



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

APR 13 2016

CERTIFIED MAIL 7009 1680 0000 7669 2014
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

Scott M. Doran, Esq.
Kegler Brown Hill
Ritter Co. LPA
65 East State Street, Suite 1800
Canton, Ohio 43215

Re: Consent Agreement and Final Order
Miba Bearings US, LLC
Docket No: **RCRA-05-2016-0010**

Dear Mr. Doran:

Enclosed please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The originals were filed on April 13, 2016 with the Regional Hearing Clerk (RHC).

Please pay the civil penalty in the amount of \$38,000 in the manner prescribed in paragraph(s) 36 to 41 of the CAFO, and reference all checks with the and docket number **RCRA-05-2016-0010**. Your payment is due within thirty (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*.

If you have any questions, please contact Associate Regional Counsel, Eaton Weiler, at (312) 886-6041.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Gary Victorine".

Gary Victorine, Chief
RCRA Branch

Enclosures

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:

Miba Bearings US LLC
McConnelsville, Ohio

Respondent.



Docket No. RCRA-05-2016-0010

Proceeding to Assess a Civil Penalty
Under Section 3008(a) of the Resource
Conservation and Recovery Act,
42 U.S.C. § 6928(a)

Complaint and Compliance 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, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. U.S. EPA provided notice of commencement of this action to the State of Ohio pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
4. Jurisdiction for this action is conferred upon U.S. EPA by Sections 2002(a)(1), 3006(b), and 3008 of RCRA; 42 U.S.C. §§ 6912(a)(1), 6926(b), and 6928.
5. Respondent is Miba Bearings US LLC, a corporation doing business in the State of Ohio.

Jurisdiction and Waiver of Right to Hearing

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

7. 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

8. 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 3002-3005 of RCRA, 42 U.S.C. §§ 6922-6925.

9. 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.

10. Any violation of regulations promulgated pursuant to Subtitle C 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.

11. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Ohio final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective June 30, 1989. 54 Fed. Reg. 27170 (June 28, 1989).

12. 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.

13. The Administrator of U.S. EPA may assess a civil penalty of up to \$37,500 per day for each violation of Subtitle C of RCRA, pursuant 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 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

14. Respondent is a "person" as that term is defined under OAC 3745-50-10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

15. Respondent is an "owner" or "operator," as those terms are defined under OAC 3745-50-10 [40 C.F.R. § 260.10] of a facility located at 5037 State Route 60 N, McConnelsville, Ohio.

16. Respondent's facility consists of land and structures, other appurtenances, and improvements on the land, portions of which are used for storing hazardous waste.

17. Respondent's facility constitutes a "facility," as that term is defined under OAC 3745-50-10 [40 C.F.R. § 260.10].

18. Respondent's actions and processes at the facility cause the production of "hazardous waste," as that term is defined under OAC 3745-50-10 [40 C.F.R. § 260.10].

19. Respondent is a "generator" of hazardous waste, as that term is defined under OAC 3745-50-10 [40 C.F.R. § 260.10].

20. At all times relevant to this Complaint, Respondent did not have a permit or interim status to treat, store, or dispose of hazardous waste at its facility.

Count I: Storage of Hazardous Waste Without a Permit

21. Complainant incorporates paragraphs 1 through 20 of this CAFO as though set forth in this paragraph.

22. Pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925(a), the treatment, storage, or disposal of hazardous waste by any person without a permit or interim status is prohibited.

23. Pursuant to OAC 3745-52-34(A) [40 C.F.R. § 262.34(a)] however, and subject to certain additional conditions, a generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without having a permit.

24. A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility, subject to the requirements to apply for and obtain a permit under OAC 3745-50-40 and 3745-50-45 [40 C.F.R §§ 270.1 and 270.10(a)].

25. Respondent accumulated and held spent nickel bath in a 300-gallon tote.

26. The tote was labeled "Waste Acid," with codes "D002, D007, D008," and dated October 8, 2012.

27. Respondent arranged for the transportation and disposal of the spent nickel bath from the facility on May 21, 2014.

28. Respondent stored hazardous waste without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925, and OAC 3745-50-40 and 3745-50-45 [40 C.F.R §§ 270.1 and 270.10].

Count II: Failure to Contain Fluorescent Lamps

29. Complainant incorporates paragraphs 1 through 28 of this CAFO as though set forth in this paragraph.

30. Pursuant to OAC 3745-273-34(D) [40 C.F.R § 273.13(d)(1)], a small quantity handler of universal waste must contain any subject lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps.

31. Respondent is a “generator” of spent fluorescent lamps, as that term is defined under OAC 3745-273-09 [40 C.F.R. § 273.9].

32. Spent fluorescent lamps constitute “universal waste,” as that term is defined under OAC 3745-273-09 [40 C.F.R. § 273.9].

33. Respondent is a “small quantity handler of universal waste,” as that term is defined under OAC 3745-273-09 [40 C.F.R. § 273.9].

34. On the date of USEPA’s inspection of the facility, Respondent accumulated for disposal 4 loose spent fluorescent lamps on a tool cart.

35. Respondent violated OAC 3745-273-34(D) [40 C.F.R § 273.13(d)(1)] by failing to contain 4 fluorescent lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps.

Civil Penalty

36. Complainant has determined that an appropriate civil penalty to settle this action is \$38,000. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violations, and any other matters as justice may require. Complainant also considered the facts of this case with specific reference to U.S. EPA’s RCRA Civil Penalty Policy, dated June 23, 2003.

37. Within 30 days after the effective date of this CAFO, Respondent must pay a \$38,000 civil penalty for the RCRA violations by:

For checks sent by regular U.S. Postal Service mail, sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

The check must state Respondent's name and the docket number of this CAFO.

For checks sent by express mail, sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must state Respondent's name and the docket number of this CAFO.

For electronic funds transfer, sending funds electronically, payable to "Treasurer, United States of America," and to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state Respondent's name and the docket number of this CAFO.

38. Respondent must send a notice of payment that states Respondent's name and the case docket number to EPA at the following addresses when it pays the penalty:

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

Derrick Samaranski (LC-8J)
Land and Chemicals Division
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Eaton Weiler (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604]

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

40. 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.

41. 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

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

43. 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.

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

45. 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).

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


47. 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.

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

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

Miba Bearings US LLC, Respondent


3/23/14
Date



Bernard R. Anderson
President
Miba Bearings US LLC

United States Environmental Protection Agency, Complainant

4/11/2014
Date



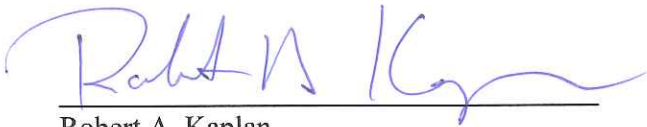
Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
Miba Bearings US LLC
Docket No. RCRA-05-2016-0010

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.

4-12-14
Date



Robert A. Kaplan
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Miba Bearings US, LLC
Docket Number: **RCRA-05-2016-0010**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number *See Above*, which was filed on *4/13/2016*, this day in the following manner to the addressees:

Copy by certified mail
return-receipt requested:

Bernard R. Anderson
Miba Bearings US, LLC
5037 State Toute 60 N
McConnelsville, Ohio 43756

Copy by e-mail to
Attorney for Complainant:

Eaton Weiler
Weiler.eaton@epa.gov

Copy by e-mail to
Attorney for Respondent:

Scott Doran
SDoran@keglerbrown.com

Copy by e-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated:

April 13, 2016 

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S):

7009 1680 0000 7669 2014