



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

DEC 11 2014

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL 7009 1680 0000 7677 8084
RETURN RECEIPT REQUESTED

Mr. Arnold S. Graber
Executive Vice President and General Counsel
Mayco Industries, Incorporated (Metalico, Inc.)
186 North Avenue East
Cranford, New Jersey 07016

Re: Consent Agreement and Final Order
Mayco Industries, Incorporated
Docket No: **RCRA-05-2015-0003**

Dear Mr. Graber:

Enclosed please find a copy of the signed, fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The original was filed on December 11, 2014, with the Regional Hearing Clerk.

Please pay the civil penalty in the amount of \$24,460 in the manner prescribed in paragraph 61 of the CAFO, and reference all checks with the docket number **RCRA-05-2015-0003**. Your payment is due within 30 calendar days of the effective date of the CAFO. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in blue ink that reads "Gary J. Victorine".

Gary J. Victorine, Chief
RCRA Branch

Enclosures

cc: Todd Marvel, Illinois Environmental Protection Agency; todd.marvel@illinois.gov
(w/CAFO)

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:)

Mayco Industries, Incorporated)
1200 16th Street)
Granite City, Illinois)
U.S. EPA ID No. ILD096731468)

Respondent)
_____)

Docket No. RCRA-05-2015-0003

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)



Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Land and Chemicals Division, U. S. Environmental Protection Agency, Region 5.
3. U.S. EPA provided notice of commencement of this action to the State of Illinois pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
4. Respondent is Mayco Industries, Incorporated, a corporation doing business in the State of Illinois.
5. Where the parties agree to settle one or more causes of action before the filing of

a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

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

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

Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 and 6928.

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

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

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6992k, and the regulations at 40 C.F.R. Parts 260 - 279.

Statutory and Regulatory Background

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

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

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

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

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

16. The Administrator of U.S. 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 note (1996), required U.S. 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, U.S. EPA may assess a civil penalty of up to \$37,500 per day for each violation of Subtitle C of RCRA that occurred after January 12, 2009.

Factual Allegations and Alleged Violations

17. Respondent was and is a "person" as defined by 35 Illinois Administrative Code

(IAC) § 720.110 and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

18. Respondent is an “owner” and/or “operator,” as those terms are defined under 35 IAC § 720.110 and 40 C.F.R. § 260.10, of a facility located at 1200 16th Street, Granite City, Illinois (the facility).

19. Respondent’s facility is a “facility” as that term is defined under 35 IAC § 720.110 and 40 C.F.R. § 260.10.

20. At all times relevant to this complaint, Respondent purchased lead, in various forms, on the open market, and smelted the lead at its facility in order to produce a variety of lead products.

21. At all times relevant to this complaint, Respondent generated spent refractory brick from its smelting process that was sent off-site for recycling or disposal.

22. The refractory brick identified in paragraph 21 is a solid waste as that term is defined at 35 IAC § 721.102 and 40 C.F.R. § 261.2 (a) and (b).

23. The refractory brick identified in paragraph 21 is a hazardous waste that is characteristic for lead, U.S. EPA Hazardous Waste Number D008, as defined in 35 IAC § 721.124 and 40 C.F.R. § 261.24.

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

25. Respondent generated and managed hazardous waste at the facility on or after November 19, 1980.

26. Respondent generated over 1,000 kilograms of hazardous waste refractory brick during at least one month in 2009.

27. Respondent generated over 1,000 kilograms of hazardous waste refractory brick

during at least one month in 2010.

28. Respondent generated over 1,000 kilograms of hazardous waste refractory brick during at least one month in 2011.

29. Respondent generated over 1,000 kilograms of hazardous waste refractory brick during at least one month in 2012.

30. On July 25, 2012, U.S. EPA conducted a compliance evaluation inspection (CEI) at Respondent's facility to determine Respondent's compliance with Subtitle C of RCRA.

31. On January 28, 2013, U.S. EPA issued a Notice of Violation to Respondent regarding violations identified during the CEI.

32. Respondent responded to the U.S. EPA Notice of Violation Notice on or about March 15, 2013 and March 18, 2013.

33. On June 3, 2014, U.S. EPA issued a Notice of Intent to File a Civil Administrative Complaint against Respondent.

Count 1: Failure to submit Annual Reports to the State of Illinois by March 1 for the preceding calendar year, 40 C.F.R. § 262.41

34. Complaint incorporates paragraphs 12 through 33 of this Complaint as though set forth in this paragraph.

35. A person who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must prepare and submit a single copy of an annual report to the Illinois Environmental Protection Agency (IEPA) by March 1 for the preceding calendar year. The annual report must be submitted on a form supplied by the Agency, and must cover generator activities during the previous calendar year. See, 35 IAC § 722.141(a) [40 C.F.R. § 262.41].

36. Respondent had not submitted an Annual Report to the State of Illinois from on

or about March 1, 2006, until on or about March 1, 2013.

Count 2: Failure to obtain a hazardous waste storage permit

37. Complainant incorporates paragraphs 12 through 33 of this Complaint as though set forth in this paragraph.

38. Pursuant to 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.

39. Pursuant to 35 IAC § 722.134 and 40 C.F.R. § 262.34(a), however, and subject to certain exceptions, 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 applicable conditions set forth in 35 IAC § 722.134 and 40 C.F.R. § 262.34(a).

40. The failure to comply with any of the conditions of 35 IAC § 722.134 [40 C.F.R. §262.34] subjects the generator of hazardous waste to the requirements of 35 IAC Parts 724 and 725 and the permit requirements of 35 IAC §§ 703.121, 703.180 and 705.121.

41. In order for a generator of hazardous waste to maintain its exemption from the requirement to have an operating permit or interim status, it must comply with the requirements for owners or operators in 35 IAC 725.116, Personnel Training.

42. Respondent failed to comply with the requirements in 35 IAC 725.116 by not conducting training for employees who have hazardous waste duties.

43. Respondent failed to comply with the requirements in 35 IAC 725.116 by not maintaining the job title for each position at the facility related to hazardous waste management and the name of the employee filling each job title.

44. Similarly, the conditions of IAC § 722.134(a)(4) [40 C.F.R. § 262.34(a)(4)] subjects the generator of hazardous waste to the requirements of 35 IAC 725 Subpart D, Contingency Plan and Emergency Procedures.

45. Respondent failed to comply with the requirements in 35 IAC 725 Subpart D by failing to carry out provisions of the facility's contingency plan when the facility experienced a fire in 2009.

46. Respondent failed to comply with the requirements in 35 IAC 725 Subpart D by failing to maintain a contingency plan which lists names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, and keep it up to date.

47. Respondent failed to comply with the requirements in 35 IAC 725 Subpart D by failing to review and immediately amend the contingency plan, if necessary, whenever the facility changes in its design, construction, operation, maintenance, or other circumstances in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents or changes the response necessary in an emergency.

48. Respondent failed to comply with the requirements of 35 IAC 725 Subpart D by failing to amend its contingency plan as the list of emergency coordinators changed.

49. As a result of Respondent's failure to meet several of the conditions for the generator exemption provided by 35 IAC § 722.134(a)(4) [40 C.F.R. § 262.34(a)(4)], Respondent became an operator of a hazardous waste storage facility.

Count 3: Failure to store universal waste lamps in closed containers

50. Complainant incorporates paragraphs 12 through 33 of this Complaint as though set forth in this paragraph.

51. A small quantity handler of universal waste lamps must contain all lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. See, 35 IAC §§ 733.113(d) (1) [40 C.F.R. § 273.13(d)].

52. At the time of the inspection, Respondent had two containers of used lamps, which weighed less than 5,000 kilograms.

53. The used lamps were “universal waste” as defined in 35 IAC § 733.109 [40 CFR § 273.09].

54. Respondent was a “small quantity handler of universal waste” as defined in 35 IAC § 733.109 [40 CFR § 273.09].

55. At the time of inspection, the two containers of used lamps at Respondent’s facility were not closed.

56. Respondent’s failure to contain universal waste lamps in closed containers constituted a violation of 35 IAC § 733.113(d)(1) [40 CFR § 273.13(d)].

Count 4: Failure to store universal waste lamps in containers that are labeled or marked

57. Complainant incorporates paragraphs 12 through 33 of this Complaint as though set forth in this paragraph.

58. A small quantity handler of universal waste must label or mark each lamp or a container or package in which such lamps are contained must be labeled or clearly marked with one of the following phrases: “Universal Waste – Lamps,” “Waste Lamps,” or “Used Lamps.” See, 35 IAC §§ 733.114(e) [40 C.F.R. 273.14(e)].

59. Respondent's failure to label or mark containers of universal waste lamps with either "Universal Waste – Lamps," "Waste Lamps," or "Used Lamps" constituted a violation of 35 IAC § 733.114(e) [40 CFR § 273.14(e)].

Civil Penalty

60. 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 \$24,460. In determining the penalty amount, Complainant considered the seriousness of the violation, any good faith efforts to comply with the applicable requirements, and Respondents ability to pay.

Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

61. Within 30 days after the effective date of this CAFO, Respondent must pay a \$24,460 civil 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 and the docket number of this CAFO.

62. A transmittal letter stating Respondent's name, the case title and the case docket 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

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

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

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

64. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

65. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

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

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

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

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

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


71. 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.

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

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


Mayco Industries, Incorporated, Respondent

October 8, 2014
Date


Arnold S. Graber
Secretary

United States Environmental Protection Agency, Complainant

12/1/2014
Date



Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
Mayco Industries, Incorporated
Docket No. RCRA-05-2015-0003

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.

12-5-2014
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

Consent and Final Order

In the Matter of: Mayco Industries, Inc. EPA ID No.: ILD096731468


DOCKET NO: RCRA-05-2015-0003

CERTIFICATE OF SERVICE

I hereby certify that today I filed the original of this Consent Agreement and Final Order ((CAFO) docket number RCRA-05-2015-0003 the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows :

Mr. Arnold S. Graber
Executive Vice President and General Counsel
Mayco Industries, Incorporated (Metalico, Inc.)
186 North Avenue East
Cranford, New Jersey 07016
Certified Mail No.: 7009 1680 0000 7677 8084

On the 11th Day of December, 2014



Ruben B. Aridge
Office Administrative Assistant
United States Environmental Protection Agency
Region V
Land and Chemicals Division LM-8J
77 W. Jackson Blvd, Chicago, IL 60604-3590

Certified Mail Receipt Number: **7009 1680 0000 7677 8084**