

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7
2012 MAR 21 AM 9:15

IN THE MATTER OF:)
)
TG Missouri Corporation)
2200 Platin Road)
Perryville, Missouri 63775)
)
RCRA ID: MOD981713894)
)
Respondent.)
)
Proceeding under Section 3008(a) and (g) of)
the Resource Conservation and Recovery)
Act as amended, 42 U.S.C. § 6928(a) and (g))
_____)

**CONSENT AGREEMENT
AND FINAL ORDER**

Docket No. RCRA-07-2012-0005

The United States Environmental Protection Agency (EPA), Region 7 (Complainant) and TG Missouri Corporation (Respondent) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules of Practice), 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b) and 22.18(b)(2).

Jurisdiction

This administrative action is being conducted pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA or the Act), and the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. § 6928(a) and (g), and in accordance with the Consolidated Rules of Practice.

1. This Consent Agreement and Final Order (CA/FO) serves as notice that the EPA has reason to believe that Respondent violated Section 3005 of RCRA, 42 U.S.C. § 6925.

Parties

2. The Complainant is the Chief of the RCRA Waste Enforcement and Materials Management Branch in the Air and Waste Management Division of the EPA, Region 7, as duly delegated from the Administrator of the EPA.

3. The Respondent is TG Missouri Corporation, a corporation registered to do

business in the State of Missouri. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

Statutory and Regulatory Framework

4. The State of Missouri has been granted authorization to administer and enforce a hazardous waste program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926. The State of Missouri has adopted by reference the federal regulations cited herein at pertinent parts in the Missouri Code of State Regulations (C.S.R.) in Title 10, Division 25. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes EPA to enforce the provisions of the authorized State program and the regulations promulgated thereunder. When the EPA determines that any person has violated or is in violation of any RCRA requirement, EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928. In the case of a violation of any RCRA requirement, where such violation occurs in a state which is authorized to implement a hazardous waste program pursuant to Section 3006 of RCRA, EPA shall give notice to the state in which such violation has occurred or is occurring prior to issuing an order. The State of Missouri has been notified of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

5. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes a civil penalty of not more than \$25,000 per day for violations of Subchapter III of RCRA (Hazardous Waste Management). This figure has been adjusted upward for inflation pursuant to the Civil Monetary Penalties Inflation Adjustment Rule, 40 C.F.R. Part 19, so that penalties of up to \$32,500 per day are now authorized for violations of Subchapter III of RCRA that occur after March 15, 2004, though January 12, 2009. For violations of Subchapter III of RCRA that occur after January 12, 2009, penalties of up to \$37,500 per day are now authorized.

6. Section 3005 of RCRA, 42 U.S.C. § 6925, and the regulations at 40 C.F.R. § 270.1(b) and 10 C.S.R. 25-7.270, require each person owning or operating a facility for the treatment, storage, or disposal of a hazardous waste identified or listed under Subchapter C of RCRA to have a permit or interim status for such activities.

7. The regulations at 40 C.F.R. § 262.34(a) and 10 C.S.R. 25-5.262, allow a generator to accumulate hazardous waste in containers on-site for ninety days without a permit or without interim status, provided the conditions listed in 40 C.F.R. §§ 262.34(a) and 10 C.S.R. 25-5.262 are met. These conditions include compliance with various hazardous waste regulatory requirements.

Factual Background

8. Respondent owns and operates the facility located at 2200 Plattin Road, Perryville, Missouri 63775.

9. Respondent notified the Missouri Department of Natural Resources that it is a large quantity generator of hazardous waste. As part of its operations, Respondent generates hazardous waste each year to be classified as a Large Quantity Generator (LQG) pursuant to 40 C.F.R. Part 262 and 10 C.S.R. 25-5.262.

10. Respondent has been assigned a RCRA facility identification number of MOD981713894.

11. On or about December 7-8, 2010, an EPA representative conducted a Compliance Evaluation Inspection at Respondent's facility (hereinafter "the EPA inspection").

12. Respondent was inspected as a large quantity generator of hazardous waste. Large quantity generators generate over 1,000 kilograms of hazardous waste per month, pursuant to 40 C.F.R. Part 262 and 10 C.S.R. 25-5.262.

13. During the inspection, it was documented that Respondent accumulated listed and characteristic hazardous waste with the following hazardous waste codes: D001, D002, D007, and F003. Respondent is also a used oil generator and small quantity handler of universal waste, accumulating less than 5,000 kilograms of universal waste at any time.

14. Based on information obtained during the 2010 inspection, Respondent was issued a Notice of Violation for, among other things, operating as a treatment, storage, or disposal facility without a RCRA Permit or RCRA Interim Status by violating various generator and tank requirements, including failure to provide a written assessment on the tank and components by a qualified Professional Engineer, failure to have the installation inspection performed by a Professional Engineer or an independent, qualified installation inspector, failure to label the plating wastewater tank with the words "hazardous waste," failure to conduct daily hazardous waste inspections on the plating wastewater tank and the containment area, failure to provide leak detection for a hazardous waste tank, failure to label satellite accumulation containers, and failure to date satellite accumulation containers.

15. Complainant hereby states and alleges that Respondent has violated RCRA and federal and state regulations promulgated thereunder, as follows:

Count 1

OPERATING AS A TREATMENT, STORAGE, OR DISPOSAL FACILITY WITHOUT A RCRA PERMIT OR RCRA INTERIM STATUS

16. The allegations stated in paragraphs 1 through 15 are re-alleged and incorporated as if fully set forth herein.

17. Section 3005 of RCRA, 42 U.S.C. § 6925, R.S.Mo. 260.390.1(1), and the regulations at 10 C.S.R. 25-7.270 incorporating by reference 40 C.F.R. § 270.1(b), require each

person owning or operating a facility for the treatment, storage, or disposal of a hazardous waste identified or listed under Subchapter C of RCRA to have a permit or interim status for such activities.

18. At the time of the EPA inspection, Respondent did not have a permit or interim status for their facility.

19. The regulations at 10 C.S.R. 25-5.262(1), which incorporate by reference 40 C.F.R. § 262.34(a), allow a generator to accumulate hazardous waste in containers on-site for up to ninety (90) days without a permit or without interim status, provided the conditions listed in 40 C.F.R. § 262.34(a)(1)-(4) are met. These conditions include compliance with other hazardous waste generator requirements.

20. TG Missouri installed a 2,000 gallon tank in July 2010 in the floor of the plating area. The tank began receiving hazardous plating wastewater in October 2010.

21. At the time of the inspection, Respondent was not complying with various hazardous waste generator requirements, described below. Therefore, Respondent did not meet the exception to the regulation that allows generators to store hazardous waste at their facility for up to 90 days without a permit or interim status so long as they meet hazardous waste regulatory requirements.

Failure to Comply with Generator Requirements

Failure to provide a written assessment of a hazardous waste tank by a Professional Engineer

22. The regulations at 10 C.S.R. 25-5.262(2)(C)2.E referencing 10 C.S.R. 25.5.262(2)(C)2.B incorporating 40 C.F.R. 262.34(a)(1)(ii) incorporating 40 C.F.R. 265.192(a) require generators to determine that the tank system is not leaking or unfit for use. Generators must obtain and keep on file at the facility a written assessment reviewed and certified by a qualified Professional Engineer that tests the tank system's integrity.

23. At the time of the EPA inspection, Respondent failed to provide a written assessment of the plating wastewater tank and its components by a qualified Professional Engineer.

24. Respondent violated 10 C.S.R. 25-5.262(2)(C)2.E referencing 10 C.S.R. 25.5.262(2)(C)2.B incorporating 40 C.F.R. 262.34(a)(1)(ii) incorporating 40 C.F.R. 265.192(a) by failing to provide a written assessment of the tanks and its components by a qualified Professional Engineer.

Failure to have the installation inspection of the hazardous waste tank performed by a Professional Engineer

25. The regulations at 10 C.S.R. 25-5.262(2)(C)2.E referencing 10 C.S.R. 25.5.262(2)(C)2.B incorporating 40 C.F.R. 262.34(a)(1)(ii) incorporating 40 C.F.R. 265.192(b) require generators to ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to placing a new tank system in use, a qualified Professional Engineer or an independent, qualified installation inspector must inspect the system.

26. The EPA inspection documented that Respondent failed to have an installation inspection of the plating wastewater tank performed by a Professional Engineer or an independent, qualified installation inspector.

27. Respondent violated 10 C.S.R. 25-5.262(2)(C)2.E referencing 10 C.S.R. 25.5.262(2)(C)2.B incorporating 40 C.F.R. 262.34(a)(1)(ii) incorporating 40 C.F.R. 265.192(b) by failing to have an installation inspection performed by a Professional Engineer or an independent, qualified installation inspector.

Failure to provide leak detection for a hazardous waste tank

28. The regulations at 10 C.S.R. 25-5.262(2)(C)2.E referencing 10 C.S.R. 25.5.262(2)(C)2.B incorporating 40 C.F.R. 262.34(a)(1)(ii) incorporating 40 C.F.R. 265.193 (c)(3) require generators to provide leak detection on hazardous waste tanks.

29. At the time of the EPA inspection, Respondent failed to provide adequate leak detection for a hazardous plating wastewater tank.

30. Respondent violated 10 C.S.R. 25-5.262(2)(C)2.E referencing 10 C.S.R. 25.5.262(2)(C)2.B incorporating 40 C.F.R. 262.34(a)(1)(ii) incorporating 40 C.F.R. 265.193(c)(3), by failing to provide leak detection for a hazardous waste tank.

Failure to conduct daily hazardous waste inspections of the hazardous waste tank

31. The regulations at 10 C.S.R. 25-5.262(2)(C)2.C.(II) referencing 10 C.S.R. 25.5.262(2)(C)2.B incorporating 40 C.F.R. 262.34(a)(1)(ii) incorporating 40 C.F.R. 265.195(a) require generators to conduct daily hazardous waste inspections.

32. At the time of the EPA inspection, Respondent failed to conduct daily hazardous waste inspections on the plating wastewater tank and the containment area.

33. Respondent violated 10 C.S.R. 25-5.262(2)(C)2.C.(II) referencing 10 C.S.R. 25.5.262(2)(C)2.B incorporating 40 C.F.R. 262.34(a)(1)(ii) incorporating 40 C.F.R. 265.195(a), by failing to conduct daily inspections of the plating wastewater tank and the containment area.

Failure to label hazardous waste tank with the words "hazardous waste"

34. The regulations at 10 C.S.R. 25-5.262(2)(C)2.E referencing 10 C.S.R.

25.5.262(2)(C)2.B incorporating 40 C.F.R. 262.34(a)(3) require generators to label hazardous waste tanks with the words "hazardous waste."

35. At the time of the EPA inspection, Respondent failed to label the plating wastewater tank with the words "hazardous waste."

36. Respondent violated 10 C.S.R. 25-5.262(2)(C)2.E referencing 10 C.S.R. 25.5.262(2)(C)2.B incorporating 40 C.F.R. 262.34(a)(3), by failing to label the plating wastewater tank with the words "hazardous waste."

Undated satellite accumulation containers

37. Missouri regulation 10 C.S.R. 25-5.262(2)(C)3 requires generators to mark the accumulation start date on satellite storage accumulation containers.

38. At the time of the EPA inspection, Respondent failed to date three satellite accumulation containers.

39. Respondent violated 10 C.S.R. 25-5.262(2)(C)3 by not marking the accumulation start date on satellite storage accumulation containers.

Unlabeled satellite accumulation containers

40. The regulations at 10 C.S.R. 25-5.262(2)(C)3 incorporating 40 C.F.R. 262.34(a)(3), require that satellite accumulation containers be labeled with the words "Hazardous Waste" or with words that identify the contents of the containers.

41. At the time of the EPA inspection, Respondent failed to label two satellite accumulation containers with the words "Hazardous Waste."

42. Respondent violated 10 C.S.R. 25-5.262(2)(C)3 incorporating 40 C.F.R. 262.34(a)(3), by not labeling satellite accumulation containers.

CONSENT AGREEMENT

43. Respondent and EPA agree to the terms of this CA/FO and Respondent agrees to comply with the terms of this CA/FO.

44. Respondent admits the jurisdictional allegations of this CA/FO and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this CA/FO.

45. Respondent neither admits nor denies the factual allegations set forth in this CA/FO.

46. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth in this CA/FO, and its right to appeal the proposed Final Order portion of this CA/FO.

47. Respondent and Complainant agree to conciliate the matters set forth in this CA/FO without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

48. This CA/FO resolves all civil administrative claims for the alleged RCRA violations identified in this Consent Agreement and Final Order. Complainant reserves the right to take enforcement action against Respondent for any violations of RCRA, or any violation of any other applicable law, not alleged in the CA/FO and to enforce the terms and conditions of this CA/FO.

49. Nothing contained in this CA/FO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

50. Respondent certifies that by signing this CA/FO, Respondent's facility is in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.* and all regulations promulgated thereunder.

51. The effect of settlement described in Paragraph 48 above is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in Paragraph 50 above of this CA/FO.

52. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this CA/FO and to execute and legally bind Respondent to it.

53. This CA/FO shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this CA/FO.

54. Respondent agrees that in settlement of the claims alleged in the Complaint, Respondent shall pay a mitigated civil penalty of \$26,486 as set forth in Paragraph 1 of the Final Order below.

55. The penalty specified in Paragraph 54 above shall represent civil penalties assessed by EPA and shall not be deductible for purposes of federal, state, or local income tax purposes.

56. **Late Payment Provisions:** Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if it is not paid by the date required. Interest will be assessed at a rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b). A charge will be assessed to cover the costs of debt collection including processing and handling costs and attorneys fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 31 C.F.R. §§ 901.9(c) and (d).

57. Respondent understands that failure to pay any portion of the civil penalty on the date the same is due may result in the commencement of a civil action in Federal District Court to collect said penalty, along with interest thereon at the applicable statutory rate.

58. This CA/FO shall be effective upon filing. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

FINAL ORDER

Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and according to the terms of this CA/FO, IT IS HEREBY ORDERED THAT:

A. Payment of Civil Penalty

1. Within thirty (30) days of the effective date of this CA/FO, Respondent will pay a civil penalty of Twenty-Six Thousand Four Hundred and Eighty-Six Dollars (\$26,486). The payment must be received at the address below on or before 30 days after the effective date of the Final Order (the date by which payment must be received shall hereafter be referred to as the "due date"). Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, Missouri 63197-9000.

2. Wire transfers should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727

SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045

Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency"

3. A copy of the payment documentation shall also be mailed to:

Regional Hearing Clerk
U.S. EPA Region 7
901 North 5th Street
Kansas City, Kansas 66101

and to:

Kristen Nazar
Office of Regional Counsel
U.S. EPA Region 7
901 North 5th Street
Kansas City, Kansas 66101.

B. Compliance Actions

4. Within 60 days, Respondent shall provide the following:
- a. A written assessment on the tank and components that has been reviewed and certified by a qualified Professional Engineer;
 - b. Documentation that the installation of the tank was inspected by a Professional Engineer or an independent, qualified installation inspector and provide a copy of the report generated from the inspection. If an independent, qualified installation inspector is utilized, please provide the inspector's qualifications.
 - c. Documentation that a leak detection system has been installed that will detect the failure of either the primary and secondary containment structure or accumulated liquid in the secondary containment system within 24 hours;
 - d. Copies of the written statements required under 10 CSR 25.5.262(2)(C)2.E. incorporating 40 CFR 262.34(a)(1)(ii) incorporating 40 CFR 265.192(g) including the certification statement as required in 10 CSR 25.5.262(2)(C)2.E. incorporating 40 CFR 262.34(a)(1)(ii) incorporating 40 CFR 270.11(d);
 - e. Documentation that the tank is being fully emptied every 90-days for the six

months following the signed date of the Order; and

f. Documentation that the concrete and Chemical Resistant Water Stop are compatible with the waste place into the tank.

5. Documentation described in Paragraph 4 shall be mailed to:

Deborah Bredehoft
Waste Enforcement and Materials Management Branch
U.S. EPA Region 7
901 North 5th Street
Kansas City, Kansas 66101.

C. Reservation of Rights

6. Notwithstanding any other provision of this CA/FO, EPA reserves the right to enforce the terms of the Final Order portion of this CA/FO by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed Thirty-Two Thousand Five Hundred Dollars (\$32,500.00) per day per violation pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law. Pursuant to the Civil Monetary Penalties Inflation Adjustment Rule, 40 C.F.R. Part 19, penalties of up to \$32,500 per day are authorized for violations of Subchapter III of RCRA that occur between March 15, 2004, and January 12, 2009. For violations of Subchapter III of RCRA that occur after January 12, 2009, penalties of up to \$37,500 per day are authorized.

7. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this CA/FO.

8. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

9. Notwithstanding any other provisions of the CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the future handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health and the environment.

D. Parties Bound

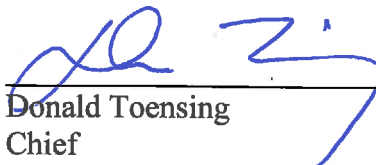
10. This Final Order portion of this CA/FO shall apply to and be binding upon Complainant and Respondent, and Respondent's agents, successors and/or assigns. Respondent shall take steps to ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this CA/FO.

FOR COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

3-20-12

Date

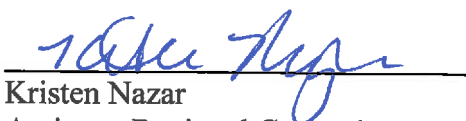


Donald Toensing
Chief

Waste Enforcement and Materials Management Branch
Air and Waste Management Division

3/19/12

Date



Kristen Nazar
Assistant Regional Counsel
Office of Regional Counsel

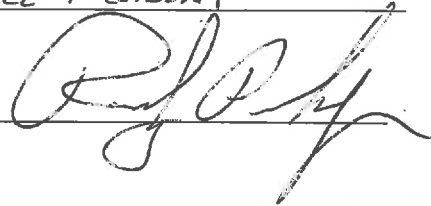
FOR RESPONDENT:

TG Missouri Corporation

By RANDY P. GEORLER

Title VICE PRESIDENT

Signature



Date

3/8/12

IT IS SO ORDERED. This Final Order is effective upon its final entry by the Regional Judicial Officer.

Mar 21, 2012
Date

Robert Patrick
Robert Patrick
Regional Judicial Officer

IN THE MATTER OF TG Missouri Corporation, Respondent
Docket No. RCRA-07-2012-0005

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Kristen Nazar
Assistant Regional Counsel
Region 7
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Jerad Tittel, AGM
TG Missouri Corporation
2200 Plattin Road
Perryville, Missouri 63775

Dated: 3/21/12



Kathy Robinson
Hearing Clerk, Region 7