the generation and accumulation of hazardous waste.

20. The facility is a "facility," as that term is defined by 35 IAC § 720.110 [40 C.F.R. § 260.10].

21. Respondent manufactures various types of automotive and household aerosol products at the facility using six aerosol can filling lines.

22. At all times relevant to this matter, Respondent created off-specification (off-spec) aerosol cans.

23. Respondent's off-spec aerosol cans typically contain acetone, heptane, toluene, xylene, hexane, tetrachloroethylene, trichloroethene, methylene chloride, halogens, and other unidentified solvents as well as propane, butane and carbon dioxide propellants.

24. At all times relevant to this matter, Respondent collected off-spec aerosol cans in 55-gallon drums at various points throughout the facility and also stored the off-spec aerosol can-containing 55-gallon drums in a waste aerosol can and waste rag storage area.

25. At all times relevant to this matter, Respondent held off-spec aerosol cans in 55-gallon drums temporarily before the material was shipped from the facility for treatment, storage or disposal elsewhere.

26. At all times relevant to this matter, Respondent's off-spec aerosol cans were "discarded materials," as that term is described at 35 IAC § 721.102(a) [40 C.F.R. § 261.2(a)].

27. Respondent stored, transported, disposed of, or otherwise handled its off-spec aerosol cans in 55-gallon "containers," as that term is defined at 35 IAC § 720.110 [40 C.F.R. § 260.10].

28. At all times relevant to this matter, Respondent's off-spec aerosol cans were "solid waste," as that term is defined under 35 IAC § 721.102 [40 C.F.R. § 261.2].

29. Respondent identifies its off-spec aerosol cans as having the characteristics of ignitability (EPA hazardous waste code D001) and toxicity (EPA hazardous waste codes D035 (methyl ethyl ketone), D039 (tetrachloroethylene) and D040 (trichloroethylene)).

30. At all times relevant to this matter, Respondent's off-spec aerosol cans were "hazardous waste," as that term is defined under 35 IAC § 721.103 [40 C.F.R. § 261.3].

31. At all times relevant to this matter, Respondent's holding of off-spec aerosol cans in 55-gallon drums constituted hazardous waste "storage," as that term is defined under 35 IAC § 720.110 [40 C.F.R. § 260.10].

32. Respondent generated approximately 123,440 pounds of off-spec aerosol cans in 2005.

33. Respondent generated approximately 134,860 pounds of off-spec aerosol cans in 2006.

34. At all times relevant to this matter, Respondent used solvents such as acetone, toluene and xylene to clean process equipment. The cleaning process generated both waste solvent and solvent-contaminated rags and waste filters.

35. At all times relevant to this matter, Respondent collected waste solvent in 5-gallon buckets, 55-gallon drums and 300-gallon totes at various points throughout the facility.

36. At all times relevant to this matter, Respondent held waste solvent temporarily in a variety of containers, including 5-gallon buckets, 55-gallon drums and 300-gallon totes before the material was shipped from the facility for treatment, storage or disposal elsewhere.

37. At all times relevant to this matter, Respondent's waste solvent was a "discarded material," as that term is described at 35 IAC § 721.102(a) [40 C.F.R. § 261.2(a)].

38. Respondent stored, transported, disposed of, or otherwise handled its waste solvent in 5-gallon, 55-gallon and 300-gallon "containers," as that term is defined at 35 IAC § 720.110 [40 C.F.R. § 260.10].

39. At all times relevant to this matter, Respondent's waste solvent was a "solid waste," as that term is defined under 35 IAC § 721.102 [40 C.F.R. § 261.2].

40. Respondent identified its waste solvents with EPA hazardous waste codes D001 (ignitability), F003 (xylene and acetone) and F005 (toluene).

41. At all times relevant to this matter, Respondent's waste solvent was "hazardous waste," as that term is defined under 35 IAC § 721.103 [40 C.F.R. § 261.3].

42. At all times relevant to this matter, Respondent's holding of waste solvent in 5-gallon buckets, 55-gallon drums, and a 300-gallon tote constituted hazardous waste "storage," as that term is defined under 35 IAC § 720.110 [40 C.F.R. § 260.10].

43. Respondent generated approximately 1,051,580 pounds of waste solvent in 2005.

44. Respondent generated approximately 277,940 pounds of waste solvent in 2006.

45. At all times relevant to this matter, Respondent solvent-contaminated rags and waste filters in 55-gallon drums at various points throughout the facility.

46. At all times relevant to this matter, Respondent held solvent-contaminated rags and waste filters temporarily in 55-gallon drums before the material was shipped from the facility for treatment, storage or disposal elsewhere.

47. At all times relevant to this matter, Respondent stored, transported, disposed of, or otherwise handled its solvent-contaminated rags and waste filters in 55-gallon “containers,” as that term is defined at 35 IAC § 720.110 [40 C.F.R. § 260.10].

48. At all times relevant to this matter, Respondent’s solvent-contaminated rags and waste filters were “solid wastes” as that term is defined under 35 IAC § 721.102 [40 C.F.R. § 261.2].

49. Respondent identified its solvent-contaminated rags and waste filters with EPA hazardous waste codes D001 (ignitability), F003 (xylene and acetone) and F005 (toluene).

50. At all times relevant to this matter, Respondent’s solvent-contaminated rags and waste filters were “hazardous waste,” as that term is defined under 35 IAC § 721.103 [40 C.F.R. § 261.3].

51. At all times relevant to this matter, Respondent’s holding of solvent-contaminated rags and waste filters in 55-gallon drums constituted hazardous waste “storage,” as that term is defined under 35 IAC § 720.110 [40 C.F.R. § 260.10].

52. Respondent generated approximately 18,674 pounds of rags and waste filters in 2005.

53. Respondent generated approximately 22,112 pounds of rags and waste filters in 2006.

54. Respondent is a “generator,” as that term is defined in 35 IAC § 720.110 and 40 C.F.R. § 260.10.

55. Respondent is subject to the regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921-6930, or the analogous Illinois regulations as part of the applicable state hazardous waste management program for the state of Illinois, or both.

56. At all times relevant to this matter, Respondent produced more than 1,000 kilograms (2,205 pounds) of hazardous waste each calendar month.

57. At all times relevant to this matter, Respondent was a large quantity generator.

58. On June 18, 2008, EPA issued a Notice of Violation to Respondent alleging certain violations of RCRA discovered during the inspection and through of a review of information submitted in response to EPA's request for information issued under Section 3007 of RCRA, 42 U.S.C. § 6927.

59. On July 14, 2008, Respondent submitted to EPA a written response to the Notice of Violation.

60. At all times relevant to this matter, the State of Illinois had not issued a permit to Respondent to treat, store or dispose of hazardous waste at the facility.

61. At all times relevant to this matter, Respondent did not have interim status to treat, store or dispose of hazardous waste at the facility.

62. On August 4, 1980, Respondent submitted a Hazardous Waste Notification to EPA for the facility.

63. In its Hazardous Waste Notification, dated August 4, 1980, Respondent identified itself as a large quantity generator.

Count 1

64. Under Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), and the regulations at 40 C.F.R. Part 270, the treatment storage or disposal of hazardous waste by any person who has not applied for or received a permit is prohibited.

65. Under 35 IAC § 722.134 [40 C.F.R. § 262.34], and subject to certain conditions, a generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less

without having a permit or interim status, provided that the generator complies with all the applicable conditions set forth in 35 IAC § 722.134.

66. If a generator does not meet the conditions of 35 IAC § 722.134 [40 CFR § 262.34], it must apply for and obtain an Illinois hazardous waste permit under 35 IAC §§ 703.121, 702.120 and 702.123 [40 C.F.R. §§ 270.1(c) and 270.10, and 270.13].

67. Under 35 IAC § 722.134(a)(2) [40 C.F.R. § 262.34(a)(2)], to be eligible for the generator permit exemption, a large quantity generator must clearly and visibly mark each container with the date upon which accumulation of hazardous waste begins.

68. During the inspection, Respondent identified approximately sixty 55-gallon drums in the waste aerosol can and waste rag storage area as containing off-spec aerosol cans.

69. During the inspection, the approximately sixty 55-gallon drums containing off-spec aerosol cans in the waste aerosol can and waste rag storage area were not labeled with the date upon which the accumulation of the off-spec aerosol cans began.

70. By failing to clearly and visibly mark the sixty 55-gallon drums containing off-spec aerosol cans in the waste aerosol can and waste rag storage area with the date upon which the accumulation of the off-spec aerosol cans began, as required by 35 IAC § 722.134(a)(2) [40 C.F.R. § 262.34(a)(2)], Respondent did not meet all of the conditions necessary to exempt it from the requirement to obtain a permit or interim status.

71. Under 35 IAC § 722.134(a)(3) [40 C.F.R. § 262.34(a)(3)], to be eligible for the generator permit exemption, a large quantity generator must label or clearly mark each container with the words "Hazardous Waste."

72. During the inspection, the approximately sixty 55-gallon drums containing off-spec aerosol cans in the waste aerosol can and waste rag storage area were not labeled or marked clearly with the words “Hazardous Waste.”

73. By failing to label or clearly mark the sixty 55-gallon drums containing off-spec aerosol cans in the waste aerosol can and waste rag storage area with the words “Hazardous Waste,” as required by 35 IAC § 722.134(a)(3) [40 C.F.R. § 262.34(a)(3)], Respondent did not meet all of the conditions necessary to exempt it from the requirement to obtain a permit or interim status.

74. Under 35 IAC § 722.134(c) [40 C.F.R. § 262.34(c)], to be eligible for the generator permit exemption, a large quantity generator may accumulate as much as 55 gallons of hazardous waste in containers at or near the point of generation that is under the control of an operator.

75. During the inspection, one 300-gallon tote located in the Tote Wash Area was half full of wash solvent.

76. By allowing the 300-gallon tote in the Tote Wash Area to accumulate more than 55 gallons of wash solvent at or near the point of generation of hazardous waste, which is prohibited by 35 IAC § 722.134(c) [40 C.F.R. § 262.34(c)], Respondent did not meet all of the conditions necessary to exempt it from the requirement to obtain a permit or interim status.

77. Under 35 IAC § 722.134(c)(1)(B) [40 C.F.R. § 262.34(c)(1)(ii)], to be eligible for the generator permit exemption, a large quantity generator must mark each container near the point of generation under the control of the operator with the words “Hazardous Waste” or other words that identify the contents of the containers.

78. During the inspection, Respondent identified two 5-gallon buckets in Area 223 as containing wash solvents.

79. During the inspection, neither of the 5-gallon buckets containing wash solvents was labeled with the words “Hazardous Waste” or other words that identified the contents of the buckets.

80. By failing to mark the two 5-gallon buckets containing wash solvents in Area 223 with the words “Hazardous Waste” or other words that identified the contents of the buckets, as required by 35 IAC § 722.134(c)(1)(B) [40 C.F.R. § 262.34(c)(1)(ii)], Respondent did not meet all of the conditions necessary to exempt it from the requirement to obtain a permit or interim status.

81. During the inspection, Respondent identified one 55-gallon drum in Area 223 as containing hazardous waste.

82. During the inspection, the 55-gallon drum in Area 223 containing hazardous waste was not labeled with the words “Hazardous Waste” or other words that identified the contents of the drum.

83. By failing to mark the 55-gallon drum containing hazardous waste in Area 223 with the words “Hazardous Waste” or other words that identified the contents of the drum, as required by 35 IAC § 722.134(c)(1)(B) [40 C.F.R. § 262.34(c)(1)(ii)], Respondent did not meet all of the conditions necessary to exempt it from the requirement to obtain a permit or interim status.

84. During the inspection, Respondent identified one 55-gallon drum in Area 223 as containing wash solvents.

85. During the inspection, the 55-gallon drum in Area 223 containing wash solvents was not labeled with the words “Hazardous Waste” or other words that identified the contents of the drum.

86. By failing to mark the 55-gallon drum in Area 223 containing wash solvents with the words “Hazardous Waste” or other words that identified the contents of the drum, as required by 35 IAC § 722.134(c)(1)(B) [40 C.F.R. § 262.34(c)(1)(ii)], Respondent did not meet all of the conditions necessary to exempt it from the requirement to obtain a permit or interim status.

87. During the inspection, Respondent identified one 55-gallon drum between aerosol can filling line (AFL) 5 and AFL6 as containing off-spec aerosol cans.

88. During the inspection, the 55-gallon drum containing off-spec aerosol cans between AFL5 and AFL6 was not labeled with the words “Hazardous Waste” or other words that identified the contents of the drum.

89. By failing to mark the 55-gallon drum containing off-spec aerosol cans between AFL5 and AFL6 with the words “Hazardous Waste” or other words that identified the contents of the drum, as required by 35 IAC § 722.134(c)(1)(B) [40 C.F.R. § 262.34(c)(1)(ii)], Respondent did not meet all of the conditions necessary to exempt it from the requirement to obtain a permit or interim status.

90. During the inspection, Respondent identified two 55-gallon drums between AFL5 and AFL6 as containing waste rags.

91. During the inspection, the two 55-gallon drums containing waste rags between AFL5 and AFL6 were not labeled with the words “Hazardous Waste” or other words that identified the contents of the drums.

92. By failing to mark the two 55-gallon drums containing waste rags between AFL5 and AFL6 with the words “Hazardous Waste” or other words that identified the contents of the drums, as required by 35 IAC § 722.134(c)(1)(B) [40 C.F.R. § 262.34(c)(1)(ii)], Respondent did not meet all of the conditions necessary to exempt it from the requirement to obtain a permit or interim status.

93. During the inspection, Respondent identified one 55-gallon drum adjacent to AFL6 as containing off-spec aerosol cans.

94. During the inspection, the 55-gallon drum adjacent to AFL6 containing off-spec aerosol cans was not labeled with words “Hazardous Waste” or other words that identified the contents of the drum.

95. By failing to mark the 55-gallon drum adjacent to AFL6 containing off-spec aerosol cans with the words “Hazardous Waste” or other words that identified the contents of the drum, as required by 35 IAC § 722.134(c)(1)(B) [40 C.F.R. § 262.34(c)(1)(ii)], Respondent did not meet all of the conditions necessary to exempt it from the requirement to obtain a permit or interim status.

96. During the inspection, Respondent identified one 55-gallon drum adjacent to AFL5 as containing off-spec aerosol cans.

97. During the inspection, the 55-gallon drum adjacent to AFL5 containing off-spec aerosol cans was not labeled with words “Hazardous Waste” or other words that identified the contents of the drum.

98. By failing to mark the 55-gallon drum adjacent to AFL5 containing off-spec aerosol cans with the words “Hazardous Waste” or other words that identified the contents of the drum, as required by 35 IAC § 722.134(c)(1)(B) [40 C.F.R. § 262.34(c)(1)(ii)], Respondent did

not meet all of the conditions necessary to exempt it from the requirement to obtain a permit or interim status.

99. During the inspection, Respondent identified two 55-gallon drums adjacent to AFL1 and AFL2 as containing waste rags.

100. During the inspection, neither of the 55-gallon drums adjacent to AFL1 and AFL2 containing waste rags was labeled with words “Hazardous Waste” or other words that identified the contents of the drums.

101. By failing to mark the two 55-gallon drums adjacent to AFL1 and AFL2 containing waste rags with the words “Hazardous Waste” or other words that identified the contents of the drums, as required by 35 IAC § 722.134(c)(1)(B) [40 C.F.R. § 262.34(c)(1)(ii)], Respondent did not meet all of the conditions necessary to exempt it from the requirement to obtain a permit or interim status.

102. During the inspection, one 300-gallon tote containing wash solvents in the Tote Wash Area was not marked with the words “Hazardous Waste” or other words that identified the contents of the tote.

103. By failing to mark the 300-gallon tote containing tote wash solvents in the Tote Wash Area with the words “Hazardous Waste” or other words that identified the contents of the tote, as required by 35 IAC § 722.134(c)(1)(B) [40 C.F.R. § 262.34(c)(1)(ii)], Respondent did not meet all of the conditions necessary to exempt it from the requirement to obtain a permit or interim status.

104. As set forth above, Respondent did not meet the conditions of 35 IAC § 725.134 [40 C.F.R. § 262.34] necessary to exempt it from the requirement to obtain interim status or apply for and obtain a permit for the storage (accumulation) of hazardous waste; therefore,

Respondent stored hazardous waste without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the regulations at 35 IAC § 703.121 [40 C.F.R. § 270.1(c)].

Count 2

105. Facilities that fail to meet the conditions for a generator permit exemption for hazardous waste storage under 35 IAC § 722.134 [40 C.F.R. § 262.34] must meet the standards for treatment, storage, and disposal facilities in 35 IAC Part 724 [40 C.F.R. Part 264], including Subpart I, 35 IAC §§ 724.270 through 724.279 [40 C.F.R. §§ 264.170 through 264.179].

106. Under 35 IAC § 724.273(a) [40 CFR § 264.173(a)], a generator of hazardous waste must keep each container holding hazardous waste closed during storage, except when it is necessary to add or remove waste.

107. During the inspection, Respondent identified four 55-gallon drums in the Paint Room as containing hazardous waste. All four of these drums were labeled with the words “Hazardous Waste.”

108. During the inspection, the lid on one of the four 55-gallon drums containing hazardous waste in the Paint Room was not closed.

109. During the inspection, no hazardous waste was added to or removed from the open 55-gallon drum in the Paint Room.

110. During the inspection, one of the four 55-gallon drums containing hazardous waste in the Paint Room was covered with a metal screen cover.

111. During the inspection, no hazardous waste was added to or removed from the 55-gallon drum in the Paint Room that had a metal screen cover.

112. Respondent's failure to keep closed during storage two 55-gallon drums containing hazardous waste in the Paint Room, except to add or remove hazardous waste, violated 35 IAC § 724.273(a) [40 C.F.R. § 264.173(a)].

113. During the inspection, a 300-gallon tote in the Tote Wash Area was half full of wash solvents.

114. During the inspection, the 300-gallon tote containing wash solvents in the Tote Wash Area had no lid or cover.

115. During the inspection, no wash solvents were added to or removed from the 300-gallon tote containing wash solvents in the Tote Wash Area.

116. Respondent's failure to keep closed during storage a 300-gallon tote containing wash solvents in the Tote Wash Area, except to add or remove wash solvents, violated 35 IAC § 724.273(a) [40 C.F.R. § 264.173(a)].

117. During the inspection, Respondent identified two 5-gallon buckets in Area 223 as containing wash solvents.

118. During the inspection, neither of the 5-gallon buckets containing wash solvents in Area 223 was closed.

119. During the inspection, no wash solvents were added to or removed from the 5-gallon buckets containing wash solvents in Area 223.

120. Respondent's failure to keep closed during storage two 5-gallon buckets containing wash solvents in Area 223, except to add or remove wash solvents, violated 35 IAC § 724.273(a) [40 C.F.R. § 264.173(a)].

121. During the inspection, Respondent identified one 55-gallon drum in Area 223 as containing wash solvents.

122. During the inspection, the 55-gallon drum containing wash solvents in Area 223 was open.

123. During the inspection, no wash solvents were added to or removed from the 55-gallon drum containing wash solvents in Area 223.

124. Respondent's failure to keep closed during storage one 55-gallon drum containing wash solvents in Area 223, except to add or remove wash solvents, violated 35 IAC § 724.273(a) [40 C.F.R. § 264.173(a)].

125. During the inspection, Respondent identified one 55-gallon drum located between AFL5 and AFL6 as containing off-spec aerosol cans.

126. During the inspection, the cover of the 55-gallon drum containing off-spec aerosol cans between AFL5 and AFL6 was not securely attached to the drum.

127. Respondent's failure to keep closed during storage one 55-gallon drum containing off-spec aerosol cans between AFL5 and AFL6 violated 35 IAC § 724.273(a) [40 C.F.R. § 264.173(a)].

Count 3

128. Facilities that fail to meet the conditions for a generator permit exemption for waste storage under 35 IAC § 722.134 [40 C.F.R. § 262.34] must meet the standards for treatment, storage, and disposal facilities in 35 IAC Part 724 [40 C.F.R. Part 264], including Subparts B, E and I, 35 IAC §§ 724.110 through 724.119 [40 C.F.R. §§ 264.10 through 264.19], 35 IAC §§ 724.170 through 724.177 [40 C.F.R. §§ 264.70 through 264.77], and 35 IAC §§ 724.270 through 724.279 [40 C.F.R. §§ 264.170 through 264.179], respectively.

129. 35 IAC § 724.274 [40 C.F.R. § 264.174] requires the owner or operator to inspect areas where containers are stored, at least weekly, looking for leaking containers and deterioration of containers and containment areas caused by corrosion or other factors.

130. 35 IAC § 724.115(d) [40 C.F.R. § 264.15(d)] requires an owner or operator to record inspections in an inspection log or summary for at least three years from the date of inspection.

131. 35 IAC § 724.173(a) and (b)(5) [40 C.F.R. § 264.73(a) and (b)(5)] requires an owner or operator keep at the facility all records and results of inspections as required by 35 IAC § 724.115(d) [40 C.F.R. § 264.15(d)].

132. Based on weekly inspection records maintained at the facility, Respondent did not conduct, record, or maintain a record of a weekly inspection for the week of January 23, 2006.

133. Respondent's failure to conduct, record, or maintain a record at the facility of a weekly inspection for the week of January 23, 2006, violated 35 IAC §§ 724.115(d), 724.173(a) and (b)(5), and 724.274 [40 C.F.R. §§ 264.15(d), 264.73(a) and (b)(5) and 264.174].

134. Based on weekly inspection records maintained at the facility, Respondent did not conduct, record or maintain a record of a weekly inspection for the week of July 16, 2007.

135. Respondent's failure to conduct, record, or maintain a record at the facility of a weekly inspection for the week of July 16, 2007, violated 35 IAC §§ 724.115(d), 724.173(a) and (b)(5), and 724.274 [40 C.F.R. §§ 264.15(d), 264.73(a) and (b)(5) and 264.174].

136. Based on weekly inspection records maintained at the facility, Respondent did not conduct, record or maintain a record of a weekly inspection for the week of September 24, 2007.

137. Respondent's failure to conduct, record, or maintain a record at the facility of a weekly inspection for the week of September 24, 2007, violated 35 IAC §§ 724.115(d), 724.173(a) and (b)(5), and 724.274 [40 C.F.R. §§ 264.15(d), 264.73(a) and (b)(5) and 264.174].

Count 4

138. Facilities that fail to meet the conditions for a generator permit exemption for waste storage under 35 IAC § 722.134 [40 C.F.R. § 262.34] must meet the standards for treatment, storage, and disposal facilities in 35 IAC Part 724 [40 C.F.R. Part 264], including Subpart B, 35 IAC §§ 724.110 through 724.119 [40 C.F.R. §§ 264.10 through 264.19].

139. Under 35 IAC § 724.116(c) [40 C.F.R. § 264.16(c)], facility personnel must take part in an annual review of the initial hazardous waste management training.

140. Under 35 IAC § 724.116(d) [40 C.F.R. § 264.16(d)], the owner or operator must maintain records documenting that the training and job experience required by 35 IAC § 724.116(c) [40 C.F.R. § 264.16(c)] has been given to and completed by facility personnel.

141. Respondent's training records indicate that in 2007, facility personnel did not take part in an annual review of the initial hazardous waste management training.

142. Respondent's failure to provide an annual review of the initial hazardous waste management training in 2007 violated 35 IAC § 274.116(c) [40 C.F.R. § 264.16(c)].

143. Respondent's failure to maintain records documenting that facility personnel received and completed the 2007 annual review of initial hazardous waste management training violated 35 IAC § 274.116(d) [40 C.F.R. § 264.16(d)].

Civil Penalty

31. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$30,000. In determining the

penalty amount, Complainant took into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements. Complainant also considered EPA's *RCRA Civil Penalty Policy*, dated June 23, 2003.

32. Respondent agrees to pay the United States of America a civil penalty of \$30,000 plus interest, calculated at three percent per annum, in three installments. Appendix A sets forth the schedule and amounts of Respondent's payments. Respondent may pay the full amount of the penalty, \$30,000, within 30 days of the effective date of this CAFO without incurring any interest charges. Any payments Respondent makes more than 30 days after the effective date of this CAFO will incur interest. EPA will not assess a prepayment penalty if Respondent elects to prepay part or all of the installments.

33. Respondent must pay the penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

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

The check must state the case title (*In the matter of Bridgeview Aerosol, LLC*), the docket number of this CAFO and the billing document number.

34. A transmittal letter, stating, Respondent's name, the case title, Respondent's complete address, the case docket number and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

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

Spiros Bourgikos (LR-8J)
RCRA Branch
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

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

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

General Provisions

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

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

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

40. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 through 6939e, and the regulations at 35 IAC Parts 720 through 728 [40 C.F.R. Parts 260 through 268].

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

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


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

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

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

Bridgeview Aerosol, LLC, Respondent


SEP 29, 2019
Date



Dennis Nolan
President and Chief Operating Officer
Bridgeview Aerosol, LLC

United States Environmental Protection Agency, Complainant

10/19/09
Date



for Margaret M. Guerriero
Director
Land and Chemicals Division

Appendix A: Schedule of Payments

The following table sets forth the payment schedule for Respondent to resolve this matter.

Payment #	Due Date*	Amount Due	Principal	Interest	Principal Balance
1	30	\$10,000.00**	\$10,000.00	\$0.00	\$20,000.00
2	60	\$10,098.63	\$10,000.00	\$98.63	\$10,000.00
3	90	\$10,073.97	\$10,000.00	\$73.97	\$0

* Due Date indicates the number of days after the effective date of the CAFO that the penalty payment is due.

** The first payment does not include interest because it is due within 30 days of the effective date of the CAFO.

In the Matter of: Bridgeview Aerosol, LLC
Docket No. RCRA-05-2010-0003

RECEIVED
OCT 26 2009
REGIONAL HEARING CLERK
USEPA
REGION 5

Final Order

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

10/22/09
Date

Walter W. Karalich
for
Bharat Mathur
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

U.S. ENVIRONMENTAL
PROTECTION AGENCY

OCT 25 2009

OFFICE OF REGIONAL
COUNSEL

CASE NAME: Bridgeview Aerosol, LLC
DOCKET NO: RCRA RCRA-05-2010-0003

RECEIVED
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REGIONAL HEARING CLERK
USEPA
REGION 5

CERTIFICATE OF SERVICE

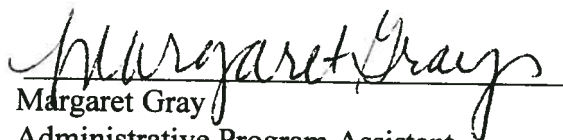
I hereby certify that today I filed the original of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed via Certified Mail, Return Receipt Requested to the following:

Mr. Dennis Nolan
President and Chief operating Officer
Bridgeview Aerosol, LLC
8401 South 77th Avenue
Bridgeview, Illinois 60455

Return Receipt # 7009 1680 0000 7666 9382

Dated: 10/26/09



Margaret Gray
Administrative Program Assistant
United States Environmental Protection Agency
Land and Chemicals Division - RCRA Branch
77 W. Jackson Boulevard
Chicago, IL 60604-3590
(312) 353-5028