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EPA -- REGION 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

JONES INTERNATIONAL GROUPS, INC.  
Hillsboro, Oregon

Respondent.

)  
)  
) Docket No. RCRA-10-2011-0152  
)  
)  
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**CONSENT AGREEMENT AND  
FINAL ORDER**

**I. STATUTORY AUTHORITY**

1.1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 3008(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a).

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who has redelegate this authority to the Regional Judicial Officer in EPA Region 10.

1.3. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and Jones International Groups, Inc. (“Respondent”) agrees to the issuance of, the Final Order contained in Section V of this CAFO.

## **II. PRELIMINARY STATEMENT**

2.1. In accordance with 40 C.F.R. § 22.13 and 22.18(b)(2) and (3), issuance of this CAFO commences this proceeding, which will conclude when the Final Order contained in Part V of this CAFO becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”) has been delegated the authority to sign consent agreements between EPA and the party against whom an administrative penalty is proposed to be assessed pursuant to RCRA Section 3008(a) for violations of Sections 3002 and 3017 of RCRA, 42 U.S.C. §§ 6922 and 6938, the corresponding regulations, and the EPA-authorized Oregon hazardous waste management regulations set forth in Oregon Administrative Rule (“OAR”) 340-100-00002.

2.3. Part III of this CAFO contains a concise statement of the factual and legal basis for the alleged violations of RCRA together with the specific provisions of RCRA and the implementing regulations that Respondent is alleged to have violated.

## **III. ALLEGATIONS**

3.1. The state of Oregon has adopted regulations for the management of hazardous wastes including spent lead acid batteries. OAR 340-100-00002 incorporates the requirements of 40 C.F.R. Part 273 by reference and these regulations have been authorized by EPA to implement the requirements of RCRA in that state.

3.2. 40 C.F.R. § 273.40 specifies the requirements applicable to large quantity handlers of universal wastes who export such wastes to foreign destinations including non-Organization for Economic Cooperation and Development (OECD) countries.

3.3. China is not an OECD country.

3.4. 40 C.F.R. § 273.40 requires a large quantity handler of universal waste who sends universal waste to a non-OECD foreign destination to:

- a. Comply with the requirements applicable to a primary exporter in 40 C.F.R. § 262.53;
- b. Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent, as defined in 40 C.F.R. Part 262, Subpart E; and
- c. Provide a copy of the EPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export.

3.5. Respondent is a legal person conducting business within the state of Oregon that results in the generation of spent lead acid batteries.

3.6. A “universal waste handler” is defined, pursuant to 40 C.F.R. § 273.9, as a generator of universal waste.

3.7. A “large quantity handler of universal waste” is defined, pursuant to 40 C.F.R. § 273.9, as “a universal waste handler ... who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which the 5,000 kilogram limit is met or exceeded.”

3.8. Respondent is a “large quantity handler of universal waste” within the meaning of 40 C.F.R. § 273.9.

3.9. On June 30, 2009, Respondent notified the Oregon Department of Environmental Quality that it is a large quantity handler of universal waste.

3.10. Spent lead acid batteries are classified as “universal waste” pursuant to 40 C.F.R. § 273.2(a)(2).

3.11. On September 7, 2009, Respondent exported two containers numbered SLSU7028886 and HJCU7692140 (hereinafter referred to as “the Containers”) containing spent lead acid batteries to Hong Kong, China, from Portland, Oregon.

3.12. The shipping documents for the Containers identified the contents as “mixed metal scrap.”

3.13. The Containers, which were unlabeled, contained universal power supplies with at least 129 unlabeled spent lead acid batteries.

3.14. The Hong Kong Environmental Protection Department notified EPA on October 7, 2009, that it had intercepted the Containers because they were not authorized for receipt in China. The Hong Kong authorities returned the Containers to the Port of Portland, Oregon, where they arrived on November 2, 2009.

**Count 1 Failure to mark or label the universal waste to identify the type of universal waste in violation of 40 C.F.R. § 273.34(a)**

3.15. 40 C.F.R. § 273.34(a) requires that a large quantity handler of universal waste must clearly mark or label universal waste batteries (i.e., each battery), or a container or tank in which the batteries are contained, with any one of the following phrases: “Universal Waste-Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).”

3.16. Neither the Containers nor their contents were marked or labeled to identify these items as waste or used batteries.

3.17. Respondent’s failure to properly mark or label the Containers or the waste batteries was a violation of 40 C.F.R. § 273.34(a).

**Count 2 Failure to notify EPA of intent to export a universal waste in violation of 40 C.F.R. § 273.40(a)**

3.18. 40 C.F.R. § 262.53 is incorporated by reference as a requirement of 40 C.F.R. § 273.40(a).

3.19. 40 C.F.R. § 262.53(a) requires a primary exporter of a hazardous waste to notify EPA of an intended export before such waste is scheduled to leave the United States, at least sixty (60) days before the initial shipment is intended to be shipped off site. The content and procedures for providing the notification to EPA are specified in 40 C.F.R. § 262.53(b).

3.20. Respondent did not notify EPA of its intent to export the universal waste spent lead acid batteries in the Containers prior to their export to Hong Kong, China on September 9, 2009.

3.21. Respondent's failure to notify EPA of its intent to export the universal waste spent lead acid batteries at least 60 days before an initial shipment was intended to be shipped off site to Hong Kong, China was a violation of 40 C.F.R. § 273.40(a).

**Count 3 Failure to obtain consent from a receiving country prior to export of a universal waste in violation of 40 C.F.R. § 273.40(b)**

3.22. 40 C.F.R. § 273.40(b) allows for the export of a universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in 40 C.F.R. Part 262, Subpart E.

3.23. Respondent did not obtain the prior consent of Hong Kong, China to receive the waste included in either of the Containers that Respondent exported to that country on September 9, 2009.

3.24. Respondent's export of a universal waste to Hong Kong, China without receipt of and in conformance with that country's Acknowledgement of Consent was a violation of 40 C.F.R. § 273.40(b).

**Count 4 Failure to provide a copy of the EPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export in violation of 40 C.F.R. § 273.40(c)**

3.25. 40 C.F.R. § 273.40(c) requires a large quantity handler of universal wastes who sends universal waste to a foreign destination to provide a copy of the EPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export.

3.26. Respondent did not provide a copy of an EPA Acknowledgement of Consent applicable to the Containers to the transporter transporting the shipment for export to Hong Kong on September 9, 2009.

3.27. Respondent's failure to provide a copy of the EPA Acknowledgement of Consent for the shipment to the transporter prior to the export of the Containers to Hong Kong, China on September 9, 2009, was a violation of 40 C.F.R. § 273.40(c).

**IV. CONSENT AGREEMENT**

4.1. Respondent admits the jurisdictional allegations contained in Part III of this CAFO.

4.2. Respondent neither admits nor denies the specific factual allegations contained in Part III of this CAFO.

4.3. In light of the nature of the violations, Respondent's actions to address the violations after having been notified by Complainant, and Respondent's willingness to settle this matter without litigation, and in accordance with the RCRA Civil Penalty Policy, EPA has

determined and Respondent agrees that an appropriate penalty to settle this action is **seventeen thousand dollars (\$17,000)**.

4.4. Respondent agrees to pay the total civil penalty set forth in Paragraph 4.3 within thirty (30) days of the effective date of the Final Order.

4.5. Payment under this CAFO must be made by cashier's check or certified check payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

Respondent must note on the check the title and docket number of this action.

4.6. Respondent must serve photocopies of the check described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 10, Mail Stop ORC-158  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101

Xiangyu Chu, RCRA Compliance Officer  
U.S. Environmental Protection Agency  
Region 10, Mail Stop: OCE-127  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101

4.7. If Respondent fails to pay the penalty assessed by this CAFO in full by due date set forth in Paragraph 4.4, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Such a failure may also be subject Respondent to a civil action to

collect the assessed penalty under Section 3008(c) of RCRA, 42 U.S.C. § 6928(c), together with interest, handling charges, and nonpayment penalties, as set forth below.

4.7.1. Interest. Any unpaid portion of the of the assessed penalty shall bear interest at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order set forth in Part V, provided however, that no interest shall be payable on any portion of the assessed penalty that is paid within thirty (30) days of the effective date of the Final Order.

4.7.2. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the assessed penalty is more than thirty (30) days past due.

4.7.3. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), if Respondent fails to pay on a timely basis the penalty set forth in Paragraph 4.3, Respondent shall pay a nonpayment penalty in an amount equal to six percent (6%) per annum on any portion of the assessed penalty that is more than ninety (90) days past due, which nonpayment penalty shall be calculated as of the date the underlying penalty first becomes past due.

4.8. The penalty described in Paragraph 4.3, including any additional costs incurred under Paragraph 4.7, above, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.9. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this CAFO and to bind Respondent to this document.

4.10. Except as described in Subparagraph 4.7.2, above, each party shall bear its own fees and costs in bringing or defending this action.



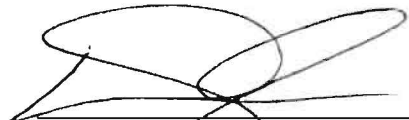
4.11. Respondent expressly waives any right to contest the allegations and waives any right to appeal the Final Order set forth in Part V.

4.12. The provisions of this CAFO shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.13. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

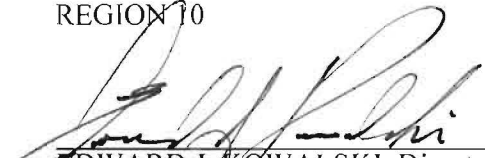
STIPULATED AND AGREED BY:

FOR RESPONDENT JONES INTERNATIONAL GROUPS, INC.

  
\_\_\_\_\_  
DANIEL A. JONES, President

9/14/11  
Date

FOR COMPLAINANT U.S. ENVIRONMENTAL PROTECTION AGENCY,  
REGION 10

  
\_\_\_\_\_  
EDWARD J. KOWALSKI, Director  
Office of Compliance and Enforcement

9/20/2011  
Date


## V. FINAL ORDER

5.1. The terms of the foregoing Parts I-IV are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

5.2. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to RCRA for the particular violations alleged in Part III. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall 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. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of RCRA, the Oregon Administrative Rules, and regulations and permits issued thereunder.

5.3. This Final Order shall become effective upon filing.

SO ORDERED this 22d day of September 2011.

  
Thomas M. Jahnke  
Regional Judicial Officer  
EPA Region 10

**CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in **In the Matter of: Jones International Groups, Inc. DOCKET NO.: RCRA-10-2011-0152** was filed with the Regional Hearing Clerk on Sept. 22, 2011.

On Sept. 22, 2011, the undersigned certifies that a true and correct copy of the document was delivered to:

Shirin Venus, Esquire  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, ORC-158  
Suite 900  
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on Sept. 22, 2011, to:

Daniel A. Jones, President  
Jones International Groups, Inc.  
620 SW Wood St.  
Hillsboro, OR 97123

DATED this 22<sup>nd</sup> day of Sept., 2011.

Carol D. Kennedy  
Signature  
Print Name: Carol D. Kennedy  
Regional Hearing Clerk  
EPA Region 10