



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
MAR 12 2018

REPLY TO THE ATTENTION OF:

SENT VIA EMAIL

Mr. Terry Evraets
Site Manager
Tulip Molded Plastics Corporation
714 East Keefe Avenue
Milwaukee, Wisconsin 53212

Re: Consent Agreement and Final Order
Tulip Molded Plastics
Docket No: **RCRA-05-2018-0008**

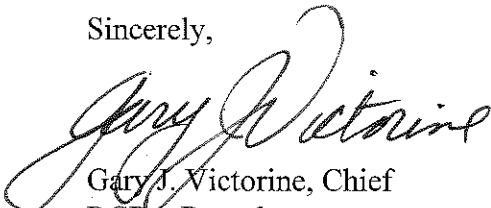
Dear Mr. Evraets:

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 March 12, 2018, with the Regional Hearing Clerk (RHC).

Please pay the civil penalty in the amount of \$37,500 plus applicable interest in the manner prescribed in paragraph(s) 64-69 of the CAFO, and reference all checks with the docket number **RCRA-05-2018-0008**. Your initial payment of \$12,500 is due within 30 calendar days of the effective date of the CAFO. Your second payment of \$12,583.33 is due within 150 days of the effective date of the CAFO. Your final payment of \$12,541.67 is due within 270 days of the effective date of the CAFO. Thank you for your cooperation in resolving this matter.

If you have any questions or concerns regarding this matter, please contact Brenda Whitney of my staff, at 312-353-4796 or at whitney.brenda@epa.gov.

Sincerely,


Gary J. Victorine, Chief
RCRA Branch

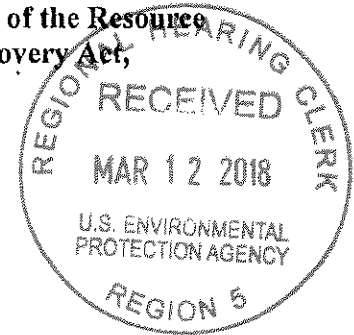
Enclosures

cc: Steven Sisbach, WDNR (steven.sisbach@wisconsin.gov) (w/CAFO)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)
)
Tulip Molded Plastics Corporation)
Milwaukee, Wisconsin)
Respondent.)
_____)

Docket No. RCRA-05-2018-0008
Proceeding to Assess a Civil Penalty
Under Section 3008(a) of the Resource
Conservation and Recovery Act,
42 U.S.C. § 6928(a)



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 Wisconsin pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

4. Respondent is Tulip Molded Plastics Corporation, a corporation doing business in Wisconsin.

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. § 6922 and Wis. Admin. Code § NR 662.011 and Wis. Admin. Code § NR 662.040(3) [40 C.F.R. § 262.11].

Statutory and Regulatory Background

12. 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, 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 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 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 U.S. EPA granted the State of Wisconsin final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986. 51 Fed. Reg. 3783 (January 31, 1986).

15. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. 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 U.S. 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 U.S. 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, U.S. 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 through November 2, 2015.

Factual Allegations and Alleged Violations

17. Respondent is a "person" as defined by Wis. Admin. Code § NR 660.10(90) and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

18. Respondent is an "owner or operator" of a facility that manufactures battery

components, molded containers and engineered resins located at 714 East Keefe Avenue, Milwaukee, Wisconsin (Facility) as those terms are defined under Wis. Admin. Code § NR 660.10(88) and (87) and 40 C.F.R. § 260.10.

19. At all times relevant to the CAFO, Respondent's Facility consists of land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.

20. Respondent's Facility is a "facility" as that term is defined under Wis. Admin. Code § NR 660.10(43) and 40 C.F.R. § 260.10.

21. Respondent's processes include, but are not limited to, cold forming of lead battery terminals for lead-acid batteries.

22. On March 20, 2015, U.S. EPA conducted a Compliance Evaluation Inspection of the Facility (the Inspection).

23. On October 14, 2015, U.S. EPA issued a Notice of Violation (NOV) to Respondent alleging certain violations of RCRA discovered during the Inspection.

24. On December 23, 2015, Respondent submitted to U.S. EPA a written response to the NOV.

Lead Contaminated Waste

25. On, at least, the date of the Inspection, Respondent used gloves, rags and respirator cartridges during its cold forming of lead battery terminals.

26. As part of the cold forming process, Respondent used a filter bag in its furnace to capture lead particulates while melting lead ingots.

27. Respondent's cold forming process generated lead contaminated gloves, rags,

respirator cartridges and filter bags (lead contaminated waste) which were collected in drums.

28. Respondent's gloves, rags, respirator cartridges and filter bags were used and as a result of lead contamination could no longer serve the purposes for which they were produced without processing.

29. Respondent's lead contaminated wastes were "spent materials" as that term is defined under Wis. Admin. Code § NR 661.01(3)(a) and 40 C.F.R. § 261.1(c)(1).

30. Respondent held lead contaminated waste, a discarded material, for temporary periods in drums before the material is either shipped from the Facility for treatment, storage, disposal, burning or incineration elsewhere.

31. Respondent's lead contaminated waste was a "solid waste" as that term is defined under Wis. Admin. Code § NR 661.02 and 40 C.F.R.

§ 261.2.

Lead Contaminated Mop Water

32. On, at least, the date of the Inspection, Respondent used a floor scrubber to clean the floor of the cold form process area.

33. The floor cleaning process generated lead contaminated mop water.

34. Respondent held lead contaminated mop water, a discarded material, for temporary periods in 55 gallon drums before the material was either shipped from the Facility for treatment, storage, disposal, burning or incineration elsewhere or on-site evaporation.

35. Respondent's lead contaminated mop water was a "solid waste" as that term is defined under Wis. Admin. Code § NR 661.02 and 40 C.F.R. § 261.2.

Tetrachloroethylene Filter Waste

36. Respondent manufactures terminals for battery cases.

37. On, at least, the date of the Inspection, Respondent sprayed the terminals with tetrachloroethylene and wood rosin (terminal spray process) in a spray booth to adhere the terminals to plastic battery cases.

38. Whenever Respondent performed the terminal spray process, tetrachloroethylene and wood rosin overspray was captured by the spray booth filter.

39. Respondent's terminal spray process generated tetrachloroethylene filter waste.

40. Respondent's tetrachloroethylene filter waste was a "solid waste" as that term is defined under Wis. Admin. Code § NR 661.02 and 40 C.F.R. § 261.2.

Oil Contaminated Water

41. On, at least, the date of the Inspection, Respondent used water and hydraulic oil in its plastic injection molding machines to manufacture battery cases.

42. Respondent's battery case manufacturing process generated oil contaminated water.

43. Respondent held the oil contaminated water, a discarded material, for temporary periods in totes or a 450-gallon tank before the material was either shipped from the Facility for treatment, storage, disposal, burning or incineration elsewhere or on-site evaporation.

44. Respondent's oil contaminated water was a "solid waste" as that term is defined under Wis. Admin. Code § NR 661.02 and 40 C.F.R. § 261.2.

45. Respondent provided shipping records dated April 18, 2014, and October 17,

2014, for an oily-water mixture which indicated that the oil contaminated water was shipped offsite as nonhazardous waste, but Respondent was unable to locate the records supporting a nonhazardous determination.

Oil-Water Separator Paper Filter Waste

46. Respondent utilizes an oil-water separator at the site in order to recover lost oil from their battery case injection molding and battery terminal cold forming manufacturing processes for reuse in the plant.

47. On, at least, the date of the Inspection, Respondent transferred used oil and water into the oil-water separator through a paper filter screen.

48. Particulates and foreign matter were captured by the paper filters.

49. Respondent's oil-water separator generated paper filter waste.

50. Respondent held the paper filter waste, a discarded material, for temporary periods before the material was either shipped from the Facility for treatment, storage, disposal, burning or incineration elsewhere.

51. Respondent's paper filter waste was a "solid waste" as that term is defined under Wis. Admin. Code § NR 661.02 and 40 C.F.R. § 261.2.

52. Respondent provided shipping records dated from December 2, 2014, and March 18, 2015, which indicated that the paper filter waste was shipped as nonhazardous waste, but Respondent was unable to locate the records supporting a nonhazardous determination.

Count 1: Failure to Conduct Hazardous Waste Determinations

53. Complainant incorporates paragraphs 1 through 52 of this CAFO as though set forth in this paragraph.

54. Pursuant to Wis. Admin. Code § NR 662.011 and 40 C.F.R. § 262.11, a person who generates a solid waste must determine if that waste is hazardous waste.

55. Respondent failed to determine if its lead contaminated waste referenced in paragraphs 27 - 31, above, was a hazardous waste.

56. Respondent failed to determine if its lead contaminated mop water referenced in paragraphs 33 - 35, above, was a hazardous waste.

57. Respondent failed to determine if its tetrachloroethylene filter waste referenced in paragraphs 39 - 40, above, was a hazardous waste.

58. Respondent, therefore, did not meet the requirement of Wis. Admin. Code § NR 662.011 and 40 C.F.R. § 262.11 regarding hazardous waste determinations which subjects Respondent to civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 2: Failure to Maintain Records

59. Complainant incorporates paragraphs 1 through 52 of this CAFO as though set forth in this paragraph.

60. Pursuant to Wis. Admin. Code § NR 662.040(3), a person must keep records of any test results, waste analysis, or other determinations made in accordance with 262.11, for at least three years from the date that the waste was last sent to an on-site or off-site disposal facility.

61. Respondent failed to maintain records of any test results, waste analysis, or other determinations made in accordance with Wis. Admin. Code § NR 662.011 and 40 C.F.R. § 262.11 for its oil contaminated water referenced in paragraphs 42 - 44, above.

62. Respondent failed to maintain records of any test results, waste analysis, or other

determinations made in accordance with Wis. Admin. Code § NR 662.011 and 40 C.F.R. § 262.11 for its paper filter waste referenced in paragraphs 49 - 51, above.

63. Respondent, therefore, did not meet the requirement of Wis. Admin. Code § NR 662.040(3) regarding recordkeeping which subjects Respondent to civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Civil Penalty

64. 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 \$37,500. In determining the penalty amount, Complainant took into account the factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and U.S. EPA's RCRA Civil Penalty Policy, dated June 2003 including, but not limited to, the seriousness of the alleged violations and ability to pay the proposed penalty.

65. Respondent must pay a \$37,500 civil penalty in three installments with interest as provided in the table below.

<u>Installment</u>	<u>Due by</u>	<u>Payment</u>	<u>Principal</u>	<u>Interest (1%)</u>
Payment #1	CAFO effective date + 30 days	\$12,500.00	\$12,500.00	\$0.00
Payment #2	CAFO effective date + 150 days	\$12,583.33	\$12,500.00	\$83.33
Payment #3	CAFO effective date + 270 days	\$12,541.67	\$12,500.00	\$41.67
Total		\$37,625.00	\$37,500.00	\$125.00

Respondent must pay the installments by sending cashier's checks, payable to "Treasurer, United States of America," to:

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

The check must state "In the Matter of Tulip Molded Plastics Corporation" and the docket number of this CAFO.

66. 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

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

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

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

68. If Respondent does not pay an installment payment as set forth in paragraph 65, above, the entire unpaid balance of the civil penalty and any amount required by paragraph 69, below, shall become due and owing upon written notice by U.S. EPA to Respondent of the delinquency. 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.

69. 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

70. Consistent with the "Standing Order Authorizing E-Mail Service of Order and Other Documents Issued by the Regional Administrator or Regional Judicial Officer Under the Consolidated Rules," dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: carnovsky.tamara@epa.gov (for Complainant), and teyraets@tulipcorp.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

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

72. 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.

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

74. 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).

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

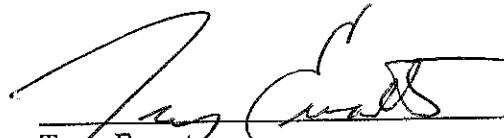
76. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

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

Tulip Molded Plastics Corporation, Respondent


2/6/18
Date



Terry Evraets
Site Manager
Tulip Molded Plastics Corporation

United States Environmental Protection Agency, Complainant

3/01/2018
Date




~~Margaret M. Guerriero~~ Michael D. Harris
Acting Director
Land and Chemicals Division

In the Matter of:
Tulip Molded Plastics Corporation
Docket No. RCRA-05-2018-0008

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.

Date: March 9, 2018



Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

In the Matter of: Tulip Molded Plastics Corporation, Milwaukee, Wisconsin
Docket No. RCRA-05-2018-0008

Certificate of Service

I certify that I sent a true and correct copy of the foregoing Consent Agreement and Final Order,
which was filed on March 12, 2018 in the following manner to the addresses:

Copy by e-mail to
Site Manager for Respondent

Terry Evraets
Site Manager
Tulip Molded Plastics Corporation
714 East Keefe Ave.
Milwaukee, WI 53212
tevraets@tulipcorp.com

Courtesy copy by e-mail to
Attorney for the Respondent:

Henry Handzel
DeWitt, Ross & Stevens
Two East Mifflin Street, Suite 600
Madison, WI 53703
hjh@dewittross.com

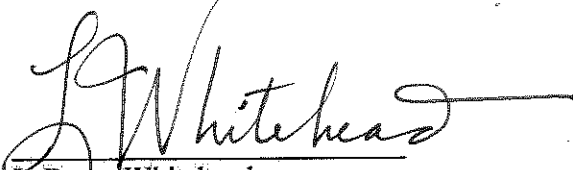
Copy by e-mail to
Attorney for the Complainant:

Tamara Carnovsky
carnovsky.tamara@epa.gov

Copy by e-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: March 12, 2018


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