



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

MAR 28 2012

REPLY TO THE ATTENTION OF:
LR-8J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert A. McCann
General Counsel
Panduit Corp.
18900 Panduit Drive
Tinley Park, Illinois 60487

Re: Panduit Corp.
EPA ID No.: ILR 000 049 312 and ILT 180 013 583
Consent Agreement and Final Order
Docket No.: RCRA- RCRA-05-2012-0005

Dear Mr. McCann,

Enclosed, please find one of two original signed copies of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the referenced case. We filed the originals with the Regional Hearing Clerk on MAR 28 2012.

Please pay the civil penalty of \$60,550.00 in accordance with paragraph 124 of this CAFO, and reference your check with the number BD 2751242R004 and Docket Number RCRA-RCRA-05-2012-0005. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*.

Thank you again for your cooperation in resolving this matter.

Sincerely,

Gary Victorine, Chief
RCRA Branch
Land and Chemicals Division

Enclosures

cc: Todd Marvel, Illinois Environmental Protection Agency (w/ CAFO)
Michael T. Scanlon, Barnes and Thornburg LLP

RECEIVED
MAR 28 2012

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. RCRA-05-2012-0005
)	
Panduit Corp.)	Proceeding to Assess a Civil Penalty
Tinley Park, Illinois,)	Under Section 3008(a) of the Resource
)	Conservation and Recovery Act,
Respondent.)	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, 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 Illinois pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

4. Respondent is Panduit Corp., a corporation doing business in the State of Illinois and incorporated in the State of Delaware.

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 in this proceeding, and its right to appeal this CAFO.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. § 6922 and 35 Ill. Adm. Code § 722.134(a)(1)(A), (a)(1)(B), (a)(2), (a)(3) and (a)(4), 35 Ill. Adm. Code § 725.116(d)(1), (2), (3) and (4), 35 Ill. Adm. Code § 725.153(a), 35 Ill. Adm. Code § 725.292(a), 35 Ill. Adm. Code § 725.293(b)(1), and 35 Ill. Adm. Code § 725.294(b)(2) [40 C.F.R. § 262.34(a)(1)(i), (a)(1)(ii), (a)(2), (a)(3) and (a)(4), 40 C.F.R. § 265.16(d)(1), (2), (3) and (4), 40 C.F.R. § 265.53(a), 40 C.F.R. § 265.192(a), 40 C.F.R. § 265.193(b)(1), and 40 C.F.R. § 265.194(b)(2)] at its Orland Park and New Lenox Facilities as identified below.

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 3002, 3003, and 3004 of RCRA, 42 U.S.C. §§ 6922, 6923, 6924.

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 30, 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. 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 \$32,500 per day for each violation of Subtitle C of RCRA that occurred after March 15, 2004 through January 12, 2009 and 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

16. Respondent is a “person” as defined by 35 Ill. Adm. Code § 720.110 and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. Respondent is an “owner” or “operator,” as those terms are defined under 35 Ill. Adm. Code § 720.110 [40 C.F.R. § 260.10], of a facility located at 10500 167th Street, Orland Park, Illinois (Orland Park Facility) and a facility located at 1333 School House Road, New Lenox, Illinois (New Lenox Facility) (jointly the “Facilities”).

18. At all times relevant to this CAFO, Respondent’s Facilities consisted of land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.

19. Respondent’s Orland Park Facility and New Lenox Facility are both a “facility,” as that term is defined under 35 Ill. Adm. Code § 720.110 [40 C.F.R. § 260.10].

20. At all times relevant to this CAFO, Respondent used nickel, tin or gold in its electroplating process at the Facilities.

21. The nickel, tin or gold electroplating process generated wastewater treatment sludges which Respondent collected in tanks and stored or treated in its water treatment room at

each Facility.

22. At all times relevant to this CAFO, Respondent held wastewater treatment sludges, a discarded material, for temporary periods in tanks before the material was shipped from the Facilities for treatment, storage, or disposal elsewhere.

23. At all times relevant to this CAFO, Respondent utilized methods, techniques, or processes designed to change the physical, chemical, or biological character or composition of the F006 wastewater treatment sludges so as to render such waste safer to transport, store, or dispose of, or amenable for recovery, amenable for storage, or reduced in volume.

24. Respondent characterized its wastewater treatment sludges as hazardous waste code F006.

25. Respondent stored, treated, or otherwise handled its F006 wastewater treatment sludges in "tanks," as that term is defined under 35 Ill. Adm. Code § 720.110 [40 C.F.R. § 260.10].

26. The tanks referenced in paragraph 25, above, consisted of Tanks 5, 6 and 7, the Evaporator and the Sump at the Orland Park Facility, and Tank 9 at the New Lenox Facility.

27. Tanks 5, 6 and 7, the Evaporator and the Sump were installed after July 14, 1986.

28. Tanks 5, 6 and 7, the Evaporator, the Sump, and its associated ancillary equipment, including, but not limited to, the filter press, and containment systems were "new tank systems," as that term is defined under 35 Ill. Adm. Code § 720.110 [40 C.F.R. § 260.10].

29. Tank 9, its associated ancillary equipment and secondary containment system comprised a "tank system" as that term is defined under 35 Ill. Adm. Code § 720.110 [40 C.F.R. § 260.10].

30. At all times relevant to this CAFO, Respondent's acts or processes produced F006 wastewater treatment sludge.

31. At all times relevant to this CAFO, Respondent's F006 wastewater treatment sludge was a "solid waste" as that term is defined under 35 Ill. Adm. Code § 721.102 [40 C.F.R. § 261.2].

32. At all times relevant to this CAFO, Respondent's F006 wastewater treatment sludge was a "hazardous waste" as that term is defined under 35 Ill. Adm. Code § 721.103 [40 C.F.R. § 261.3].

33. At all times relevant to this CAFO, Respondent's holding of F006 wastewater treatment sludge in tanks constituted hazardous waste "storage," as that term is defined under 35 Ill. Adm. Code § 720.110 [40 C.F.R. § 260.10].

34. At all times relevant to this CAFO, Respondent's methods, techniques, or processes designed to change the physical, chemical, or biological character or composition of the F006 wastewater treatment sludges in tanks constituted hazardous waste "treatment," as that term is defined under 35 Ill. Adm. Code § 720.110 [40 C.F.R. § 260.10].

35. At all times relevant to this CAFO, Respondent used solvents for degreasing or cleaning parts at its Orland Park Facility.

36. The degreasing or cleaning process generated spent solvent, which Respondent collected in 55-gallon containers and stored in the hazardous waste storage room at its Orland Park Facility.

37. The degreasing or cleaning process generated spent acetone which Respondent collected in 5-gallon containers in its satellite accumulation area before storing in the hazardous

waste storage room at its Orland Park Facility.

38. At all times relevant to this CAFO, Respondent held spent solvent or spent acetone, a discarded material, for temporary periods in 55-gallon or 5-gallon containers before the material was shipped from the Orland Park Facility for treatment, storage, or disposal elsewhere.

39. Respondent characterized its spent solvent or spent acetone as hazardous waste codes D001 or D035.

40. Respondent stored, treated, transported, disposed of, or otherwise handled its spent solvent or spent acetone in “containers,” as that term is defined under 35 Ill. Adm. Code § 720.110 [40 C.F.R. § 260.10].

41. At all times relevant to this CAFO, Respondent’s acts or processes produced spent solvent or spent acetone.

42. At all times relevant to this CAFO, Respondent’s spent solvent or spent acetone was a “solid waste” as that term is defined under 35 Ill. Adm. Code § 721.102 [40 C.F.R. § 261.2].

43. At all times relevant to this CAFO, Respondent’s spent solvent or spent acetone was a “hazardous waste” as that term is defined under 35 Ill. Adm. Code § 721.103 [40 C.F.R. § 261.3].

44. At all times relevant to this CAFO, Respondent’s holding of spent solvent or spent acetone in containers constituted “storage” of hazardous waste as that term is defined under 35 Ill. Adm. Code § 720.110 [40 C.F.R. § 260.10].

45. Respondent is a “generator,” as that term is defined under 35 Ill. Adm. Code § 720.110 [40 C.F.R. § 260.10].

46. Respondent generated and managed hazardous waste at its Facilities after November

19, 1980.

47. On August 12, 2008, U.S. EPA conducted an initial Compliance Evaluation Inspection of the Orland Park Facility (August 2008 CEI).

48. On December 1, 2009, U.S. EPA conducted a Sampling Event at the Orland Park Facility (December 2009 SE).

49. On December 2, 2009, U.S. EPA conducted an initial Compliance Evaluation Inspection of the New Lenox Facility (December 2009 CEI).

50. On March 8, 2011, U.S. EPA conducted a follow-up Compliance Evaluation Inspection of the New Lenox Facility (March 2011 CEI).

51. On October 6, 2011, U.S. EPA issued a Notice of Intent to File a Civil Administrative Complaint against Respondent alleging certain violations of RCRA discovered during the August 2008, December 2009, and March 2011 CEIs and December 2009 SE and follow up correspondence.

52. On October 20, 2011, Respondent submitted to U.S. EPA a written response to the Notice of Intent to File a Civil Administrative Complaint.

53. At all times relevant to this CAFO, the State of Illinois had not issued a permit to Respondent to treat, store, or dispose of hazardous waste at either of Respondent's Facilities.

54. At all times relevant to this CAFO, Respondent did not have interim status for the treatment, storage, or disposal of hazardous waste at either of Respondent's Facilities.

55. Respondent submitted an initial Hazardous Waste Notification on or near January 8, 1981 for the New Lenox Facility.

56. Respondent submitted a Hazardous Waste Notification on or near March 1, 2000 for

the Orland Park Facility.

57. In its Hazardous Waste Notifications referenced in paragraphs 55 and 56 above, Respondent identified itself as a generator.

58. At all times relevant to this CAFO, Respondent generated during each calendar month more than 1000 kg of hazardous waste at each Facility.

Count 1: Storage of Hazardous Waste Without a Permit or Interim Status

59. Complainant incorporates paragraphs 1 through 58 of this CAFO as though set forth in this paragraph.

60. Pursuant to 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.

61. Pursuant to 35 Ill. Adm. Code § 722.134(a) [40 C.F.R. § 262.34(a)], 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 Ill. Adm. Code § 722.134(a) [40 C.F.R. § 262.34(a)] including, but not limited to, requirements for owners and operators in Subparts C and D of 35 Ill. Adm. Code Part 725 and 35 Ill. Adm. Code 725.116.

Failure to Place Hazardous Waste in Containers or Tanks

62. Pursuant to 35 Ill. Adm. Code § 722.134(a) [40 C.F.R. § 262.34(a)], in order for a large quantity generator of hazardous waste to maintain its exemption from the requirement to have an operating permit or interim status, it must comply with the specific condition set forth in

35 Ill. Adm. Code § 722.134(a)(1) [40 C.F.R. § 262.34(a)(1)] that the hazardous waste be placed in containers or tanks.

63. From the December 2009 CEI until November 16, 2011, Respondent had accumulated F006 hazardous waste in the secondary containment for hazardous waste Tank 9 at its New Lenox Facility.

64. Accordingly, Respondent failed to satisfy one of the conditions for maintaining its exemption from the requirement that it have an operating permit or interim status when it failed to place the F006 hazardous waste in containers or tanks as referenced in paragraph 63 above.

Failure to Adequately Operate Secondary Containment

65. Pursuant to 35 Ill. Adm. Code § 722.134(a)(1)(B) [40 C.F.R. § 262.34(a)(1)(ii)], in order for a large quantity generator of hazardous waste to maintain its exemption from the requirement to have an operating permit or interim status, it must comply with Subpart J of 35 Ill. Adm. Code 725 except 35 Ill. Adm. Code 725.297(c) and 725.300.

66. Under Subpart J, Tank Systems, 35 Ill. Adm. Code § 725.293(b)(1) [40 C.F.R. § 265.193(b)(1)], secondary containment systems must be designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water, or surface water at any time during the use of the tank system.

67. From the December 2009 CEI until November 16, 2011, Respondent had accumulated F006 hazardous waste in the secondary containment for hazardous waste Tank 9 at its New Lenox Facility.

68. The accumulation of F006 hazardous waste referenced in paragraph 67, above, may allow migration of wastes or accumulated liquid out of the system to the soil, ground water, or surface water at any time during the use of the tank system.

69. Accordingly, Respondent failed to satisfy one of the conditions for maintaining its exemption from the requirement to have an operating permit or interim status when it failed to adequately operate its secondary containment system as referenced in paragraph 67 above.

Failure to use Overfill Prevention Controls on Tanks

70. Pursuant to 35 Ill. Adm. Code § 722.134(a)(1)(B) [40 C.F.R. § 262.34(a)(1)(ii), in order for a large quantity generator of hazardous waste to maintain its exemption from the requirement to have an operating permit or interim status, it must comply with Subpart J of 35 Ill. Adm. Code 725 except 35 Ill. Adm. Code 725.297(c) and 725.300.

71. Under Subpart J, Tank Systems, 35 Ill. Adm. Code § 725.294(b)(2) [40 C.F.R. § 265.194(b)(2)], the generator must use overfill prevention controls (e.g. level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank) to prevent spills and overflows from tanks.

72. Since at least August 12, 2008 until December 21, 2011, Respondent did not use overfill prevention controls to prevent spills and overflows from the Evaporator and the Sump located in the Orland Park Facility's water treatment room.

73. Accordingly, Respondent failed to satisfy one of the conditions for maintaining its exemption from the requirement to have an operating permit or interim status when it failed to use overfill prevention controls to prevent spills and overflows as referenced in paragraph 72 above.

Failure to have Written Assessments of Hazardous Waste Tanks

74. Pursuant to 35 Ill. Adm. Code § 722.134(a)(1)(B) [40 C.F.R. § 262.34(a)(1)(ii)], in order for a large quantity generator of hazardous waste to maintain its exemption from the requirement to have an operating permit or interim status, it must comply with Subpart J of 35 Ill. Adm. Code 725 except 35 Ill. Adm. Code 725.297(c) and 725.300.

75. Under Subpart J, Tank Systems, 35 Ill. Adm. Code § 725.292(a) [40 C.F.R. § 265.192(a)], the generator must obtain a written assessment, reviewed and certified by a qualified Professional Engineer, in accordance with 35 Ill. Adm. Code 702.126(d) attesting that the new tank system has sufficient structural integrity and is acceptable for storing and treating hazardous waste.

76. Until January 2, 2009, Respondent did not have a written assessment for new tank system 7 at its Orland Park Facility.

77. Until January 4, 2012, Respondent did not have a written assessment for new tank systems 5 and 6, the Evaporator, Sump and filter press at its Orland Park Facility.

78. Accordingly, Respondent failed to satisfy one of the conditions for maintaining its exemption from the requirement to have an operating permit or interim status when it failed to have a written assessment for the new tanks systems identified in paragraphs 76 and 77 above.

Failure to Maintain Training Records

79. Pursuant to 35 Ill. Adm. Code § 722.134(a)(4) [40 C.F.R. § 262.34(a)(4)], in order for a large quantity generator of hazardous waste to maintain its exemption from the requirement to have an operating permit or interim status, it must comply with 35 Ill. Adm. Code § 725.116 [40 C.F.R. § 265.16].

80. 35 Ill. Adm. Code § 725.116(d)(1), (2), (3) and (4) [40 C.F.R. § 265.16(d)(1), (2), (3) and (4)] require that owners and operators of hazardous waste facilities maintain the following documents and records:

The job title for each position at the facility related to hazardous waste management and the name of the employee filling each job;

A written job description for each position listed under [paragraph (d)(1) of 35 Ill. Adm. Code § 725.116]. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position;

A written description of the type and amount of both introductory and continuing training that will be given to each person filling a [hazardous waste management] position listed under [paragraph (d)(1) of 35 Ill. Adm. Code § 725.116]; and,

Records that document that the training or job experience required under [35 Ill. Adm. Code § 725.116(a), (b) and (c)] has been given to, and completed by, facility personnel.

81. At the time of the August 2008 CEI, Respondent failed to provide job titles for each position at the Orland Park Facility related to hazardous waste management, and the name of the employee filling each job.

82. At the time of the August 2008 CEI, Respondent failed to maintain any documents and records providing a written job description that included the requisite skill, education, or other qualifications, and duties for each position at the Orland Park Facility related to hazardous waste management.

83. At the time of the August 2008 CEI, Respondent failed to maintain any documents and records providing the type and amount of both introductory and continuing training to be

given to each employee filling a position at the Orland Park Facility related to hazardous waste management.

84. At the time of the August 2008 CEI, Respondent failed to maintain any documentation that the training or job experience required under 35 Ill. Adm. Code § 725.116(a), (b) and (c) had been given to, and completed by, all appropriate Orland Park Facility personnel.

85. At the time of the December 2009 and March 2011 CEIs, Respondent failed to provide the job title for each position at the New Lenox Facility related to hazardous waste management, and the name of the employee filling each job.

86. At the time of the December 2009 and March 2011 CEIs, Respondent failed to maintain any documents and records providing a written job description that included the requisite skill, education, or other qualifications, and duties for each position at the New Lenox Facility related to hazardous waste management.

87. At the time of the December 2009 and March 2011 CEIs, Respondent failed to maintain any documents and records providing the type and amount of both introductory and continuing training to be given to each employee filling a position at the New Lenox Facility related to hazardous waste management.

88. At the time of the December 2009 CEI, Respondent failed to maintain documentation that the training or job experience required under 35 Ill. Adm. Code § 725.116(a), (b) and (c) had been given to, and completed by, all appropriate facility personnel.

89. Respondent's failure to maintain records that provided job titles and written job description for each position related to hazardous waste management; the type and amount of both introductory and continuing training to be given to each employee filling a hazardous waste management position; and documentation that the training or job experience required under 35

Ill. Adm. Code § 725.116(a), (b) and (c) had been given to, and completed by, facility personnel, as referenced in paragraphs 81 through 88, violated 35 Ill. Adm. Code § 725.116(d)(1), (2), (3) and (4) [40 C.F.R. § 265.16(d)(1), (2), (3) and (4)].

Failure to Maintain Hazardous Waste Tank System Inspection Records

90. Pursuant to 35 Ill. Adm. Code § 722.134(a)(1)(B) [40 C.F.R. § 262.34(a)(1)(ii)], in order for a large quantity generator of hazardous waste to maintain its exemption from the requirement to have an operating permit or interim status, it must comply with Subpart J of 35 Ill. Adm. Code 725 except 35 Ill. Adm. Code 725.297(c) and 725.300.

91. 35 Ill. Adm. Code § 725.295(g) [40 C.F.R. § 265.195(g)] requires that an owner or operator of a hazardous waste facility must document in the operating record of the facility an inspection of those items in paragraphs (a) and (b) of 35 Ill. Adm. Code 725.295.

92. 35 Ill. Adm. Code § 725.295(a) and (b) [40 C.F.R. § 265.195(a) and (b)] require that the owner or operator of a hazardous waste facility must inspect the following items:

Overfill/spill control equipment to ensure that it is in good working order;

Data gathered from monitoring and leak detection equipment to ensure that the tank system is being operated according to its design;

The above ground portions of the tank system, if any, to detect corrosion or releases of waste; and,

The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system, to detect erosion or signs of releases of hazardous waste.

93. At the time of the August 2008 CEI, Respondent failed to maintain inspection records, as referenced in paragraphs 91 and 92 above, of tank systems 5 and 6, the Evaporator, Sump and Filter Press at its Orland Park Facility.

94. Accordingly, Respondent failed to satisfy one of the conditions for maintaining its exemption from the requirement to have an operating permit or interim status when it failed to maintain hazardous waste tank inspection records for its tank systems identified in paragraph 93 above.

Failure to Label Hazardous Waste Tanks

95. 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 label or mark each tank holding hazardous waste clearly with the words “Hazardous Waste,” in accordance with 35 Ill. Adm. Code § 722.134(a)(3) [40 C.F.R. § 262.34(a)(3)].

96. At the time of the August 2008 CEI, Respondent had not labeled Tanks 5 and 6, the Evaporator or the Sump at its Orland Park Facility with the words “Hazardous Waste.”

97. Accordingly, Respondent failed to satisfy one of the conditions for maintaining its exemption from the requirement to have an operating permit or interim status when it failed to label its hazardous waste tanks with the words “Hazardous Waste” as referenced in paragraph 96 above.

Failure to Date Hazardous Waste Containers

98. 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 clearly mark each container holding hazardous waste with the date upon which each period of accumulation begins, in accordance with 35 Ill. Adm. Code § 722.134(a)(2) [40 C.F.R. § 262.34(a)(2)].

99. At the time of the August 2008 CEI, Respondent had not marked two 55-gallon containers of spent solvent at its Orland Park Facility with the date upon which the period of accumulation began.

100. Accordingly, Respondent failed to satisfy one of the conditions for maintaining its exemption from the requirement to have an operating permit or interim status when it failed to mark its 55-gallon containers of spent solvent with the date upon which the period of accumulation began as referenced in paragraph 99 above.

Failure to Label Hazardous Waste Containers

101. 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 label or mark each container holding hazardous waste clearly with the words "Hazardous Waste," in accordance with 35 Ill. Adm. Code § 722.134(a)(3) [40 C.F.R. § 262.34(a)(3)].

102. At the time of the August 2008 CEI, Respondent had not labeled or marked a 55-gallon container of spent solvent at its Orland Park Facility with the words, "Hazardous Waste."

103. Accordingly, Respondent failed to satisfy one of the conditions for maintaining its exemption from the requirement that it have an operating permit or interim status when it failed to label its 55-gallon container of spent solvent as referenced in paragraph 102 above.

Failure to Label Hazardous Waste Container in Satellite Accumulation Area

104. 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 label or mark each container holding hazardous waste at or near the point of generation with the words "Hazardous Waste" or with other words that identify the contents of the containers in accordance with 35 Ill. Adm. Code § 722.134(c)(1)(B) [40 C.F.R. § 262.34(c)(1)(ii)].

105. At the time of the August 2008 CEI, Respondent had not labeled or marked a

5-gallon container of spent acetone at or near the point of generation at its Orland Park Facility with the words, "Hazardous Waste" or with other words that identified the contents of the container.

106. Accordingly, Respondent failed to satisfy one of the conditions for maintaining its exemption from the requirement that it have an operating permit or interim status when it failed to label a 5-gallon container of spent acetone as referenced in paragraph 105 above.

Failure to Maintain a Contingency Plan

107. Pursuant to 35 Ill. Adm. Code § 722.134(a)(4) [40 C.F.R. § 262.34(a)(4)], in order for a large quantity generator of hazardous waste to maintain its exemption from the requirement to have an operating permit or interim status, it must comply with Subpart D of 35 Ill. Adm. Code 725.

108. 35 Ill. Adm. Code § 725.153(a) [40 C.F.R. § 265.53(a)] requires that a copy of the contingency plan and all revisions to the plan must be maintained at the facility.

109. At the time of the August 2008 CEI, Respondent failed to maintain a copy of the contingency plan at the Orland Park Facility when the Facility's computer system was not functional.

110. Accordingly, Respondent failed to satisfy one of the conditions for maintaining its exemption from the requirement that it have an operating permit or interim status when it failed to maintain a copy of its contingency plan at its Orland Park Facility as referenced in paragraph 109 above.

111. Respondent's storage of hazardous waste without a permit or interim status violated Section 3005(a) of RCRA, 42 U.S.C. § 6925(a) and the requirements of 35 Ill. Adm. Code §§ 703.121, 702.120, and 702.123 [40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13].

Count 2: Failure to Submit Annual Reports

112. Complainant incorporates paragraphs 1 through 58 of this CAFO as though set forth in this paragraph.

113. 35 Ill. Adm. Code § 722.141 [40 C.F.R. § 262.41] requires that a generator that 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 (Illinois EPA) by March 1 for the preceding calendar year.

114. Respondent failed to prepare and submit a single copy of an annual report to the Illinois EPA by March 1, 2007 for calendar year 2006 for its Orland Park Facility.

115. Respondent failed to prepare and submit a single copy of an annual report to the Illinois EPA by March 1, 2008 for calendar year 2007 for its Orland Park Facility.

116. Each time Respondent failed to prepare and submit an annual report, Respondent violated 35 Ill. Adm. Code § 722.141 [40 C.F.R. § 262.41] and, therefore, is subject to civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 3: Failure to Submit Exception Reports

117. Complainant incorporates paragraphs 1 through 58 of this CAFO as though set forth in this paragraph.

118. 35 Ill. Adm. Code § 722.142(a)(2) [40 C.F.R. § 262.42(a)(2)] requires that a generator of 1,000 kilograms or greater in a calendar month must submit an Exception Report to the Illinois EPA if it has not received a copy of the manifest with the handwritten signature of the owner or the operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter.

119. Respondent's manifests numbered 001595FLE and 000739815SKS were accepted

by the initial transporter on March 27, 2008 and January 24, 2008, respectively.

120. At the time of the August 2008 CEI, Respondent's manifests as referenced in paragraph 119 above did not have the handwritten signature of the owner or operator of the designated facility.

121. Respondent did not submit an Exception Report for either of the manifests referenced in paragraph 119 above within 45 days of the date the waste was accepted by the initial transporter.

122. Each time Respondent failed to submit an Exception Report for the manifests referenced in paragraph 119 above, Respondent violated 35 Ill. Adm. Code § 722.142(a)(2) [40 C.F.R. § 262.42(a)(2)] and, therefore, is subject to civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Civil Penalty

123. 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 \$60,550. In determining the penalty amount, Complainant considered the facts and circumstances of this case with specific reference to U.S. EPA's 2003 RCRA Civil Penalty Policy, Respondent's cooperation and other factors as justice may require.

124. Within 30 days after the effective date of this CAFO, Respondent must pay a \$60,550 civil penalty for the RCRA violations by electronic funds transfer, payable to “Treasurer, United States of America,” and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message is
“D68010727 Environmental Protection Agency”

In the comment or description field of the electronic funds transfer, state *In re Panduit Corp.*, the docket number of this CAFO, and the billing document number.

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

126. 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.

127. 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

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

129. 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.

130. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, or local laws or permits. Except as provided in paragraph 128 above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by U.S. EPA

131. 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).

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

133. Each person signing this CAFO 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.

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

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

**In the Matter of:
Panduit Corp.
Docket No.**

Panduit Corp., Respondent

3/28/12

Date

Robert A. McCann

Robert A. McCann
General Counsel
Panduit Corp.

United States Environmental Protection Agency, Complainant

March 26, 2012

Date

Margaret M. Guerriero

Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
Panduit Corp.
Docket No. RCRA-05-2012-0005

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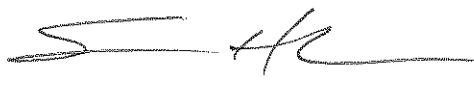
MAR 28 2012

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

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.

3-27-12
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

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MAR 28 2012

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

CASE NAME: Panduit Corp.
DOCKET NO: RCRA-05-2012-0005

CERTIFICATE OF SERVICE

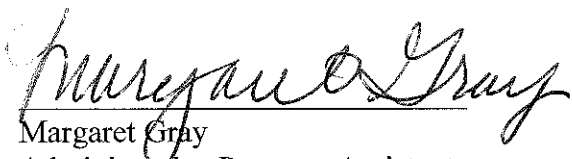
I hereby certify that today I filed the original of this **Complaint and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed to the following:

Robert A. McCann
General Counsel
Panduit Corp.
18900 Panduit Drive
Tinley Park, Illinois 60487

Certified Mail #

Dated: 3.28., 2012



Margaret Gray
Administrative Program Assistant
United States Environmental Protection Agency
Region 5
Land and Chemicals Division LR-8J
RCRA Branch
77 W. Jackson Blvd, Chicago, IL 60604-3590