



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

AUG 20 2012

REPLY TO THE ATTENTION OF:
LR-8J

CERTIFIED MAIL 7009 1680 000 7669 2243
RETURN RECEIPT REQUESTED

Mr. Daniel Altman
President
Indiana Heat Transfer Corporation
500 West Harrison
Plymouth, IN 46563

Re: Indiana Heat Transfer Corporation
EPA ID No.: IND 005 421 623
Consent Agreement and Final Order
Docket No.: RCRA- RCRA-05-2012-0011

Dear Mr. Altman,

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 August 20, 2012.

Please pay the civil penalty of \$45,000.00 in accordance with paragraph 66 of this CAFO, and reference your check with the number BD 2751259R011 and Docket Number RCRA- RCRA-05-2012-0011. 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: Nancy Johnston, Indiana Department of Environmental Management (w/ CAFO)
Michael Chambers, Taft Stettinius & Hollister

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:)
)
Indiana Heat Transfer Corporation)
Plymouth, Indiana)
)
Respondent.)
_____)

Docket No. RCRA-05-2012-0011

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

RECEIVED

AUG 20 2012

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

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 (EPA), Region 5.
3. Respondent is Indiana Heat Transfer Corporation, a corporation doing business in the State of Indiana.
4. EPA provided notice of commencement of this action to the State of Indiana pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

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

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

Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon EPA by Sections 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.

Statutory and Regulatory Background

11. EPA 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 and 3013 among others, of RCRA, 42 U.S.C. §§ 6921 – 6927 and § 6934.

12. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023) of RCRA, 42 U.S.C. §§ 6921-6939(e), or of any state provision authorized under Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

13. Under Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of EPA granted the State of Indiana 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. 3953 (Jan. 31, 1986). Indiana received authorization for revisions to its program on December 31, 1986, 51 Fed. Reg. 39752 (Oct. 31, 1986); January 19, 1988, 53 Fed. Reg. 128 (Jan. 5, 1988); September 11, 1989, 54 Fed. Reg. 29558 (July 13, 1989); September 27, 1991, 56 Fed. Reg. 35831 (July 29, 1991); October 21, 1996, 61 Fed. Reg. 43018 (Aug. 20, 1996); October 30, 1999, 64 Fed. Reg. 47692 (Sept. 1, 1999); January 4, 2001, 66 Fed. Reg. 733 (Jan. 4, 2001); December 6, 2001, 66 Fed. Reg. 63331 (Dec. 6, 2001); October 29, 2004, 69 Fed. Reg. 63100 (Oct. 29, 2004); and November 23, 2005, 70 Fed. Reg. 70740 (Nov. 23, 2005). The Indiana regulations, authorized by EPA, are codified at 329 Indiana Administrative Code (IAC) Article 3.1 *et seq.* See also, 40 C.F.R. § 272.751.

14. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), provides EPA with the authority to enforce State regulations in those States authorized to administer a hazardous waste program.

15. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both. The Administrator of EPA may assess a civil penalty of up to \$25,000 per day for each violation of Subtitle C of RCRA according to Section 3008 of RCRA, 42 U.S.C. 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, requires EPA to adjust its penalties for inflation on a periodic basis. Under the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. Part 19, EPA may assess a civil penalty of up to \$37,500 for violations occurring or continuing after January 12, 2009.

Factual Allegations and Alleged Violations

16. Respondent was and is a “person” as defined by 329 IAC § 3.1-4-20 and 40 C.F.R. § 260.10.
17. Respondent’s facility at 500 W. Harrison, Plymouth, Indiana (the “Facility”) is a “facility” as that term is defined at 329 IAC § 3.1-4-1 and 40 C.F.R. § 260.10.
18. Respondent is an “owner” or “operator” as those terms are defined under 329 IAC § 3.1-4-1 and 40 C.F.R. § 260.10 of the Facility located at 500 W. Harrison, Plymouth, Indiana.
19. On June 24, 2009, EPA conducted an inspection of the Facility.
20. At all times relevant to this CAFO, Respondent designed and manufactured heavy duty heat exchangers (radiators) for the agricultural, industrial and transportation markets at the Facility. Manufacturing and assembly operations included forming of raw materials, assembly, testing, and surface finishing of the final product. Respondent also conducted painting operations at its Facility.
21. Respondent’s manufacturing and processing at the Facility produce several hazardous wastes identified or listed in 329 IAC §3.1-6-1 and 40 C.F.R. 261.3.
22. Respondent is a “generator,” as that term is defined in 329 IAC § 3.1-4-1 and 40 C.F.R. 260.10.
23. Respondent produced more than 1,000 kilograms (2,205 pounds) of hazardous waste each calendar month of 2008 and 2009, and was a large quantity generator.
24. Respondent is subject to the regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921 – 6939e, or the analogous Indiana regulations as part of the applicable state hazardous waste management program for the state of Indiana, or both.

25. At all times relevant to this CAFO, the State of Indiana has not issued a permit to Respondent to treat, store, or dispose of hazardous waste at the facility.

26. At all times relevant to this CAFO, Respondent did not have interim status for the treatment, storage, or disposal of hazardous waste at the facility.

27. On November 3, 2011, EPA notified Respondent that it intended to file an administrative complaint to assess civil penalties for violations of RCRA and Indiana's regulations governing hazardous waste management.

28. On November 17, 2011 Respondent responded to the notification that it did not have an ability to pay a civil penalty and submitted financial information to support its claim of inability to pay a penalty. Respondent supplemented its financial information on April 26, 2012.

Count 1

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

30. Pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), the regulations at 40 C.F.R. Part 270, and the regulations at 329 IAC § 3.1-13-1, the treatment, storage or disposal of hazardous waste by any person who has not applied for or received a permit is prohibited.

31. Pursuant to 329 IAC § 3.1-1-7 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 for hazardous waste storage, provided that the generator complies with all applicable conditions set forth in 329 IAC § 3.1-7-1 and 40 C.F.R. § 262.34(a).

32. Under 329 IAC §3.1-7-1 and 40 C.F.R. § 262.34(a), in order for a generator of hazardous waste to maintain its exemption from the requirement to have a permit or interim status, it must limit on-site storage of hazardous waste to 90 days or less.

33. Respondent stored containers of hazardous waste at the Facility for more than 90 days. Specifically, Respondent stored a 55-gallon drum of paint filter waste, two 55-gallon drums of paint dust waste, one 55-gallon drum of paint waste, and a roll-off box of hazardous sludge waste (metal hydroxide sludge) for more than 90 days at the Facility.

34. Under 329 IAC § 3.1-7-1 and 40 C.F.R. § 262.34(a)(2), in order for a generator of hazardous waste to maintain its exemption from the requirement to have a permit or interim status, it must ensure that the date upon which each period of accumulation of hazardous waste began is clearly marked and visible for inspection on each container of hazardous waste.

35. At the time of EPA's June 24, 2009 inspection, Respondent had several containers of hazardous waste at the Facility without the accumulation start dates written on them. Specifically, there was one 55-gallon drum of paint waste in the hazardous waste storage area and a roll off box of metal hydroxide sludge in the water treatment plant area that had not been marked with an accumulation start date.

36. Under 329 IAC §3.1-7-1 and 40 C.F.R. § 262.34(a)(3), in order for a generator to maintain its exemption from the requirement to have a permit or interim status, the generator must mark or clearly label each container containing hazardous waste with the words "Hazardous Waste" during the hazardous waste accumulation period.

37. At the time of EPA's inspection on June 24, 2009, Respondent stored a 55 gallon drum of paint waste in the hazardous waste storage area with no marking or label.

38. Under 329 IAC §§ 3.1-7-1 and 3.1-10-1 and 40 C.F.R. § 262.34(a)(1)(i) and 40 C.F.R. § 265.173(a), in order for a generator of hazardous waste to maintain its exemption from the requirement to have a permit or interim status, each container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

39. At the time of EPA's inspection on June 24, 2009, there were several containers of hazardous waste at the Facility that were not closed and no waste was being added or removed to the containers at that time. Specifically, a 55-gallon drum of paint waste in the hazardous waste storage area and the roll off box for hazardous waste sludge in the water treatment plant area were open, with no waste being added or removed.

40. Under 329 IAC § 3.1-7-1 and 40 C.F.R. §§ 262.34(c)(1) and 265.173, in order for a generator of hazardous waste to maintain its exemption from the requirement to have a permit or interim status, it must mark its containers of hazardous waste at or near the point of generation (satellite containers) either with the words "Hazardous Waste" or with other words that identify the contents of the containers.

41. At the time of EPA's June 24, 2009 inspection, Respondent had satellite containers of unmarked paint waste and paint thinner waste in the Facility. Specifically, there were two unmarked 5-gallon cans of paint waste in the Military Cell Department and three unmarked 5-gallon cans of paint waste and/or paint thinner waste near the paint lines.

42. Under 329 IAC §§ 3.1-7-1 and 3.1-10-1 and 40 C.F.R. §§ 262.34(c)(1) and 265.173(a), in order for a generator of hazardous waste to maintain its exemption from the requirement to have a permit or interim status, each container at or near the point of generation holding hazardous waste (satellite containers) must always be closed except when it is necessary to add or remove waste.

43. At the time of EPA's June 24, 2009 inspection, Respondent had satellite containers holding hazardous waste that were not closed and no waste was being added or removed. Specifically, there were two 5-gallon cans of paint waste in the Military Cell Department and three 5-gallon cans of paint waste and/or paint thinner waste that were not covered and no waste was being added or removed.

44. Under 329 IAC §§ 3.1-7-1, and 3.1-10-1 and 40 C.F.R. §§ 262.34(a)(4) and 265.16(c), in order for a generator of hazardous waste to maintain its exemption from the requirement to have a permit or interim status, the generator must ensure that facility personnel take part in initial hazardous waste training and an annual review of the initial training, and must maintain records showing that such training was given to such facility personnel.

45. At the time of EPA's June 24, 2009 inspection, Respondent did not have records that show initial hazardous waste training and annual review of the initial training was given to its facility personal. Following the inspection, EPA sent Respondent an information request in April 2010 asking for personnel hazardous waste management training records and Respondent was not able to produce initial and annual hazardous waste training records for all hazardous waste management personnel.

46. Under 329 IAC §§ 3.1-7-1 and 3.1-10-1 and 40 C.F.R. §§ 262.34(a)(4) and 265.16, in order for a generator of hazardous waste to maintain its exemption from the requirement to have interim status or a permit, the generator must maintain at its facility records showing a written job description for each position related to hazardous waste management, the job title for each position and the name of the employee filling each job.

47. At the time of EPA's June 24, 2009 inspection, Respondent did not have written job descriptions for positions at the Facility related to hazardous waste management, nor the job

titles and the names of the employees filling the positions related to hazardous waste management.

48. Under 329 IAC § 3.1-7-1 and 40 C.F.R. §§ 262.34(a)(4) and 265.52(d), in order for a generator of hazardous waste to maintain its exemption from the requirement to have a permit or interim status, a generator must have a contingency plan that list names, addresses and phone numbers of all persons qualified to act as emergency coordinator. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

49. Respondent's January 11, 2010 Emergency Contingency Plan does not provide the name, address or phone number of the emergency coordinator(s).

50. Under 329 IAC §§ 3.1-7-1 and 3.1-10-1 and 40 C.F.R. §§ 262.34(a)(4) and 265.31, in order for a generator of hazardous waste to maintain its exemption from the requirement to have a permit or interim status, it must maintain and operate its facility to minimize the possibility of fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water.

51. At the time of EPA's June 24, 2009 inspection, Respondent was not maintaining its Facility to minimize the possibility of fire, explosion or unplanned sudden or non-sudden release of hazardous waste. Specifically, Respondent had placed two 1-gallon containers of paint waste in a trash barrel.

52. If the conditions of 329 IAC § 3.1-7-1 and 40 C.F.R. § 262.34 are not met, then the generator must apply for and obtain an operating permit under 329 IAC §§ 3.1-13-1, 3.1-13-2 to 3.1-13-17 [40 C.F.R. §§ 270.1(c), 270.10(a) and (d) and 270.13].

53. As set forth above, Respondent did not meet the conditions of 329 IAC § 3.1-7-1 and 40 C.F.R. § 262.34 necessary to exempt it from the requirement to obtain interim status or apply for and obtain a permit for the storage of hazardous waste; therefore, Respondent stored hazardous waste without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925 and the regulations found at 329 IAC §§ 3.1-13-1, 3.1-13-2(1)-(4), 3.1-13-3 to 3.1-13-17 [40 C.F.R. §§ 270.1(c), 270.10(a) and (d) and 270.13].

Count 2

54. Complainant incorporates paragraphs 1-28 as though set forth in this paragraph.

55. Under 329 IAC §§ 3.1-1-7 and 3.1-7-1 and 40 C.F.R. § 262.11, a generator of hazardous waste must determine whether solid waste it generates is hazardous waste.

56. At the time of EPA's June 24, 2009 inspection, Respondent was storing several containers of waste for which Respondent had not made a waste determination. Specifically, there were two 55-gallon drums of cleanup waste outside the hazardous waste storage area and one 55 gallon drum of used Kleanroll in the hazardous waste storage area and Respondent had not determined whether the cleanup waste or used Kleanroll was hazardous waste.

57. In addition, during the June 24, 2009 inspection, the EPA inspector observed numerous liquid spills and puddles sitting on the floor of the test tank area of the Assembly Department and Respondent had not determined whether the liquid spills and puddles were hazardous waste.

58. By failing to determine whether solid waste it generates is hazardous waste, Respondent violated 329 IAC § 3.1-17-1 and 40 C.F.R. § 262.11.

Count 3

59. Complainant incorporates paragraphs 1-28 as though set forth in this Paragraph.

60. Under 329 IAC§ 3.1-7-1, 40 C.F.R. §§ 262.40(a) and 262.42(a), a generator of more than 1000 kilograms of hazardous waste in a month must obtain and maintain a copy of the hazardous waste manifest with the handwritten signature of the owner or operator of the facility designated to receive the hazardous waste. If the generator does not receive a signed manifest from the destination facility within 35 days, it must make inquiries related to the shipment. If the generator does not receive a signed manifest within 45 days of the date the waste was accepted by the initial transporter, the generator must submit a Manifest Exception Report to the Indiana Department of Environmental Management (IDEM).

61. At the time of EPA's June 24, 2009 inspection, Respondent had not received copies of manifests containing the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. More specifically, Respondent's hazardous waste was accepted for transport in May 2007 on Manifest 00199123 FLE, but Respondent did not have a copy of Manifest 00199123 FLE signed by the owner or operator of the facility designated to receive the waste. Respondent's hazardous waste was accepted for transport in November 2007 on Manifest 00138340 FLE, but Respondent did not have a copy of Manifest 00138340 FLE signed by the owner or operator of the facility designated to receive the waste. Respondent's hazardous waste was accepted for transport in September 2008 on Manifest 001987447 FLE, but Respondent did not have a copy of Manifest 001987447 FLE signed by the owner or operator of the facility designated to receive the waste. Respondent's hazardous waste was accepted for transport in November 2008 on Manifest 004345563 JJK, but Respondent did not have a copy of Manifest 004345563 JJK signed by the owner or operator of the facility designated to receive the waste.

62. Respondent did not provide IDEM with a Manifest Exception Report any time during 2007 through 2010.

63. By failing to obtain a copy of the hazardous waste manifests signed by the owner or operator of the facility designated to receive Respondent's hazardous waste and not submitting an Exception Report to IDEM, Respondent violated 329 IAC § 3.1-7-1 and 40 C.F.R. §§ 262.40 and 262.42(a).

Civil Penalty

64. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), EPA must consider the seriousness of the violation and any good faith efforts to comply with the applicable requirements in assessing a civil penalty. Complainant also considered EPA's 2003 RCRA Civil Penalty Policy, which provides that EPA may consider, among other things, a Respondent's ability to pay in determining the appropriate penalty.

65. Complainant has determined an appropriate civil penalty in accordance with Section 3008 of RCRA, 42 U.S.C. § 6928 and EPA's 2003 RCRA Civil Penalty Policy, after considering the facts and circumstances of this case, to be \$45,000. This civil penalty amount is based on consideration of Respondent's ability to pay.

66. Respondent shall pay a \$45,000 civil penalty for the RCRA violations in two installment payments with interest as follows: (1) \$22,500 within 30 days of the effective date of this CAFO and (2) \$22,500 plus interest of \$18.75 for a total second payment of \$22,518.75 within 60 days of the effective date of this CAFO. Respondent must pay the installments by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

(for checks sent by regular U.S. Postal Service mail)

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

(for checks sent by express mail)

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

The check must state *In the Matter of: Indiana Heat Transfer Corporation* (the case title), the docket number of this CAFO and the billing document number.

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

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

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

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

68. This civil penalty is not deductible for federal tax purposes.
69. If Respondent does not timely pay an installment payment as set forth in

paragraph 66 above, or timely pay any stipulated penalties due under paragraphs 77-79, the entire unpaid balance of the civil and stipulated penalties and any amount required by paragraph 70 below, shall become due and owing upon written notice by EPA to Respondent of the delinquency. 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.

70. 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.

Compliance Order

71. Based on the foregoing, Respondent is hereby ordered, under the authority in 3008(a) of RCRA, 42 U.S.C. § 6928(a) and 40 C.F.R. § 22.37(b), to comply with the following requirements:

A. Respondent shall revise its Contingency Plan to meet the requirements of 329 IAC § 3.1-7-1 and 40 C.F.R. §§ 262.34(a)(4) and 265.52. More specifically, Respondent must revise its Contingency Plan to comply with: (1) 329 IAC 3.1-7-1 and 40 C.F.R. §265.52(c) to describe the arrangements agreed to with local police, fire departments, emergency response teams and hospitals and (2) 329 IAC § 3.1-7-1 and 40 C.F.R. § 265.52(e) and (f) to describe the signal(s) to be used to begin evacuation and to include a

list identifying all emergency equipment including location and a brief outline of its capabilities. Respondent shall submit a copy of its revised Contingency Plan to appropriate authorities as required by 329 IAC § 3.1-10-1 and 40 C.F.R. § 265.53(b).

B. Respondent shall design a training program that teaches facility personnel to perform their duties in a way that ensures the facility's compliance with Indiana and EPA's hazardous waste management regulations. The training program must include a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position related to hazardous waste management as required by 329 IAC §§ 3.1.7-1 and 3.1-10-1 and 40 C.F.R. §§ 262.34(a)(4) and 265.16. This program must be directed by a person trained in hazardous waste management procedures and must include instruction which teaches facility personnel hazardous waste management procedures relevant to the positions in which they are employed. The training program must be designed to ensure that facility personnel are able to respond effectively to emergencies.

C. Respondent shall make hazardous waste determinations of solid waste it generates as required by 329 IAC § 3.1-7-1 and 40 C.F.R. § 262.11.

72. Respondent shall submit to EPA a Quarterly Report that provides copies of hazardous waste inspection checklists, manifests, employee training, amendments to Contingency Plan and waste determinations for the time period covered by the Quarterly Report.

73. The Quarterly Report, described in paragraph 72, is to be signed, dated and certified by the responsible corporate officer with the following statement:

"I certify under the penalty of law that I have examined and am familiar with the information submitted in these documents. Based on my review of all relevant documents and inquiring of those individuals immediately responsible for providing all relevant information and documents, I believe that the information submitted is true,

accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

74. The Quarterly Report, described in paragraph 72, shall be submitted to EPA for one year after the effective date of this CAFO on the following schedule:

- a. 1st Quarterly Report due October 31, 2012.
- b. 2nd Quarterly Report due January 31, 2013.
- c. 3rd Quarterly Report due April 30, 2013.
- d. 4th Quarterly Report due July 31, 2013.

75. Within 60 days of the effective date of this CAFO, Respondent must submit a certification signed by a responsible corporate officer certifying that it is fully complying with RCRA, including the requirements described in paragraph 71 of this CAFO.

76. Respondent shall submit the Quarterly Reports required in paragraph 72 and the certification required by paragraph 75 by first class mail or overnight mail to Graciela Scambiaterra of the EPA RCRA Branch.

Stipulated Penalties

77. Subject to the Dispute Resolution provisions of this CAFO, Respondent shall pay stipulated penalties to EPA for each failure by Respondent to comply with paragraphs 72-75 of this CAFO in the following amounts for each day during which each failure to comply continues:

- a. For failure to comply the 1st through the 30th day, \$500 per violation per day.
- b. For failure to comply the 31st day and beyond, \$1000 per violation per day.

78. Penalties shall accrue from the date of the noncompliance until the date the violation is corrected, as determined by EPA.

79. Respondent shall pay stipulated penalties upon written demand by EPA no later than thirty (30) days after Respondent receives such demand. Stipulated penalties shall be paid

to EPA in the manner set forth in the Civil Penalty section of this CAFO in paragraphs 66-70. EPA's demand for the payment of stipulated penalties shall identify the particular violation(s) to which the stipulated penalty relates, the stipulated penalty amount EPA is demanding for each violation, the calculation method underlying the demand, and the grounds upon which the demand is made.

Dispute Resolution

80. Respondent may dispute EPA's assessment of stipulated penalties by invoking the dispute resolution procedures under this CAFO. The dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under this CAFO.

81. Any dispute resulting from a demand for payment of stipulated penalties shall in the first instance be the subject of informal negotiations between the parties. The dispute shall be considered to have arisen when the Respondent sends EPA a written notice of dispute, which shall describe the nature of the dispute and Respondent's position with respect to such dispute. The parties shall expeditiously schedule a meeting to attempt to resolve the dispute informally. The period for informal negotiation shall not exceed 30 days from the time the dispute arises, unless such time is extended by written agreement of the Parties.

82. If the Parties cannot resolve the dispute informally, Respondent may pursue the matter formally by submitting a written Statement of Position to the EPA contact person identified in paragraph 76 of this CAFO within 30 days after conclusion of the informal negotiation period. The Statement of Position must set forth the specific points of the dispute, the basis for Respondent's position and any matters which it considers necessary for EPA's determination. EPA and Respondent shall have 21 days from the date of EPA's receipt of Respondent's Statement of Position to attempt to resolve the dispute through formal

negotiations. This time period may be extended by agreement of the parties.

83. Any agreement to resolve the dispute reached by the Parties shall be in writing and shall be signed by both Parties. Such agreement shall be incorporated into and become an enforceable provision of this CAFO.

84. If the Parties are unable to reach an agreement within the formal negotiation period, Respondent has the right to submit by first class mail or overnight courier to the Director of the Land and Chemicals Division of EPA Region 5, within 7 days after the end of the formal negotiation period, any additional written arguments and evidence not previously submitted. Based on the record, the EPA Region 5 Director of the Land and Chemicals Division shall provide to Respondent its written decision on the dispute (the "EPA Dispute Decision") which shall include a response to each of Respondent's arguments and evidence. Such decision shall be incorporated into and become an enforceable requirement of this CAFO.

85. The existence of a dispute as defined in this section and EPA's consideration of matters placed into dispute shall not excuse, toll or suspend any compliance obligation or deadline required pursuant to this CAFO during the pendency of the dispute resolution process.

86. Stipulated penalties in dispute shall continue to accrue during pendency of the dispute, but payment shall be stayed pending final resolution of the dispute. In the event Respondent does not prevail on the disputed issue, Respondent shall submit such payment to EPA within 30 days after EPA's Dispute Decision in the manner set forth in the Civil Penalty section of this CAFO.

87. EPA reserves its right to argue that the EPA Dispute Decision is not a final Agency action for purposes of judicial review and Respondent reserves its right to argue otherwise.

General Provisions

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

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

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

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

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

93. 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.

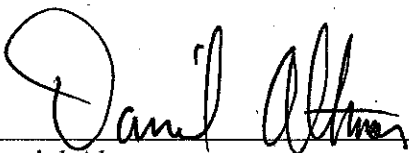
94. Each party agrees to bear its own costs and attorney's fees in this action.

95. This CAFO constitutes the entire agreement between the parties:

96. This CAFO becomes effective on the date on which this CAFO is filed with the Regional Hearing Clerk, Region 5, EPA.

Indiana Heat Transfer, Inc., Respondent

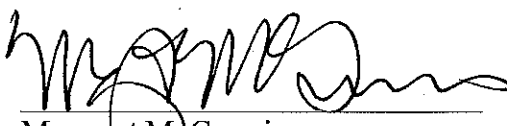
July 30, 2012
Date



Daniel Altman
President
Indiana Heat Transfer, Inc.

United States Environmental Protection Agency, Complainant

8/15/2012
Date



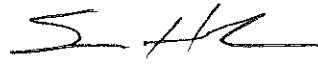
Margaret M. Guerriero
Director
Land and Chemicals Division
U.S. EPA Region 5

In the Matter of:
Indiana Heat Transfer Corporation
Docket No. RCRA-05-2012-0011

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 22.131. IT IS SO ORDERED.

8-16-12
Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

RECEIVED
AUG 20 2012

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

U.S. ENVIRONMENTAL
PROTECTION AGENCY

AUG 20 2012

OFFICE OF REGIONAL
COUNSEL

CASE NAME: Indiana Heat Transfer Corporation
DOCKET NO: RCRA-05-2012-0011

CERTIFICATE OF SERVICE

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

I further certify that I then caused a true and correct copy of the filed document to be mailed on the date below, via Certified Mail, Return Receipt Requested to:

Mr. Daniel Altman
President
Indiana Heat Transfer Corporation
500 West Harrison
Plymouth, IN 46563

Certified Mail Receipt # 7009 1680 0000 7669 2243

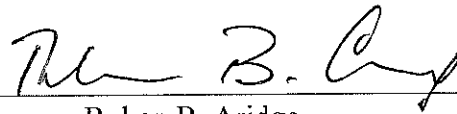
RECEIVED

AUG 20 2012

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

Mr. Michael Chambers
Taft Stettinius & Hollister
One Indiana Square, Suite 3500
Indianapolis, IN 46204-2023

Dated: 8/20, 2012



Ruben B. Aridge
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