



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

AUG 24 2011

REPLY TO THE ATTENTION OF:

LR- 8J

CERTIFIED MAIL 7009 1680 0000 7672 2063
RETURN RECEIPT REQUESTED

Mr. David B. Leef
Vice President
Industrial Towel & Uniform, Incorporated
2700 South 1600th Street
New Berlin, Wisconsin 53151-3602

Re: Industrial Towel & Uniform, Incorporated
Consent Agreement and Final Order **RCRA-05-2011-0014**

Dear Mr. Leef:

Enclosed please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The originals were filed on AUG 24 2011 with the Regional Hearing Clerk.

Please pay the civil penalty in the amount of \$30,000 in the manner prescribed in paragraph 28 of the CAFO, and reference the check with the number **BD 2751142R014** and docket number RCRA-05- **RCRA-05-2011-0014**. Your payment is due within thirty (30) calendar days of the effective date of the CAFO. 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,

Mary S. Setnicar
Acting Chief, RCRA Branch
Land and Chemicals Division

Enclosures

cc: Linda H. Bochert, Michael Best & Friedrich LLP (w/enclosure)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:) DOCKET NO. RCRA-05-2011-0014
)
Industrial Towel & Uniform, Incorporated)
New Berlin, Wisconsin) Proceeding to Assess a Civil Penalty
) Under Section 3008(a) of the Resource
) Conservation and Recovery Act,
EPA ID: WID001781186) 42 U.S.C. § 6928(a)
)
Respondent.)
_____)

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Consent Agreement and Final Order
Preliminary Statement

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

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, U.S. Environmental Protection Agency (U.S. EPA), Region 5.
3. U.S. EPA has 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 Industrial Towel & Uniform, Incorporated, the owner and operator of the facility located at 2700 South 160th Street, New Berlin, 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. §§ 6901-6992k and the regulations at 40 C.F.R. Parts 260 - 279.

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 3001 – 3007 and 3013, among others, of RCRA, 42 U.S.C. §§ 6921 – 6927 and 6934.

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 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.

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. 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 note (1996), 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 up to \$32,500 per day for each violation of Subtitle C of RCRA occurring after March 15, 2004 through January 12, 2009; and a civil penalty up to \$37,500 per day for each violation of Subtitle C of RCRA occurring after January 12, 2009.

Factual Allegations and Alleged Violation

16. Respondent is a “person” as defined by WAC NR 660.10(90) and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. Respondent is the owner and operator, as defined by WAC NR 660.10(88) and (87) [40 C.F.R. § 260.10], of a commercial launderer located at 2700 South 160th Street, New Berlin, Wisconsin.

18. Respondent is a commercial launderer of various clothing articles, rags, and absorbent mats that are contaminated with oil, dirt, and organic solvents.

19. Respondent treats waste water generated from its laundering operations in an on-site wastewater treatment system.

20. The on-site waste water treatment system includes a filter press which generates a wastewater filter press cake.

21. On September 11, 2009, U.S. EPA sent Respondent a Request for Information pursuant to 3007 of RCRA requesting a list of the dates and destination of each shipment of wastewater filter press cake.

22. Respondent’s March 30, 2010, response to U.S. EPA’s Request for Information indicated that wastewater filter press cake was sent to Emerald Park Landfill, a solid waste landfill operated by Veolia Environmental Services Midwest LLC, located at W144 S6350 College Court in Muskego, Wisconsin each month between October 1, 2005 and January 26, 2010.

23. The wastewater filter press cake generated from Respondent’s wastewater

treatment system is a “solid waste” as that term is defined in WAC § NR 600.03(117) [40 C.F.R. § 261.10].

24. WAC § NR 662.11 (40 C.F.R. § 262.11) and Section 3002(a)(1) of RCRA states that a person who generates a solid waste must determine if it is a hazardous waste.

25. Respondent did not made a hazardous waste determination on the wastewater filter press cake sampled on April 4, 2005 prior to shipment off-site for disposal to indicate that it was non-hazardous. Subsequent analysis indicated the wastewater filter press cake was nonhazardous.

26. Respondent’s failure to make a hazardous waste determination violated Section 3002(a) of RCRA, 42 U.S.C. § 6922(a) and the regulations at WAC NR 662.011 [40 C.F.R. § 262.11], thereby subjecting Respondent to civil penalties under Section 3008 of RCRA, 42 U.S.C § 6928.

Civil Penalty

27. 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 thirty thousand dollars (\$30,000). 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.

28. Respondent agrees to pay a thirty thousand dollar (\$30,000) civil penalty for the violations alleged in this CAFO. The civil penalty is due and payable immediately upon Respondent’s receipt of an executed copy of this CAFO. Respondent shall pay the civil penalty by sending electronic funds transfer or certified check, payable to the “Treasurer, United States of

America,” as follows:

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

By overnight 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

If paying by check, the check must state the case title, the docket number of this CAFO, and the billing document number.

By electronic transfer:

Wire Transfers

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message is
“D68010727 Environmental Protection Agency”

Automated Clearing House (ACH) Transfers

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking

In the comment or description field of the electronic funds transfer, state the case title, the docket

number of this CAFO, and the billing document number.

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

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

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

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

30. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligation to comply with RCRA, applicable regulations thereunder, or with this CAFO. Nothing in this CAFO shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

General Provisions

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

32. Nothing in this CAFO shall relieve Respondent of any duties otherwise

imposed on it by applicable federal, state or local law and/or regulations.

33. 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).

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


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

36. 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.

IN THE MATTER OF:
Industrial Towel & Uniform, Incorporated
New Berlin, WI

Industrial Towel & Uniform, Incorporated, Respondent


7-21-11
Date



David B. Leef, VP
Industrial Towel & Uniform, Inc.

United States Environmental Protection Agency, Complainant

8/16/11
Date



Margaret M. Guerriero, Director
Land and Chemicals Division

RCRA-05-2011-0014
IN THE MATTER OF:
Industrial Towel & Uniform, Incorporated
New Berlin, WI

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 disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

Ordered this 20th day of August, 2011.

By:



Susan Hedman
Regional Administrator
U.S. EPA Region 5

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REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

CASE NAME: Industrial Towel and Uniform, Incorporated
DOCKET NO: RCRA-05-2011-0014

CERTIFICATE OF SERVICE

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

I further certify that I then caused one original of the filed documents to be mailed to the following:

Mr. David Leef
Vice President
Industrial Towel and Uniform, Incorporated
2700 South 160th Street
New Berlin, Wisconsin 53151

Certified Mail # 7099 1680 0000 7672 2063

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AUG 24 2011

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

And one true copy of the filed documents to be mailed to the following:

Ms. Linda H. Bochert
Michael Best & Friedrich LLP
One South Pinckney Street
Suite 700
Madison, Wisconsin 53703

Certified Mail # 7099 1680 0000 7672 2070

Dated: Aug 24, 2011



Margaret Gray
Administrative Program Assistant
United States Environmental Protection Agency
Region V
Land and Chemicals Division LR-8J
RCRA Branch
77 W. Jackson Blvd, Chicago, IL 60604-3590