



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
NOV - 5 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL 7009 1680 0000 7648 7245
RETURN RECEIPT REQUESTED

Mr. Peter Macaluso
Vice President and General Counsel
Houghton International, Inc.
Madison and Van Buren Avenues
Post Office Box 930
Valley Forge, PA 19482-0930

Re: Consent Agreement and Final Order
Houghton International, Inc.
9100 Freeland Street
Detroit, MI
EPA I.D. No.: MID005329602
Docket No: **RCRA-05-2016-0002**

Dear Mr. Macaluso:

Enclosed, please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The original was filed on November 5, 2015, with the Regional Hearing Clerk.

Please pay the civil penalty in the amount of \$54,951 in the manner prescribed in paragraphs 176 and 178 of the CAFO, and reference all checks with the Docket No.: **RCRA-05-2016-0002**. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Your payment is due within 30 calendar days of the effective date of the CAFO. Thank you for your cooperation in resolving this matter.

Sincerely,

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

Gary J. Victorine
Chief,
RCRA Branch

Enclosures

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:)	Docket No. RCRA-05-2016-0002
)	
Houghton International, Inc.)	Proceeding to Commence and Conclude
Detroit, Michigan,)	an Action to Assess a Civil Penalty
)	Under Section 3008(a) of the Resource
)	Conservation and Recovery Act,
Respondent.)	42 U.S.C. § 6928(a)
<hr/>)	



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 Michigan pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
4. Respondent is Houghton International, Inc., a corporation doing business in the State of Michigan.
5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the

issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

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

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

Jurisdiction and Waiver of Right to Hearing

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

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

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

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

Statutory and Regulatory Background

12. 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, and 6924.

13. 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. §§ 6921-6939e) 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 EPA granted the State of Michigan final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective October 30, 1986. 51 Fed. Reg. 36804 (October 16, 1986).

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.

16. 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, required 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, EPA may assess a civil penalty of up to \$37,500 per day for each violation of Subtitle C of RCRA that occurred after January 12, 2009.

General Allegations

16. Respondent was and is a "person" as defined by MAC R 299.9106(i), 40 C.F.R. § 260.10, 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 MAC R 299.9106(f) and (g) and 40 C.F.R. § 260.10, of a facility located at 9100 Freeland Street, Detroit, Michigan 48228 (Facility).

18. Respondent's Facility consists of land and structures, other appurtenances, and improvements on the land, used for, among other things, treating, storing, or disposing hazardous waste.

19. Respondent's Facility is a "facility," as that term is defined under MAC 299.9103(q) and 40 C.F.R. § 260.10.

20. Respondent is a "generator," as that term is defined under MAC R 299.9104(b) and 40 C.F.R. § 260.10.

21. Respondent began generating and/or managing hazardous waste at the Facility on or before November 19, 1980.

22. On February 23, 2012, EPA conducted an inspection ("inspection") of Respondent's Facility to evaluate Respondent's compliance with the applicable requirements of RCRA.

23. On June 26, 2012, EPA issued a request for information to Respondent to further evaluate Respondent's compliance with the applicable requirements of RCRA.

24. On or about July 11, 2012, Respondent submitted to EPA a response to the June 26, 2012 request for information.

25. On April 22nd, 2013, EPA issued a Notice of Violation to Respondent alleging certain violations of RCRA discovered during the inspection.

26. At the time of the inspection, Respondent was operating as a large quantity generator of hazardous wastes.

27. At all times relevant to this CAFO, Respondent stored, transported, disposed of, or otherwise handled various hazardous wastes in "containers," as that term is defined under MAC R 299.9102(q) and 40 C.F.R. § 260.10.

28. At all times relevant to this CAFO, Respondent's various hazardous waste (D001,

D005, F003, and F005) was “waste” as that term is defined under MAC R 299.9109(gg) and MAC R 299.9202.

29. At all times relevant to this CAFO, Respondent’s various hazardous waste (D001, D005, F003, and F005) was “solid waste” as that term is defined under 40 C.F.R. § 261.2.

30. At all times relevant to this CAFO, Respondent’s hazardous waste (D001, D005, F003, and F005) was “hazardous waste” as that term is defined under MAC R 299.9203 and 40 C.F.R. § 261.3.

31. At all times relevant to this CAFO, Respondent’s holding of hazardous waste (D001, F005, and F003) in a 55-gallon hazardous waste drum—labeled as “Hazardous Waste,” “Waste Flammable Liquids,” and “D001, F005, and F003,”—constituted “storage,” as that term is defined under MAC R 299.9107(dd) and 40 C.F.R. § 260.10.

32. At all times relevant to this CAFO, Respondent’s holding of hazardous waste (D005) in a over pack drum constituted “storage,” as that term is defined under MAC R 299.9107(dd) and 40 C.F.R. § 260.10.

33. Because Respondent owns and operates a facility that stores hazardous waste awaiting treatment, disposal or storage elsewhere, Respondent is subject to the requirements for treatment, storage and disposal facilities (TSDFs) found at MAC R 299.9601 – 299.9640 and 40 C.F.R. Parts 264 and 265.

34. 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 license is prohibited.

35. Pursuant to MAC R 299.9306(1) and 40 C.F.R. § 262.34(a), however, and subject to certain exceptions, a generator of hazardous waste may store hazardous waste on-site for 90 days

or less without having a license or interim status, provided that the generator complies with all applicable conditions set forth in MAC R 299.9306 and 40 C.F.R. § 262.34(a).

36. Failure to comply with any of the conditions of MAC R 299.9306 subjects a generator of hazardous waste to the license requirements of MAC R 299.9502, 299.9508 and 299.9510 and 40 C.F.R. §§ 270.1(c) and 270.10(a) and (d).

37. At all times relevant to this CAFO, the State of Michigan has not and had not issued a license to Respondent to treat, store, or dispose of hazardous waste at its Facility.

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

39. At all times relevant to this CAFO, Respondent held Hazardous Wastes D001, F003, and F005, all discarded materials, for a temporary period greater than 90 days in a 55-gallon container before the material was shipped from the Facility for treatment, storage, disposal, burning or incineration elsewhere.

40. At all times relevant to this CAFO, Respondent held Hazardous Waste D005, a discarded material, for a temporary period greater than 90 days in an unlabeled over pack drum before the material was shipped from the Facility for treatment, storage, disposal, burning or incineration elsewhere.

41. At all times relevant to this CAFO, Respondent characterized its solvent waste as hazardous waste D001, D005, F003, and F005.

Count I: Storage of Hazardous Waste without a License or Interim Status

42. Complainant incorporates paragraphs 1 through 41 of this CAFO as though set forth in this paragraph.

43. Pursuant to MAC R 299.9502(1), MAC R 299.9508, MAC R 299.9510, 40 C.F.R.

§§ 270.1, 270.10, and 270.13, a generator who accumulates hazardous waste on-site for 90 days or more, or that does not meet the conditions for a license exemption of MAC R 299.9306(1) and (3), and 40 C.F.R. § 262.34(a) and (b), is an operator of a hazardous waste storage facility, and is required to obtain a hazardous waste storage license.

Failure to Label with Accumulation Date

44. Pursuant to MAC R 299.9306(1)(b) and 40 C.F.R. § 262.34(a)(2), in order to retain the exemption from the requirement to obtain a hazardous waste storage license, a generator must ensure that the date upon which each period of Hazardous Waste accumulation begins is clearly marked and visible for inspection on each container.

45. During the Inspection, in the Hazardous Waste Storage Area Bin of the Facility, two 55-gallon hazardous waste drums were marked with the accumulation dates of 12/2011 and 8/2011.

46. The two 55-gallon hazardous waste drums in the Hazardous Storage Area Bin were only marked with the month, and not with the specific date accumulation began.

47. During the inspection of the area behind the Red Shed by the South Gate, two over pack drums held unknown contents.

48. The aforementioned two over pack drums in the area behind the Red Shed by the South Gate were not labeled and were stored open.

49. Respondent submitted correspondence dated July 11, 2012, stating that one of the over pack drums held hazardous waste (D005) and was shipped off-site on June 22, 2012.

50. The over pack drum in the area behind the Red Shed by the South Gate containing hazardous waste (D005) was not marked with the date accumulation began.

51. Respondent failed to ensure that the date upon which each period of accumulation

began was clearly marked and visible for inspection on each container.

52. Respondent failed to comply with requirements of the exemption to obtain a hazardous waste storage license pursuant to MAC R 299.9306(1)(b) and 40 C.F.R. § 262.34(a)(2).

Failure to Label as Hazardous Waste

53. Pursuant to MAC R 299.9306(1)(c) and 40 C.F.R. § 262.34(a)(3), in order to retain the exemption from the requirement to obtain a hazardous waste storage license, a generator must ensure that while hazardous waste is being accumulated on site, each container and tank is labeled with the words "Hazardous Waste."

54. During the inspection of the area behind the Red Shed by the South Gate, two over pack drums held unknown contents.

55. The aforementioned two over pack drums in the area behind the Red Shed by the South Gate were not labeled.

56. Respondent submitted correspondence dated July 11, 2012 stating that one of the over pack drums held hazardous waste (D005) and was shipped off-site on June 22, 2012.

57. Respondent failed to label the over pack drum containing hazardous waste D005 with the words "Hazardous Waste."

58. Respondent failed to comply with requirements of the exemption to obtain a hazardous waste storage license pursuant to MAC R 299.9306(1)(c) and 40 C.F.R. § 262.34(a)(3).

Failure to Ensure Appropriate Accumulation Conditions

59. Pursuant to MAC R 299.9306(1)(e), in order to retain the exemption from the requirement to obtain a hazardous waste storage license, generator must ensure that the area

where waste is accumulated is protected, as appropriate for the type of waste being stored, from weather, fire, physical damage, and vandals.

60. During the inspection of the area behind the Red Shed by the South Gate one 55-gallon drum was open and contained yellowish colored waste, later determined via waste characterization to contain hazardous waste D005.

61. The 55-gallon drum behind the Red Shed by the South Gate containing hazardous waste (D005) was not provided with containment or outdoor protection.

62. The 55-gallon drum behind the Red Shed by the South Gate containing hazardous waste (D005) was situated directly on the ground.

63. The 55-gallon drum behind the Red Shed by the South Gate containing hazardous waste (D005) was not protected from the weather.

64. Respondent failed to ensure that the area where waste is accumulated is protected, as appropriate for the type of waste being stored, from weather, fire physical damage, and vandals.

65. Pursuant to MAC R 299.9306(1)(e), Respondent failed to comply with the conditions for exemption from the requirement to obtain a hazardous waste storage license.

66. On failing to comply with the conditions for a license exemption referenced above, Respondent became an operator of a hazardous waste storage facility, and was required to apply for and to obtain a hazardous waste storage license.

67. Respondent did not apply for, or obtain, a hazardous waste storage license.

68. Respondent did not receive an extension of time pursuant to MAC R 299.9306(3) or otherwise.

69. Respondent's failure to apply for, or obtain, a hazardous waste storage license,

violated MAC R 299.9502(1), MAC R 299.9508, MAC R 299.9510, 40 C.F.R. § 270.1, 40 C.F.R. § 270.10, and 40 C.F.R. § 270.13.

Count II: Hazardous Waste Determination Violations

Failure to Determine if Waste is Hazardous Waste

70. Complainant incorporates paragraphs 1 through 41 of this CAFO as though set forth in this paragraph.

71. Pursuant to MAC R 299.9302 and 40 C.F.R. § 262.11, a generator of a waste as defined in MAC R 299.9202 shall determine if that waste is a hazardous waste.

72. During the inspection of the area behind the Red Shed by the South Gate, there were two open over pack drums that held unknown contents, later determined to be hazardous waste.

73. At the time of the inspection, Respondent had not made a waste determination for the two drums.

74. Respondent's failure to make a waste determination for these two drums violated the waste determination requirement of MAC R 299.9302 and 40 C.F.R. § 262.11.

Failure to Keep Records of Test Results, Waste Analyses, or Other Determinations

75. Pursuant to MAC R 299.9307(1) and 40 C.F.R. § 262.40(c), a generator shall keep records of any test results, waste analyses, or other determinations made pursuant to MAC R 299.9302 for not less than three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

76. During the inspection of records, there were no waste characterizations documented for the unknown contents in the two open over pack drums located in the area behind the Red Shed.

77. Additionally, during the inspection of records there was no waste characterization

documented for the non-hazardous waste lube oil.

78. Respondent's failure to keep records of any test results, waste analyses, or other determinations made pursuant to MAC R 299.9302 for not less than three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal violated MAC R 299.9307(1) and 40 C.F.R. § 262.40(c).

Count III: Reporting Requirement Violations

79. Complainant incorporates paragraphs 1 through 41 of this CAFO as though set forth in this paragraph.

80. Pursuant to MAC R 299.9308(1), a generator of more than 1,000 kilograms of hazardous waste shall provide to the director or the director's designee the data necessary for the department to prepare and submit Michigan's hazardous waste report as required to the EPA. The data shall be submitted in a format specified by the director or the director's designee. The data shall be acquired from the information required in subrule (2) of this rule and Parts 3 and 6 of the rules, other reporting mechanisms used by the director to obtain the information specified in 40 C.F.R. §262.41(a)(1) to (8), and by the EPA as part of a federal information collection request published in conjunction with 40 C.F.R. §262.41(a).

81. Pursuant to 40 C.F.R. § 262.41(a), a generator who ships any hazardous waste off-site to a treatment, storage, or disposal facility within the United States must prepare and submit a single copy of a Biennial Report by March 1 of each even numbered year to the Regional Administrator. The Biennial Report must be submitted on EPA Form 8700-13A, and must cover generator activities during the previous year.

82. Respondent's biennial hazardous waste report for the year 2011 was received by the Michigan Department of Environmental Quality on March 7, 2012.

83. Respondent's failure to submit a Biennial Report by March 1, 2012 violated the generator reporting requirements of MAC R 299.9308(1) and 40 C.F.R. § 262.41(a).

Count IV: Container and Containment Requirement Violations

Failure to Comply with Containment Requirement

84. Complainant incorporates paragraphs 1 through 41 of this CAFO as though set forth in this paragraph.

85. Pursuant to MAC R 299.9306(1)(f), in order to retain the exemption from the requirement to obtain a hazardous waste storage license, a generator must ensure that hazardous waste accumulation is conducted so that hazardous waste or hazardous waste constituents cannot escape by gravity into the soil, directly or indirectly, into surface or ground waters, or into drains or sewers and so that fugitive emissions are not in violation of part 55 of Michigan's Natural Resources Protection Act.

86. During the inspection of the area behind the Red Shed by the South Gate one 55-gallon drum was open and contained yellowish colored waste, later determined via waste characterization to contain hazardous waste D005.

87. The 55-gallon drum containing hazardous waste in the area behind the Red Shed by the South Gate was not provided with containment or outdoor protection.

88. The 55-gallon drum containing hazardous waste in the area behind the Red Shed by the South Gate was situated directly on the ground, and was not protected from the weather.

89. Respondent failed to ensure that hazardous waste accumulation was conducted so that hazardous waste or hazardous waste constituents cannot escape by gravity into the soil, directly or indirectly, into surface or ground waters, or into drains or sewers and so that fugitive emissions are not in violation of part 55 of Michigan's Natural Resources Protection Act.

90. Pursuant to MAC R 299.9306(1)(f), Respondent failed to comply with the conditions for exemption from the requirement to obtain a hazardous waste storage license.

Failure to Comply with Closed Container Requirement

91. Pursuant to MAC R 299.9306(1)(a)(i), 40 C.F.R. § 262.34(a)(1)(i), and 40 C.F.R. § 265.173(a), in order to retain the exemption from the requirement to obtain a hazardous waste storage license, a generator must ensure that a container holding hazardous waste must always be closed during storage, except when necessary to add or remove waste.

92. Pursuant to MAC R 299.9614(1)(a), MAC R 299.9601(1), (2)(g), and 40 C.F.R. § 264.173(a), an owner or operator of a hazardous waste storage facility must ensure that a container holding hazardous waste must always be closed during storage, except when necessary to add or remove waste.

93. During the inspection of the area behind the Red Shed by the South Gate, two over pack drums held unknown contents.

94. The over pack drums holding unknown contents in the area behind the Red Shed by the South Gate were not labeled and were stored open.

95. Respondent submitted correspondence dated July 11, 2012, stating that one of the over pack drums held hazardous waste (D005) and was shipped off-site on June 22, 2012.

96. At the time of the inspection, Respondent was not adding or removing hazardous waste from the drum.

97. Respondent failed to ensure that a container holding hazardous waste was closed at all times during storage, except when necessary to add or remove waste.

98. Pursuant to MAC R 299.9306(1)(a)(i), 40 C.F.R. §§ 262.34(a)(1)(i), and 265.173(a), Respondent failed to comply with the conditions for exemption from the requirement to obtain a

hazardous waste storage license..

99. Respondent at the time of the inspection accumulated hazardous waste for more than 90 days.

100. Respondent is an operator of a storage facility pursuant to MAC R 299.9306(3) and 40 C.F.R. § 262.34.

101. Respondent's failure to ensure that a container holding hazardous waste was closed at all times during storage, except when necessary to add or remove waste violated MAC R 299.9614(1)(a), MAC R 299.9601(1), (2)(g), and 40 C.F.R. § 264.173(a).

Failure to Comply with Container Storage Area Containment Requirements

102. Pursuant to MAC R 299.9306(1)(a)(i), in order to retain the exemption from the requirement to obtain a hazardous waste storage license, a generator must comply with the containment requirements of 40 C.F.R. § 264.175.

103. Pursuant to MAC R 299.9614(1)(a) and MAC R 299.9601(1), (2)(g), owners or operators of hazardous waste storage facilities must comply with the containment requirements of 40 C.F.R. § 264.175.

104. Pursuant to 40 C.F.R. § 264.175(b)(2), container storage areas must have a containment system designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids.

105. During the inspection of the area behind the Red Shed by the South Gate one 55-gallon drum was open and contained yellowish colored waste (which was determined via waste characterization to contain hazardous waste D005).

106. The 55-gallon drum containing hazardous waste (D005) in the area behind the Red

Shed by the South Gate was not provided with containment nor otherwise elevated/protected from contact with any accumulated liquid.

107. Respondent failed to ensure that the 55-gallon drum containing hazardous waste (D005) in the area behind the Red Shed by the South Gate was in a containment system designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids.

108. Pursuant to MAC R 299.9306(1)(a)(i) and 40 C.F.R. § 264.175, Respondent failed to comply with the conditions for exemption from the requirement to obtain a hazardous waste storage license..

109. Respondent at the time of the inspection accumulated hazardous waste for more than 90 days.

110. Respondent is an operator of a storage facility pursuant to MAC R 299.9306 and 40 C.F.R. § 262.34.

111. Respondent's failure to ensure that the 55-gallon drum containing hazardous waste (D005) in the area behind the Red Shed by the South Gate was in a containment system designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers were elevated or otherwise protected from contact with accumulated liquids violated MAC R 299.9614(1)(a), MAC R 299.9601(1), (2)g), and 40 C.F.R. § 264.175.

Count V: Training Requirement Violations

Failure to Provide Training

112. Complainant incorporates paragraphs 1 through 41 of this CAFO as though set forth in this paragraph.

113. Pursuant to MAC R 299.9306(1)(d), 40 C.F.R. §§ 262.32(a)(4), and 265.16(c) and

(d)(4), in order to retain the exemption from the requirement to obtain a hazardous waste storage license, a generator must ensure that facility personnel with hazardous waste management responsibilities successfully complete an initial hazardous waste training program which teaches facility personnel hazardous waste management procedures including contingency plan implementation. Additionally, a generator must ensure that facility personnel with hazardous waste management responsibilities receive annual review training thereafter.

114. Pursuant to MAC R 299.9601(3) and 40 C.F.R. § 264.16(c) and (d), owners and operators of hazardous waste storage facilities must ensure that facility personnel with hazardous waste management responsibilities successfully complete an initial hazardous waste training program which teaches facility personnel hazardous waste management procedures including contingency plan implementation. Additionally, owners and operators of hazardous waste storage facilities must ensure that facility personnel with hazardous waste management responsibilities receive annual review training thereafter.

115. When the facility became a large quantity generator in 2011 there was no RCRA training provided and documented for 2011.

116. The last documented RCRA training occurred in September and October of 2010.

117. The following personnel involved with hazardous waste management received the RCRA training: Michael Henderson (10/26/2010); Dennis Watson (9/13/2010); and Matthew Syverson (10/25/2010).

118. During the inspection of records there was no documentation stating RCRA annual review training had occurred in 2011 for Michael Henderson, Dennis Watson, and Matthew Syverson, or any other facility personnel.

119. RCRA annual review training did not occur in 2011 for Michael Henderson, Dennis

Watson, and Matthew Syverson, or any other facility personnel.

120. Respondent failed to ensure that facility personnel with hazardous waste management responsibilities successfully received annual review training.

121. Pursuant to MAC R 299.9306(1)(d), 40 C.F.R. §§ 262.32(a)(4), and 265.16(c) and (d)(4), Respondent failed to comply with the conditions for exemption from the requirement to obtain a hazardous waste storage license.

122. Respondent at the time of the inspection accumulated hazardous waste for more than 90 days.

123. Respondent is an operator of a storage facility pursuant to MAC R 299.9306 and 40 C.F.R. § 262.34.

124. Respondent violated the requirements for owners or operators of hazardous waste storage facilities to ensure that facility personnel with hazardous waste management responsibilities successfully complete an initial hazardous waste training program which teaches facility personnel hazardous waste management procedures including contingency plan implementation.

125. Respondent violated the requirement for owners or operators of hazardous waste storage facilities to ensure facility personnel with hazardous waste management responsibilities successfully receive annual review training thereafter.

126. Respondent's failure to ensure required training violated MAC R 299.9601(3) and 40 C.F.R. § 264.16(c) and (d).

Failure to Maintain Documents Relating to Hazardous Waste Management Employees

127. Pursuant to MAC R 299.9306(1)(d), 40 C.F.R. §§ 262.34(a)(4) and 265.16(d)(1), in order to retain the exemption for the requirement to obtain a hazardous waste storage license, a

generator must maintain the following documents at the facility: the job title of each position at the facility related to hazardous waste management, and the name of the employee filling each job (40 C.F.R. § 265.16(d)(1)); a written job description for each position, involved in hazardous waste management, that includes the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position (40 C.F.R. § 265.16(d)(2)); and a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under 40 C.F.R. § 265.16(d)(1) (40 C.F.R. § 265.16(d)(3)).

128. Pursuant to MAC R 299.9601(3) and 40 C.F.R. § 264.16(d), an owner or operator of a hazardous waste storage facility must maintain the following documents at the facility: the job title of each position at the facility related to hazardous waste management, and the name of the employee filling each job (40 C.F.R. § 264.16(d)(1)); a written job description for each position, involved in hazardous waste management, that includes the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position (40 C.F.R. § 264.16(d)(2)); a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under § 264.16(d)(1) (40 C.F.R. § 264.16(d)(3)); and records that document that the training or job experience required under paragraphs (a), (b), and (c) of this section has been given to, and completed by, facility personnel (40 C.F.R. §264.16(d)(4)).

129. Respondent failed to document and maintain a written job description for each position involved in hazardous waste management that includes the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position.

130. Respondent failed to document and maintain a written description of the type and

amount of both introductory and continuing training that will be given to each person filling a position listed under § 265.16(d)(1).

131. Pursuant to MAC R 299.9306(1)(d), 40 C.F.R. §§ 262.34(a)(4) and 265.16(d), Respondent failed to comply with the conditions for exemption from the requirement to obtain a hazardous waste storage license.

132. Respondent at the time of the inspection accumulated hazardous waste for more than 90 days.

133. Respondent is an operator of a storage facility pursuant to MAC R 299.9306 and 40 C.F.R. § 262.34.

134. Respondent's failure to document job descriptions and the type/amount of training violated MAC R 299.9601(3) and 40 C.F.R. § 264.16(d).

Count VI: Contingency Plan Requirement Violations

135. Complainant incorporates paragraphs 1 through 41 of this CAFOc as though set forth in this paragraph.

136. Pursuant to MAC R 299.9306(1)(d), 40 C.F.R. §§ 262.34(a)(4) and §265.52(d), in order to retain the exemption from the requirement to obtain a hazardous waste storage license, a generator must list in a contingency plan, the name, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, including alternates. This list must be kept up to date and when 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.

137. Pursuant to MAC R 299.9601(2)(b), MAC R 299.9607(1), and 40 C.F.R. § 264.52(d), owners and operators of hazardous waste storage facilities must list in a contingency

plan, the name, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, including alternates. This list must be kept up to date and when 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.

138. Pursuant to MAC R 299.9306(1)(d), 40 C.F.R. §§ 262.34(a)(4) and 265.54(d), a generator's contingency plan must be reviewed, and immediately amended, if necessary, whenever the list of emergency coordinators changes.

139. Pursuant to MAC R 299.9601(2)(b), MAC R 299.9607(1), and 40 C.F.R. § 264.54(d), the contingency plans of owners and operators of hazardous waste storage facilities must be reviewed, and immediately amended, if necessary, whenever the list of emergency coordinators changes.

140. During the inspection of the records, the Facility's contingency plan's listed primary and alternate emergency coordinators were Paul Rachiele (primary), Ms. Tremblay, and Mark Parent respectively.

141. The plan was not revised when Mr. Francis became the primary emergency coordinator in 2011.

142. Respondent failed to list in the contingency plan, the name, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, including alternates.

143. Respondent failed to keep the contingency plan list up to date.

144. Respondent failed to designate Mr. Francis as the primary emergency coordinator.

145. Respondent failed to list the order in which other employees would assume responsibilities as alternate emergency coordinators.

146. Respondent failed to review, and immediately amend, as necessary, the contingency plan when Mr. Francis became the primary emergency coordinator in 2011.

147. Pursuant to MAC R 299.9306(1)(d), 40 C.F.R. §§ 262.34(a)(4) and 265.265.52(d), Respondent failed to comply with the conditions for exemption from the requirement to obtain a hazardous waste storage license.

148. Respondent at the time of the inspection accumulated hazardous waste for more than 90 days.

149. Respondent is an operator of a storage facility pursuant to MAC R 299.9306(3) and 40 C.F.R. § 262.32.

150. Respondent's failure to comply with contingency plan requirements described above in paragraphs 141-146 violated MAC R 299.9601(2)(b), MAC R 299.9607(1), and 40 C.F.R. § 264.52(d).

Count VII: Inspection Requirement Violations

151. Complainant incorporates paragraphs 1 through 41 of this CAFO as though set forth in this paragraph.

152. Pursuant to MAC R 299.9306(1)(a)(i), 40 C.F.R. §§ 262.34(a)(1)(i) and 265.174, in order to retain the exemption from the requirement to obtain a hazardous waste storage license, a generator must inspect areas where containers are stored, at least weekly, looking for leaks and deterioration caused by corrosion or other factors.

153. Pursuant to MAC R 299.9614(1)(a), MAC R 299.9601(1),(2)(g), and 40 C.F.R. § 264.174, owners or operators of hazardous waste storage facilities must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.

154. During the inspection of the container storage area, no inspections were documented for container storage area inspections for the following period: December 15, 2011 through December 30, 2011.

155. During the inspection of the area behind the Red Shed by the South Gate, two over pack drums held unknown contents.

156. Respondent submitted correspondence dated July 11, 2012, stating that one of the over pack drums held hazardous waste (D005) and was shipped off-site on June 22, 2012.

157. At least up until July 11, 2012, Houghton International conducted no weekly inspections for the hazardous waste drum in the area behind the Red Shed by the South Gate.

158. Respondent failed to comply with the condition requiring that generators must inspect areas where containers are stored, at least weekly, looking for leaks and deterioration caused by corrosion or other factors.

159. Pursuant to MAC R 299.9306(1)(a)(i), 40 C.F.R. §§ 262.34(a)(1)(i) and 265.174, Respondent failed to comply with the conditions for exemption from the requirement to obtain a hazardous waste storage license.

160. Respondent at the time of the inspection accumulated hazardous waste for more than 90 days.

161. Respondent is an operator of a storage facility pursuant to MAC R 299.9306(3) and 40 C.F.R. § 262.32.

162. Respondent's failure to comply with the weekly inspection for leaks and for deterioration caused by corrosion or other factors violated MAC R 299.9614(1)(a), MAC R 299.9601(1), (2)(g) and 40 C.F.R. § 264.174.

Violation of Storage Facility Inspection Documentation Requirement

163. Pursuant to MAC R 299.9306(1)(a)(i), in order to retain the exemption from the requirement to obtain a hazardous waste storage license, a generator shall maintain the inspection records on-site for a period of not less than three years from the date of inspection.

164. Pursuant to MAC R 299.9601(1), (2)(g), and (3)(b), MAC R 299.9614(1)(a), MAC R 299.9609(1)(a), 40 C.F.R. §§ 264.174, 264.15(d), 264.73, and 264.73(b)(5), owners or operators of hazardous waste storage facilities shall maintain the inspection records on-site for a period of not less than three years from the date of inspection.

165. During the inspection of records there were no inspections documented for the container storage area for the following period: December 15, 2011 through December 30, 2011.

166. During the inspection of the area behind the Red Shed by the South Gate, two over pack drums held unknown contents.

167. Respondent submitted correspondence dated July 11, 2012, which indicated that one of the over pack drums held hazardous waste (D005) and was shipped off-site on June 22, 2012.

168. At least up until July 11, 2012 Respondent documented no inspections for the hazardous waste drum in the area behind the Red Shed by the South Gate.

169. Respondent failed to document inspections for the hazardous waste drum in this area.

170. Respondent failed to maintain the inspection records on-site for a period of not less than three years from the date of inspection.

171. Pursuant to MAC R 299.9306(1)(a)(i) and 40 C.F.R. § 265.174, Respondent failed to comply with the conditions for exemption from the requirement to obtain a hazardous waste storage license.

172. Respondent at the time of the inspection accumulated hazardous waste for more than 90 days.

173. Respondent is an operator of a storage facility pursuant to MAC R 299.9306 and 40 C.F.R. § 262.32.

174. Respondent's failure to maintain inspection records violated MAC R 299.9601(1), (2)(g), and (3)(b), MAC R 299.9614(1)(a), MAC R 299.9609(1)(a), 40 C.F.R. §§ 264.174, 264.15(d), 264.73, and §264.73(b)(5).

Civil Penalty

175. 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 \$54,951. In determining the penalty amount, Complainant took into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

176. Within 30 days after the effective date of this CAFO, Respondent must pay a \$54,951 civil penalty for the RCRA violations 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 Houghton International, Inc. and the docket number of this CAFO.

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

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

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

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

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

180. 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.

181. 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

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

183. 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.

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

185. 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).

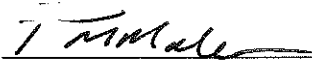
186. The terms of this CAFO bind Respondent, its successors, and assigns.

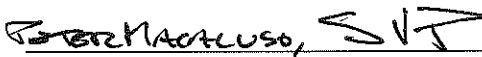
187. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

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

Houghton International, Inc. Respondent


Date 9/30/15


[Person's name, title, e.g., Ms. Jane Doe
President]
Houghton International, Inc.

United States Environmental Protection Agency, Complainant

10/19/2015

Date



Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
Houghton International, Inc.
Docket No. RCRA-05-2016-0002

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.

21 October 2015
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

In the Matter of:
Houghton International, Inc.
Docket No. RCRA-05-2016-0002

CERTIFICATE OF SERVICE

I certify that I served a true and accurate copy of the foregoing Consent Agreement and Final Order, which was filed on November 5, 2015, in the following manner to the addresses below:

Copy by Certified Mail
Return-receipt:

Mr. Peter Macaluso
Vice President and General Counsel
Houghton International, Inc.
Madison and Van Buren Avenues
Post Office Box 930
Valley Forge, PA 19482-0930

Copy by E-mail to
Attorney for Complainant:

Erik Olson
Olson.erik@epa.gov

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
Coyle.ann@epa.gov

Dated: November 5, 2015



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

CERTIFIED MAIL RECEIPT NUMBER(S): 7009 1680 0000 7648 7245