



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

REPLY TO THE ATTENTION OF:

FEB 07 2008

LR-8J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Douglas G. Haynam
Shumaker, Loop & Kendrick, LLP
1000 Jackson Street
Toledo, OH 43604-5573

Re: Consent Agreement and Final Order
SABCO Industries, Inc., OHD987045572

Dear Mr. Haynam:

Enclosed please find one of two original signed copies of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. We filed the originals with the Regional Hearing Clerk on **FEB 07 2008**.

Please pay the civil penalty of \$10,000.00 in accordance with paragraph 116 of this CAFO, and reference your check with the number BD 2750842R003 and docket number RCRA-05-2008-0001. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in black ink that reads "Willie H. Harris".

Willie H. Harris, P.E.
Chief, RCRA Branch
Land and Chemicals Division

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)
) DOCKET NO. RCRA-05-2008-0001
SABCO INDUSTRIES, INC.)
4511 SOUTH AVENUE)
TOLEDO, OHIO 43615) ADMINISTRATIVE COMPLAINT
) AND COMPLIANCE ORDER
U.S. EPA ID No.: OHD987045572)
)
Respondent)
_____)

RECEIVED
REGIONAL HEARING CLERK
US EPA REGION V
2008 FEB -7 AM 11:49

CONSENT AGREEMENT AND FINAL ORDER

I. JURISDICTION

1. This is a civil administrative action instituted under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. § 6928(a). RCRA was amended in 1984 by the Hazardous Waste and Solid Waste Amendments of 1984 (HSWA). This action is also simultaneously commenced and concluded under Sections 22.1(a)(4); 22.13(b); 22.14(a)(1)-(3) and (8); 22.18(b)(2) and (3); and 22.37 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22.

2. Jurisdiction for this action is conferred upon United States Environmental Protection Agency (U.S. EPA) by Sections 2002(a)(1), 3006(b), and 3008 of RCRA; 42 U.S.C. §§ 6912(a)(1), 6926(b), and 6928.

3. The Complainant is, by lawful delegation, the Director, Land and Chemicals Division,

Region 5, U.S. EPA.

4. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store and dispose of hazardous waste.

5. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or of 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.

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Ohio final authorization to administer a State hazardous waste program in lieu of the federal government's hazardous waste program, effective June 30, 1989, 54 Fed. Reg. 27170 (June 28, 1989). The U.S. EPA granted Ohio final authorization to administer certain HSWA and additional RCRA requirements effective June 7, 1991, 56 Fed. Reg. 14203 (April 8, 1991) (corrected effective August 19, 1991 (56 Fed. Reg. 28088 (June 19, 1991))); September 25, 1995, 60 Fed. Reg. 38502 (July 27, 1995); and December 23, 1996, 61 Fed. Reg. 54950 (October 23, 1996). The U.S. EPA-authorized Ohio regulations are codified at Ohio Administrative Code (OAC) Chapters 3745-49 through 69. See also, 40 C.F.R. §§ 272.1800 *et seq.* During periods when the State of Ohio did not have authorization, Federal regulations were applicable to persons who treated, stored or disposed of hazardous waste.

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

8. U.S. EPA has provided notice of commencement of this action to the State of Ohio pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

II. FACTUAL ALLEGATIONS

9. The Respondent is SABCO Industries, Inc., which is and was at all times relevant to this Complaint a corporation incorporated under the laws of the State of Ohio.

10. Respondent was and is a "person" as defined by OAC 3745-50-10(88), 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

11. Respondent owns a keg cleaning, reconditioning and refurbishing facility located at 4511 South Avenue, Toledo, Ohio (facility).

12. Respondent is the owner, as that term is defined by OAC 3745-50-10(84) and 40 C.F.R. § 260.10, of the facility.

13. On May 3, 2006, the U.S. EPA and the Ohio Environmental Protection Agency (OEPA) conducted an inspection of the facility to evaluate Respondent's compliance with the applicable requirements of RCRA.

14. The facility consists of land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste, as defined by OAC 3745-50-10(39)(a) and 40 C.F.R. § 260.10.

15. Respondent cleans kegs which are made of stainless steel.

16. In addition to cleaning kegs, the facility reconditions and refurbishes kegs, converts soda tank (3- to 5-gallon) containers to beer industry use, and manufactures miniature brewing equipment.

17. During the course of normal operations, the facility produces wastes that include, but are not limited to, nitric acid, chromium, and paint strippings.

18. Respondent is the operator, as that term is defined by OAC 3745-50-10(83) and 40 C.F.R. § 260.10, of the facility.

19. At all times relevant to this Complaint, through the cleaning of kegs at the facility, Respondent created waste nitric acid solution/chromium sludge.

20. Respondent's processes at the facility produce hazardous waste identified or listed in OAC 3745-51-01 to 3745-51-11; 3745-51-20 to 3745-51-24; 3745-51-30 to 3745-51-35, or cause a hazardous waste to become subject to regulation under OAC Rules 3745-50-01 to 3745-270 [40 C.F.R. Parts 260-270].

21. Respondent is a generator, as that term is defined by OAC 3745-50-10(45) and 40 C.F.R. § 260.10.

22. Respondent is subject to the regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921-6932, or the analogous Ohio regulations as part of the applicable State hazardous waste management program for the State of Ohio.

23. Respondent produces more than 1,000 kilograms (2,205 pounds) of hazardous waste in a calendar month, and is a large quantity generator.

24. Since at least 1994, Respondent has submitted annual reports to the Ohio

Environmental Protection Agency pursuant to OAC 3745-52-41 indicating the facility generates greater than 1000 kilograms of hazardous waste in a calendar month.

25. Pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), and the regulations at OAC 3745-50-40 and 40 C.F.R. Part 270, the treatment, storage, or disposal of hazardous waste by any person who has not applied for, or received, a permit is prohibited.

26. OAC 3745-52 and 40 C.F.R. Part 262 sets forth the standards applicable to generators of hazardous waste.

COUNT 1: Failure to meet generator on-site storage requirements.

27. Complainant incorporates paragraphs 1 through 26 of this Complaint as though set forth in full in this paragraph. •

28. Except as otherwise provided, a large quantity generator may, for ninety days or less, accumulate and/or conduct treatment of hazardous waste that is generated on-site without an Ohio hazardous waste permit, provided that the conditions of OAC 3745-52-34 [40 C.F.R. § 262.34] are met.

29. If the conditions of OAC 3745-52-34 [40 C.F.R. § 262.34] are not met, then the generator must apply for an operating permit under OAC 3745-50-40 to 3745-50-66; 3745-54 to 3745-57; 3745-205 and 3745-256 [40 C.F.R. Part 264, 40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13].

30. The main hazardous waste storage area is in a semi-trailer located behind the facility.

31. During the May 3, 2006 EPA inspection, the inspectors observed twenty-six (26) 55-gallon poly drums, which contained hazardous waste nitric acid solution/chromium sludge, in the semi-trailer.

Failure to meet generator requirement by storing hazardous waste on-site for longer than 90 days.

32. Pursuant to OAC 3745-52-34(B) [40 C.F.R. § 262.34(b)], a generator of hazardous waste must not accumulate hazardous waste on-site for more than 90 days, unless the generator has been granted an extension to the 90-day period.

33. Of the twenty-six (26) drums described in paragraph 31, none of the drums were RCRA empty, as defined in OAC 3745-51-07 [40 C.F.R. § 261.7]; the contents of the drums were as follows:

- (a) twenty-one (21) 55-gallon poly drums were 1/4 full of hazardous waste nitric acid solution/chromium sludge.
- (b) three (3) 55-gallon poly drums were 1/4 to 1/8 full of hazardous waste nitric acid solution/chromium sludge.
- (c) one (1) 55-gallon poly drum was 1/2 full of hazardous waste nitric acid solution/chromium sludge.
- (d) one (1) 55-gallon poly drum was 1/8 full of hazardous waste nitric acid solution/chromium sludge.

34. Six (6) of these hazardous waste drums had labels indicating that hazardous waste was accumulated in them starting on 6/30/2005.

35. Another four (4) of these drums had labels indicating that hazardous waste was accumulated in them starting on 7/8/05 (3 drums) and 7/18/05 (1 drum).

36. The remaining sixteen (16) drums did not have a label indicating the date on which accumulation began, but, when asked by the inspector, Respondent's employees stated that these drums had started accumulating hazardous waste since the 10/7/05 shipment of hazardous waste.

37. The twenty-six drums, described in paragraph(s) 31 and 33 through 36, accumulated hazardous waste for greater than ninety days; therefore, Respondent failed to meet the generator requirement in 40 C.F.R. § 262.34(b).

Failure to meet generator exemption condition by storing hazardous waste without an accumulation date label, or without the accumulation date label being visible.

38. Pursuant to OAC 3745-52-34(A)(2) [40 C.F.R. § 262.34(a)(2)], a large quantity generator must ensure that the date upon which each period of accumulation and/or treatment begins is clearly marked and visible for inspection on each container.

39. Of the twenty-six (26) 55-gallon poly drums in the main hazardous waste storage area, referred to in paragraph 31, sixteen (16) drums were not labeled with the date upon which accumulation began.

40. Another seven (7) of the twenty-six (26) 55-gallon drums were labeled with the date upon which accumulation began, but these labels were not visible at the time of the inspection.

41. The twenty-three drums, referred to in paragraphs 39 and 40, were stored in violation of OAC 3745-52-34(A)(2) [40 C.F.R. § 262.34(a)(2)].

42. As set forth above, Respondent did not meet the requirements of OAC 3745-52-34 necessary to exempt it from the requirement to obtain interim status or apply for and obtain a permit for the storage (accumulation) 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(a) and the regulations found at OAC 3745-50-40 to 3745-50-66; 3745-54 to 3745-57; 3745-205 and 3745-256 [40 C.F.R. Part 264, 40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13].

COUNT 2: Failure to make a hazardous waste determination of a solid waste.

43. Complainant incorporates paragraphs 1 through 26 of this Complaint as though set forth in this paragraph.

44. OAC 3745-52-11 [40 C.F.R. § 262.11] requires that a person who generates a waste, as defined in OAC 3745-51-02, must determine if that waste is a hazardous waste.

45. OAC 3745-51-02 [40 C.F.R. § 261.02] defines a waste as any discarded material that is not excluded by OAC 3745-51-04 or that is not excluded by a variance granted under OAC 3745-50-23 and 3745-50-24. In turn, a discarded material includes any material that is abandoned by being disposed of.

46. At the time of the U.S. EPA inspection of the facility on May 3, 2006, there were two buffing machines being used to remove old paint stripes from kegs.

47. A vacuum sweeper system kept the waste paint strippings contained in large bags.

48. The waste paint strippings, referred to in paragraphs 46 and 47, are then disposed of in the general trash as stated by Respondent's employee.

49. At the time of the U.S. EPA inspection of the facility on May 3, 2006, Respondent had not made a determination of whether the waste paint strippings were a hazardous waste.

50. Respondent failed to make a hazardous waste determination as required by OAC 3745-52-11 [40 C.F.R. § 262.11] and is subject to an order for civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

COUNT 3: Failure to document and record all the required elements of a complete training program.

51. Complainant incorporates paragraphs 1 through 26 of this Complaint as though set forth in this paragraph.

52. Facilities that fail to meet the conditions of a generator exemption for waste storage under OAC 3745-52-34 [40 C.F.R. § 262.34] must meet the standards for treatment, storage, and disposal facilities in OAC 3745-54 [40 C.F.R. Part 264, Subpart B], which requires that all owners or operators of hazardous waste facilities comply with all requirements entitled, "General Facility Standards."

53. OAC 3745-54-16(D) [40 C.F.R. § 264.16(d)] lists the required documents and records that the owner or operator must maintain at the facility, which includes, but is not limited to:

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

(2) A written job description for each position listed under paragraph (D)(1) of this Section. This description may be consistent in its degree of specificity with descriptions for other positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position;

(3) The type and amount of both introductory and continuing training to be given to each employee filling a hazardous waste management position listed under paragraph (D)(1).

54. At the time of the U.S. EPA inspection of the facility on May 3, 2006, Respondent failed to maintain at the facility, documents and records that described the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job.

55. At the time of the U.S. EPA inspection of the facility on May 3, 2006, Respondent failed to maintain at the facility, documents and records providing a written job description including the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position at the facility related to hazardous waste management.

56. At the time of the U.S. EPA inspection of the facility on May 3, 2006, Respondent failed to maintain at the facility, documents and records providing the type and amount of both introductory and continuing training to be given to each employee filling a position at the facility related to hazardous waste management.

57. Respondent has failed to meet the requirements referred to in paragraph 53; therefore, Respondent has violated OAC 3745-54-16(D) [40 C.F.R. § 264.16(d)] and is subject to an order for civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

COUNT 4: Failure to have all the necessary components of a hazardous waste management training program.

58. Complainant incorporates paragraphs 1 through 26 of this Complaint as though set forth in this paragraph.

59. Facilities that fail to meet the conditions of a generator exemption for waste storage under OAC 3745-52-34 [40 C.F.R. § 262.34] must meet the standards for treatment, storage, and disposal facilities in OAC 3745-54 [40 C.F.R. Part 264, Subpart B], which requires that all owners or operators of hazardous waste facilities comply with all requirements entitled, “General Facility Standards.”

Failure to have a hazardous waste management training program that includes instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

60. OAC 3745-54-16(A)(2) and (D)(4) [40 C.F.R. §§ 264.16(a)(2) and (d)(4)] require that the owner or operator must have a hazardous waste management training program that includes instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed, and that such program must be documented.

61. At the time of the U.S. EPA inspection of the facility on May 3, 2006, Respondent failed to maintain at the facility, a hazardous waste management training program that includes

instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

Failure to have a hazardous waste management training program that is designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems.

62. OAC 3745-54-16(A)(3)(d)-(f) and (D)(4) [40 C.F.R. § 264.16(a)(3)(iv)-(vi) and (d)(4)] requires that the owner or operator must have a hazardous waste management training program that is designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems.

63. At the time of the U.S. EPA inspection of the facility on May 3, 2006, Respondent failed to maintain, at the facility, a hazardous waste management training program including response procedures for explosions; groundwater contamination incidents; and shutdown procedures. However, the training program did include response procedures for fire incidents.

64. Respondent has failed to meet the requirements referred to in paragraphs 60 and 62; therefore, Respondent has violated OAC 3745-54-16(A)(2), (A)(3), and (D)(4) [40 C.F.R. §§ 264.16(a)(2), (a)(3), and (d)(4)] and is subject to an order for civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

COUNT 5: Failure to implement a hazardous waste training program and keep records that documented that the training or job experience required has been given to, and completed by, facility personnel.

65. Complainant incorporates paragraphs 1 through 26 of this Complaint as though set forth in this paragraph.

66. Facilities that fail to meet the conditions of a generator exemption for waste storage under OAC 3745-52-34 [40 C.F.R. § 262.34] must meet the standards for treatment, storage, and disposal facilities in OAC 3745-54 [40 C.F.R. Part 264, Subpart B], which requires that all owners or operators of hazardous waste facilities comply with all requirements entitled, “General Facility Standards.”

67. OAC 3745-54-16(A)(1) [40 C.F.R. § 264.16(a)(1)] requires that facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility’s compliance with the requirements of OAC 3745-54 [40 C.F.R. Part 264].

68. OAC 3745-54-16(C) [40 C.F.R. § 264.16(c)] provides that facility personnel must take part in an annual review of the initial training required in OAC 3745-54-16(A) [40 C.F.R. § 264.16(a)].

69. OAC 3745-54-16(D)(4) [40 C.F.R. § 264.16(d)(4)] provides that the owner or operator must maintain records at the facility that document that the training or job experience required under OAC 3745-54-16(A)-(C) [40 C.F.R. § 264.16(a)-(c)] has been given to, and completed by, facility personnel.

70. OAC 3745-54-16(E) [40 C.F.R. § 264.16(e)] requires that training records on current personnel must be kept until closure of the facility and training records on former employees must be kept for at least three years from the date the employee last worked at the facility.

71. At the time of the U.S. EPA inspection of the facility on May 3, 2006, in response to the inspector's request for training records, Respondent's employee stated Respondent had no records at the facility documenting that John Pershing, Nathaniel Jordan, Jerry Hauser, Michael Latsch, and Michael Reau had received an annual review of their initial hazardous waste management training since May 3, 2001.

72. At the time of the U.S. EPA inspection of the facility on May 3, 2006, in response to the inspector's request for training records, Respondent's employee stated Respondent had no records at the facility documenting the training received by other employees, not referenced in paragraph 71, who at the time of the inspection were involved in the management of hazardous waste at the facility.

73. At the time of the U.S. EPA inspection of the facility on May 3, 2006, Respondent had not implemented annual review of its hazardous waste training program.

74. Respondent has failed to meet the requirements referred to in paragraphs 67 through 70; therefore, Respondent has violated OAC 3745-54-16(C), (D)(4) and (E) [40 C.F.R. §§ 264.16(c), (d)(4) and (e)] and is subject to an order for civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

COUNT 6: Failure to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.

75. Complainant incorporates paragraphs 1 through 26 of this Complaint as though set forth in this paragraph.

76. Facilities that fail to meet the conditions of a generator exemption for waste storage under OAC 3745-52-34 [40 C.F.R. § 262.34] must meet the standards for treatment, storage, and disposal facilities in OAC 3745-54 [40 C.F.R. Part 264, Subpart C], which requires that all owners or operators of hazardous waste facilities comply with all requirements entitled, "Preparedness and Prevention."

77. OAC 3745-54-35 [40 C.F.R. § 264.35] requires that the owner or operator shall maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.

78. At the time of the U.S. EPA inspection of the facility on May 3, 2006, twenty-six (26) 55-gallon drums that contained hazardous waste nitric acid solution/chromium sludge were in the semi-trailer that functioned as the main hazardous waste storage area. The drums started near the entrance to the semi-trailer and extended almost the entire length of the trailer. The drums were in two rows with sixteen drums (eight on top of eight) stacked near the rear of the semi-trailer.

79. There was no aisle space between and immediately surrounding the two rows of hazardous waste drums in the main hazardous waste storage area for the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment.

80. Respondent has failed to meet the requirements referred to in paragraph 77; therefore, Respondent has violated OAC 3745-54-35 [40 C.F.R. § 264.35] and is subject to an order for civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

COUNT 7: Failure to include all of the necessary components of a contingency plan.

81. Complainant incorporates paragraphs 1 through 26 of this Complaint as though set forth in this paragraph.

82. Facilities that fail to meet the conditions of a generator exemption for waste storage under OAC 3745-52-34 [40 C.F.R. § 262.34] must meet the standards for treatment, storage, and disposal facilities in OAC 3745-54 [40 C.F.R. Part 264, Subpart D], which requires that all owners or operators of hazardous waste facilities comply with all requirements entitled, “Contingency Plan and Emergency Procedures.”

Failure to design its contingency plan to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

83. OAC 3745-54-51(A) [40 C.F.R. § 264.51(a)] requires that the owner or operator shall have a contingency plan for the facility that is designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

84. At the time of the U.S. EPA inspection of the facility on May 3, 2006, Respondent failed to maintain a contingency plan for the facility that was designed to minimize hazards to human health or the environment from explosions.

Failure to describe, in its contingency plan, the actions facility personnel must take in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

85. OAC 3745-54-52(A) [40 C.F.R. § 264.52(a)] requires that the owner or operator, in its contingency plan, must describe the actions facility personnel must take in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

86. At the time of the U.S. EPA inspection of the facility on May 3, 2006, Respondent failed to maintain a contingency plan for the facility that described actions facility personnel must take in response to explosions.

87. Respondent has failed to meet the requirements referred to in paragraphs 83 and 85; therefore, Respondent has violated OAC 3745-54-51(A) [40 C.F.R. § 264.51(a)] and OAC 3745-54-52(A) [40 C.F.R. § 264.52(a)] and, therefore, is subject to an order for civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

COUNT 8: Failure to make necessary arrangements with authorities regarding contingency plans.

88. Complainant incorporates paragraphs 1 through 26 of this Complaint as though set forth in this paragraph.

89. Facilities that fail to meet the conditions of a generator exemption for waste storage under OAC 3745-52-34 [40 C.F.R. § 262.34] must meet the standards for treatment, storage, and disposal facilities in OAC 3745-54 [40 C.F.R. Part 264, Subpart D], which requires that all owners or operators of hazardous waste facilities comply with all requirements entitled, "Contingency Plan and Emergency Procedures."

Failure to include in a contingency plan the described arrangements agreed to by local police departments, fire departments, hospitals, contractors, and OEPA and local emergency response teams to coordinate emergency services pursuant to OAC 3745-54-37.

90. OAC 3745-54-52(C) [40 C.F.R. § 264.52(c)] requires that the owner or operator, in its contingency plan, must describe the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and OEPA and local emergency response teams to coordinate emergency services pursuant to OAC 3745-54-37 [40 C.F.R. § 264.37].

91. At the time of the U.S. EPA inspection of the facility on May 3, 2006, Respondent's contingency plan failed to describe the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and OEPA and local emergency response teams to coordinate emergency services pursuant to OAC 3745-54-37 [40 C.F.R. § 264.37].

Failure to submit copies of the contingency plan and all revisions to all local police departments, fire departments, hospitals, contractors, and OEPA and local emergency response teams that may be called upon to provide emergency services.

92. OAC 3745-54-53(B) [40 C.F.R. § 264.53(b)] requires that the owner or operator shall submit a copy of its contingency plan and all revisions to the plan to all local police departments, fire departments, hospitals, and OEPA and local emergency response teams that may be requested to provide emergency services.

93. At the time of the U.S. EPA inspection of the facility on May 3, 2006, Respondent failed to submit copies of its facility's contingency plan to all local police departments, fire

departments, hospitals, contractors, and State and local emergency response teams that may be called upon to provide emergency services.

94. Respondent has failed to meet the requirements referred to in paragraphs 90 and 92; therefore, Respondent has violated OAC 3745-54-52(C) [40 C.F.R. § 264.52(c)] and OAC 3745-54-53(B) [40 C.F.R. § 264.53(b)] and, therefore, is subject to an order for civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

COUNT 9: Failure to inspect hazardous waste storage area at least weekly and failure to document weekly inspections.

95. Complainant incorporates paragraphs 1 through 26 of this Complaint as though set forth in this paragraph.

96. Facilities that fail to meet the conditions of a generator exemption for waste storage under OAC 3745-52-34 [40 C.F.R. § 262.34] must meet the standards for treatment, storage, and disposal facilities in OAC 3745-54 and 3745-55 [40 C.F.R. Part 264, Subpart B and I], which requires that all owners or operators of hazardous waste facilities comply with all requirements entitled, "General Facility Standards" and "Use and Management of Containers."

97. OAC 3745-55-74 [40 C.F.R. § 264.174] requires that the owner or operator must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.

98. OAC 3745-54-15(D) [40 C.F.R. § 264.15(d)] requires an owner or operator to maintain the records referenced in OAC 3745-54-73 for at least three years from the date of inspection.

99. OAC 3745-54-73(B)(5) [40 C.F.R. § 264.73(b)(5)] requires that all records and results of inspections as required by 3745-54-15(D) [40 C.F.R. § 264.15(d)] be kept at the facility.

100. Respondent provided U.S. EPA with weekly inspection reports from time periods ranging from: January 6, 2003 to July 14, 2006; however, there were periods of longer than a week during this time period that the Respondent did not conduct and document weekly inspections of the hazardous waste drums while in storage.

101. Respondent has not provided U.S. EPA with weekly inspection reports from the following time periods: 7/28-8/18/03; 11/10-11/18/03; 12/15-12/29/03; 5/24-6/1/04; 6/28-7/6/04; 7/26-8/16/04; 8/30-9/7/04; 11/15-11/27/04; 12/3-12/13/04; 12/20-1/4/05; 1/4-1/17/05; 3/14-3/25/05; 7/29-8/19/05; 9/23-10/7/05; 11/23-12/2/05; and 12/22-1/6/06.

102. Respondent has failed to meet the requirements referred to in paragraphs 97 through 99; therefore, Respondent has violated OAC 3745-54-15(D), 3745-54-73(B)(5), 3745-55-74 [40 C.F.R. §§ 264.15(d), 264.73(b)(5), 264.174] and is subject to an order for civil penalties under Section 3008 of RCRA, 42 U.S.C. § 6928.

III. TERMS OF SETTLEMENT

103. U.S. EPA and Respondent agree that the settlement of this matter pursuant to

22.13(b) of the Consolidated Rules, 40 C.F.R. §22.13(b), is in the public interest and that the entry of this Consent Agreement and Final Order (CAFO) without engaging in litigation is the most appropriate means of resolving this matter.

104. Respondent admits the jurisdictional allegations of Section I of this CAFO.

105. Respondent neither admits nor denies the factual allegations of Section II of this CAFO.

106. Respondent consents to the issuance of this CAFO and the assessment of the civil penalty as outlined in Section IV of this CAFO.

107. Respondent consents to all of the conditions in this CAFO.

108. Respondent waives any and all rights under any provisions of law to a hearing on the allegations contained in this CAFO. Respondent also waives any right to contest or appeal the factual allegations in Section II of this CAFO and any right to appeal the terms and conditions of this Consent Agreement or the Final Order that accompanies this Consent Agreement.

109. If Respondent fails to comply with any provision contained in this CAFO, Respondent waives any rights it may possess in law or equity to challenge the authority of U.S. EPA to bring a civil action in the appropriate United States District Court to compel compliance with this CAFO and/or seek an additional penalty for noncompliance with the CAFO.

110. Respondent has demonstrated, and hereby certifies, that it is now in compliance with the requirements that formed the basis of the allegations in Section II of this CAFO.

111. This CAFO constitutes a settlement by U.S. EPA of all claims for civil penalties

pursuant to Section 3008(a) of RCRA, 42 U.S.C. Section 6928(a), for the violations alleged in Section II of this CAFO. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by U.S. EPA, and it is the responsibility of the Respondent to comply with such laws and regulations.

112. Nothing in this CAFO shall be construed to relieve the Respondent from its obligation to comply with all applicable federal, state and local statutes and regulations, including the Subtitle C requirements at 40 C.F.R. Parts 260 through 270.

113. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this CAFO.

114. This CAFO shall become effective on the date it is filed with the Regional Hearing Clerk, Region 5.

IV. CIVIL PENALTY

115. Complainant determined the proposed civil penalty in accordance with Section 3008 of RCRA, 42 U.S.C. § 6928. In assessing a civil penalty, the Administrator of U.S. EPA must consider “the seriousness of the violation and any good faith efforts to comply with applicable requirements.” Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). Complainant has considered the facts and circumstances of this case with specific reference to U.S. EPA's 1990 RCRA Civil Penalty Policy. Based on an analysis of the above factors, U.S. EPA has determined that an appropriate civil penalty to settle this action is \$10,000 to be paid as specified

below. Respondent agrees not to claim or attempt to claim a Federal income tax deduction or credit covering all or any part of the cash civil penalty paid to the U.S. Treasury.

116. Within 20 days following the effective date of this CAFO, the Respondent shall pay a civil penalty in the amount of \$10,000. Payment shall be made by certified or cashier's check, payable to "Treasurer, the United States of America", and shall be sent to

U.S. EPA, Region 5
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The check shall reference the name of the Respondent and the Docket Number of this CAFO.

Interest and late charges shall be paid as specified below.

117. Upon payment of the civil penalty, Respondent shall send to each of the persons listed below a copy of the check and a transmittal letter referencing the name of Respondent and the docket number of this CAFO:

Regional Hearing Clerk
U.S. EPA, Region 5
77 West Jackson Blvd. (E-13J)
Chicago, Illinois 60604-3590

Stephen Thorn
Assistant Regional Counsel
U.S. EPA, Region 5
Office of Regional Counsel (C-14J)
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Bryan Gangwisch
RCRA Branch (LR-8J)
U.S. EPA
77 West Jackson Blvd.

Chicago, Illinois 60604-3590

118. Pursuant to 31 U.S.C. § 3717, Respondent shall pay the following amounts on any amount overdue under this CAFO:

(a) **Interest.** Any unpaid portion of a civil penalty shall bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).

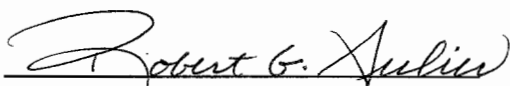
(b) **Monthly Handling Charge.** Respondent shall pay a late payment handling charge of \$15.00 on any late payment, with an additional charge of \$15.00 for each subsequent 30 calendar day period over which an unpaid balance remains.

(c) **Non Payment Penalty.** On any portion of a civil penalty more than 90 calendar days past due, Respondent shall pay a non payment penalty of six percent per annum, which will accrue from the date the penalty payment became due and is not paid. This non payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b) above.

V. SIGNATORIES

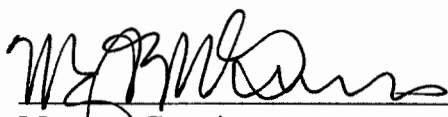
Each undersigned representative of a party to this Consent Agreement and Final Order certifies that he or she is fully authorized to enter into the terms of this Consent Agreement and Final Order and to bind legally such party to this document.

Agreed to this 25 day of JANUARY, 2008


Robert G. Sulier, President

SABCO Industries, Inc.,
Respondent

Agreed to this 4th day of February, 2008.

By: 
Margaret Guerriero
Director
Land and Chemicals Division
U.S. Environmental Protection Agency, Region 5,
Complainant

RCRA-05-2008-0001

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this FINAL ORDER. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement, effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 CFR §§ 22.18 and 22.31.

Ordered this 6th day of February, 2008.

By: Mary A. Gade
Mary A. Gade
Regional Administrator
U.S. EPA Region 5

RCRA-05-2008-0001

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CASE NAME: SABCO INDUSTRIES, INC

DOCKET NO: RCRA-05-2008-0001

CERTIFICATE OF SERVICE

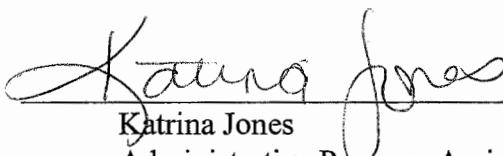
I hereby certify that today I filed the original of this **Consent Agreement and Final Order (CAFO)** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed via Certified Mail, Return Receipt Requested to the following:

Mr. Douglas G. Haynam
Shumaker, Loop & Kendrick, LLP
1000 Jackson Street
Toledo, OH 43604-5573

Return Receipt # 7001 0320 0006 1448 4339

Dated: 2/7/08



Katrina Jones
Administrative Program Assistant
United States Environmental Protection Agency
Land and Chemicals Division -RCRA Branch
77 W. Jackson Boulevard
Chicago, IL 60604-3590
(312) 353-5882

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