

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

In the Matter of:	:	
	:	
NORKA Manufacturing, Inc.	:	
	:	ADMINISTRATIVE COMPLAINT,
	:	AND NOTICE OF OPPORTUNITY FOR
	:	A HEARING
Respondent.	:	
	:	EPA Docket No. RCRA-03-2010-0398
NORKA Manufacturing, Inc.	:	
103 E. 5 <sup>th</sup> Street	:	
Watsonstown, PA 17777	:	
	:	Proceeding under Section 3008(a)
	:	of the Resource Conservation and
	:	Recovery Act, as amended, 42 U.S.C.
	:	Section 6928(a)
Facility	:	
	:	

**I. INTRODUCTION**

This Administrative Complaint and Notice of Opportunity for Hearing ("Complaint") is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA" or the "Agency") by Section 3008(a)(1) and (g) of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6928(a)(1) and (g), as amended by, *inter alia*, the Hazardous and Solid Waste Amendments of 1984 ("RCRA"), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance and Corrective Action Orders and the Revocation, Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The Administrator of EPA has delegated this authority under RCRA to the Regional Administrators of EPA, and this authority has been further delegated in U.S. EPA - Region III to, *inter alia*, the Director of the Land and Chemicals Division, U.S. EPA - Region III ("Complainant"). The Respondent in this matter is NORKA Manufacturing, Inc. ("Respondent"). This action concerns the NORKA Manufacturing facility, located at 103 East 5<sup>th</sup> Street, Watsonstown, Pennsylvania, 17777.

Respondent is hereby notified of EPA's determination that Respondent has violated RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, and the Pennsylvania Hazardous Waste Management Regulations ("PaHWMR"), 25 Pa. Code, Chapters 260a - 270a, which were authorized by EPA on January 30, 1986 and reauthorized by EPA, effective November 27, 2000 (65 Fed. Reg. 57734 (September 26, 2000)), effective March 22, 2004 (69 Fed. Reg. 2674 (January 20, 2004)) and effective June 29, 2009 (74 Fed. Reg. 19453 (April 29, 2009)). The PaHWMR incorporate, with certain exceptions, specific provisions of Title 40 of the 1999 Code of Federal Regulations by reference. See 25 Pa. Code § 260a.3(e).

Certain provisions of Pennsylvania's hazardous waste management program, through the authorizations referenced in the immediately preceding sentence, have become requirements of Subtitle C of RCRA and are, accordingly, enforceable by EPA pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g).

Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes EPA to take enforcement action whenever it is determined that a person is in violation of any requirement of RCRA Subtitle C, EPA's regulations thereunder, or any regulation of a state hazardous waste program which has been authorized by EPA. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil penalty against any person who violates any requirement of Subtitle C of RCRA.

The Commonwealth of Pennsylvania has not been granted full authorization to administer its hazardous waste management program *in lieu* of certain provisions of the Hazardous and Solid Waste amendments ("HSWA") enacted on November 8, 1984 (Pub. L. No. 98-616), which amended Subtitle C of RCRA. These provisions are enforceable in Pennsylvania exclusively by EPA.

To the extent that factual allegations or legal conclusions set forth in this Complaint are based on provisions of Pennsylvania's authorized hazardous waste management program regulations, those provisions are cited as authority for such allegations or conclusions. Factual allegations or legal conclusions based solely on provisions of the Federal hazardous waste management program added or amended by HSWA cite those federal provisions as authority for such allegations or conclusions.

EPA has given the Commonwealth of Pennsylvania prior notice of the issuance of this Complaint in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

## **II. ADMINISTRATIVE COMPLAINT**

### **Findings of Facts and Conclusions of Law**

1. The United States Environmental Protection Agency ("EPA") and EPA's Office of

Administrative Law Judges have jurisdiction over this matter pursuant to RCRA Section 3008, 42 U.S.C. § 6928, and the Consolidated Rules of Practice (40 C.F.R. §§ 22.1(a)(4) and 22.4(c)).

2. Respondent, NORKA Manufacturing, Inc., is, and was at the time of the violations alleged herein, a corporation of the State of Ohio, and is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and as defined in 25 Pa. Code § 260a.10.
3. Respondent is, and has been at all times relevant to this Complaint, the "owner" and "operator" of a "facility", described below, as those terms are defined in 25 Pa. Code § 260a.10, which, with the exception, among others, of the term "facility", incorporates by reference 40 C.F.R. § 260.10.
4. The facility referred to above, including all of its associated equipment and structures (hereinafter a "Facility"), is a manufacturing facility located at 103 E. 5<sup>th</sup> Street, Watsonstown, Pennsylvania, 17777.
5. Respondent is and, at all times relevant to the violations alleged in this Complaint, has been a "generator" of, and has engaged in the "storage" in "containers" at the Facility of, materials described below that are "solid wastes" and "hazardous wastes", as those terms are defined in 25 Pa. Code § 260a.10, which with the exception, among others, of "storage", incorporates by reference 40 C.F.R. § 260.10. At all such times, Respondent generated such hazardous waste in each calendar month in an amount that was at least 100 kilograms.
6. On November 12, 2009, a representative of the Pennsylvania Department of Environmental Protection ("PADEP") conducted an inspection of the Facility.
7. On March 4, 2010, a representative of PADEP conducted an inspection of the Facility.
8. Until a time best known to Respondent, Respondent manufactured furniture at the Facility.
9. Since at least November 12, 2009 Respondent has no longer occupied the Facility.
10. On November 25, 2009 PADEP issued a Notice of Violation ("NOV") requesting Respondent to correct the violations of PAHWR observed by PADEP during its November 12, 2009 inspection of Respondent's Facility.
11. At the time Respondent vacated the Facility, Respondent abandoned numerous containers of hazardous waste. An inventory of the materials abandoned by Respondent at the time Respondent vacated the Facility is attached at Attachment A to this Complaint and incorporated by reference herein.

12. On May 12, 2010, EPA issued a NOV to Respondent requiring Respondent to comply with the requirements of the Pennsylvania Hazardous Waste Management Program.
13. On May 25, 2010, Respondent shipped for disposal from the Facility 5200 pounds of "solid wastes" and "hazardous wastes", as those terms are defined in 25 Pa. Code § 260a.10 and specifically identified as D001, D005, D006, D007, D008 and D035 hazardous waste from the Facility.
14. Respondent has been assigned the EPA identification number of PAD074997677.

### COUNT I

(Owning and/or operating a hazardous waste storage facility without a permit or interim status)

15. The preceding paragraphs are re-alleged and incorporated by reference.
16. 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e) provide, in pertinent part, that a person may not own or operate a facility for the treatment, storage or disposal of hazardous waste unless such person has first obtained a permit for such facility or has qualified for interim status for the facility.
17. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(d), provides, in pertinent part, that a generator of hazardous waste who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste in containers on-site without a permit or interim status provided that, among other things, the hazardous waste is stored on-site for no longer than 180 days.
18. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(d)(4) (which references 40 C.F.R. § 262.34(a)(2)), provides, in pertinent part, that a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste in containers on-site without a permit or having interim status provided that, among other things, while being accumulated on-site, each container of hazardous waste is marked with the accumulation start date which is clearly marked and visible for inspection.
19. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(d)(4) (which references 40 C.F.R. § 262.34(a)(3)), provides, in pertinent part, that a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste in containers on-site without a permit or having interim status provided that, among other things, each container of hazardous waste is labeled or marked clearly with the words "hazardous waste."

20. At the time of the PADEP inspection on November 12, 2009, the PADEP inspector observed eight (8) containers of hazardous waste at the Facility labeled with the words "Hazardous Waste" and marked with an accumulation start date.
21. On May 25, 2010, Respondent identified seventeen (17) containers of hazardous waste stored at the Facility which were subsequently shipped for disposal as hazardous waste.
22. On May 25, 2010, nine of the 17 hazardous waste containers identified by Respondent as hazardous waste stored at the Facility were not labeled with the words "Hazardous Waste" or marked with an accumulation start date.
23. At the time of the PADEP inspection on November 12, 2009, three (3) 55 gallon containers of hazardous waste stored at the Facility were labeled with the words "hazardous waste" and labeled with an accumulation start date of October 27, 2009. At the time these containers were shipped for disposal on May 25, 2010, they had been accumulated on site for 209 days.
24. At the time of the PADEP inspection on November 12, 2009, one 55 gallon container of hazardous waste stored at the Facility was labeled with the words "hazardous waste" and labeled with an accumulation start date of July 6, 2009. At the time this container was shipped for disposal on May 25, 2010, it had been accumulated on site for 322 days.
25. At the time of the PADEP inspection on November 12, 2009, one 55 gallon container of hazardous waste stored at the Facility was labeled with the words "hazardous waste" and labeled with an accumulation start date of September 15, 2009. At the time this container was shipped for disposal on May 25, 2010, it had been accumulated on site for 251 days.
26. At the time of the PADEP inspection on November 12, 2009, two 55 gallon containers of hazardous waste stored at the Facility were labeled with the words "hazardous waste" and labeled with an accumulation start date of September 28, 2009. At the time these containers were shipped for disposal on May 25, 2010, they had been accumulated on site for 238 days.
27. At the time of the PADEP inspection on November 12, 2009, one 55 gallon container of hazardous waste stored at the Facility was labeled with the words "hazardous waste" and labeled with an accumulation start date of October 8, 2009. At the time this container was shipped for disposal on May 25, 2010, it had been accumulated on site for 228 days.
28. The containers described in Paragraphs 21 – 27 were accumulated at the Facility for a period of greater than 180 days.
29. Respondent failed to qualify for the "less than 180-day" generator accumulation

exemption of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(d), which in turn incorporates by reference 40 C.F.R. § 262.34(a)(2) and (3), for the storage of hazardous waste in containers described in Paragraphs 21 – 27, above by failing to satisfy the conditions for such exemption.

30. By failing to meet the criteria for exemption, the Facility became a hazardous waste treatment, storage or disposal “facility”, as that term is defined by 25 Pa. Code § 260a.10.
31. Respondent was required by 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), to obtain a permit for its hazardous waste storage activities described in this count.
32. Respondent does not have, and never had, a permit or interim status pursuant to 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), or Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), for the storage of hazardous waste at the Facility.
33. Respondent violated 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by operating a hazardous waste storage facility without a permit or interim status.

## COUNT II

(Failure to Make a Waste Determination)

34. The preceding paragraphs are re-alleged and incorporated by reference.
35. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11 with exceptions not relevant here, provides that a person who generates a solid waste must determine if that waste is a hazardous waste using the method set forth in 40 C.F.R. § 262.11.
36. At the time of the PADEP inspection on November 12, 2009, ninety-two (92) unlabeled and undated containers of solid waste were observed by the PADEP inspector.
37. At the time of the PADEP inspection on March 4, 2010, the same ninety-two (92) unlabeled and undated containers of discarded material were still present at the Facility and waste determinations had not been performed for these containers.
38. In an NOV dated May 12, 2010 (the “May 12, 2010 EPA NOV”) EPA cited Respondent for failure to perform hazardous waste determinations.
39. Respondent first performed hazardous waste determinations of the 92 unlabeled and undated containers observed by the PADEP inspector on May 18, 2010 and May 20, 2010.

40. Respondent failed to timely perform hazardous waste determinations for the 92 containers of hazardous waste stored at the Facility in violation of the requirements of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11, with exceptions not relevant here.

**COUNT III**  
**(Inspections)**

41. The preceding paragraphs are re-alleged and incorporated by reference.
42. Pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.174, the owner or operator of a hazardous waste storage facility is required to, at a minimum, inspect areas where containers of hazardous waste are stored at least weekly.
43. At the time of the PADEP inspection on November 12, 2009, Respondent was storing seven (7) containers of hazardous waste labeled with the words "Hazardous Waste" in a hazardous waste storage area at the Facility.
44. At the time of the PADEP inspection on March 3, 2010, Respondent was storing seven (7) containers labeled with the words "Hazardous Waste" in a hazardous waste storage area at the Facility.
45. From at least November 12, 2009 until May 18, 2010, Respondent did not inspect at least weekly the area at the Facility where the seven (7) containers of hazardous waste were stored.
46. The May 12, 2010 EPA NOV to Respondent advised Respondent of its failure to conduct weekly inspections of hazardous waste containers stored in the hazardous waste storage area at the Facility.
47. Respondent failed to conduct weekly inspections of an area at the Facility where containers of hazardous waste were stored from at least November 12, 2009 through May 18, 2010, in violation of the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.174.

**III. CIVIL PENALTY CALCULATION**

48. Based on the foregoing allegations, and pursuant to the authority of Section 3008(a)(1) and (3) and (g) of RCRA, 42 U.S.C. § 6928(a)(1) and (3), and (g), Complainant proposes the assessment a civil penalty against Respondent per day of non-compliance for each violation. The Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, increased the amount of civil penalties which can be assessed by EPA for each day of a violation of RCRA Subtitle C occurring on or after January 30, 1997 from \$25,000 to

\$27,000 and after March 15, 2004 but before January 12, 2009 to \$32,500 and \$37,600 after January 12, 2009. Pursuant to 40 C.F.R. § 22.14(a)(4)(ii), Complainant is not proposing a specific penalty at this time, but will do so later after an exchange of information has occurred. See 40 C.F.R. § 22.19(a)(4).

49. For the purpose of determining the amount of a civil penalty to be assessed under RCRA, RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3), requires EPA to take into account the seriousness of the violation and any good faith efforts by Respondent to comply with applicable requirements (i.e., the "statutory factors"). In developing a civil penalty, Complainant will take into account the particular facts and circumstances of this case with specific reference to the aforementioned statutory factors and EPA's October, 1990 RCRA Civil Penalty Policy ("RCRA Penalty Policy"), a copy of which is enclosed with this Complaint (Enclosure A). This RCRA Penalty Policy provides a rational, consistent and equitable methodology for applying the statutory factors enumerated above to particular cases. As a basis for calculating a specific penalty pursuant to 40 C.F.R. § 22.14(a)(4), Complainant will also consider, among other factors, Respondent's inability to pay a civil penalty. The burden of raising and demonstrating an inability to pay rests with the Respondent. In addition, to the extent that the facts and circumstances unknown to Complainant at the time of the issuance of the Complaint become known after the Complaint is issued, such facts and circumstances may also be considered as a basis for adjusting the civil penalty.
50. The proposed penalty does not constitute a "demand" as that term is defined in the Equal Access to Justice Act, 28 U.S.C. § 2412. Pursuant to Section 22.14(a)(4)(ii) of the Consolidated Rules of Practice, an explanation of the number and severity of violations is given below concerning the aforesaid Counts alleged in this Complaint.

#### COUNT I (Operation without a permit or interim status)

The "*potential for harm*" arising from the Respondent's storage of hazardous waste without a permit or interim status is "major." The Respondent's failure to properly label at least nine containers of hazardous waste posed a significant risk of harm to human health, the environment and the RCRA Program. The type of hazardous waste being mismanaged was hazardous due to ignitability.

In addition, operating without a permit or interim status is specifically listed in the RCRA Penalty Policy as a violation which directly increases the threat of harm to human health and the environment. Violations of regulatory requirements cause harm to the integrity of the RCRA program. Operating without a permit or interim status undermines the statutory and regulatory purposes and procedures of RCRA program implementation. Therefore, based on the type and volume of waste generated by the Facility, the Agency has selected a major potential for harm.

The "extent of deviation" of Respondent's violation is "major." Respondent failed to



correct this violation after two inspections by the state regulatory authority and an EPA Notice of Violation. Respondent's failure to obtain a permit, or to properly qualify for an exemption from permitting so that the programmatic goals of RCRA, including the ability to identify hazardous waste management facilities, set appropriate standards for them, track their compliance and/or otherwise be assured that such facilities will be operated in a manner which does not present a threat to human health or the environment, could be met, represents a substantial deviation from the statutory and regulatory requirements.

The penalty for this violation may be adjusted upward to account for bad faith and willfulness/negligence because of Respondent's failure to take the necessary actions to comply the applicable RCRA requirements even after regulatory authorities had twice given Respondent notice of this violation.

#### COUNT II (Hazardous Waste Determination)

The "potential for harm" arising from Respondent's failure to make waste determinations is "major." Ninety-two containers of material were abandoned by Respondent. When waste determinations were made of these materials many months later, several unlabeled, undated containers were found to contain hazardous waste. The violation posed a substantial risk of harm to human health, the environment and the RCRA Program. The type of hazardous waste being mismanaged was hazardous due to ignitability.

The "extent of deviation" for the allegations in Count II is "major." This instance of failure to make waste determinations for ninety-two containers of discarded material scattered throughout a Facility which Respondent had abandoned represents a substantial deviation from the statutory and regulatory requirements.

The penalty for this violation may be adjusted upward to account for bad faith and willfulness/negligence because of Respondent's failure to take the necessary actions to comply the applicable RCRA requirements even after regulatory authorities had twice given Respondent notice of this violation.

#### COUNT III (Inspections)

The "potential for harm" arising from Respondent's failure to conduct weekly inspections of a hazardous waste storage area is "major." Respondent vacated the Facility and abandoned seven drums it had identified as hazardous waste and accumulated in a hazardous waste storage area. The failure to inspect this area on a weekly basis posed a substantial risk of harm to human health, the environment and the RCRA Program. The type of hazardous waste being mismanaged was hazardous due to ignitability.

The "extent of deviation" for the allegations in Count III is "major." This instance of failure to conduct inspections of a hazardous waste storage area was because Respondent had

abandoned the Facility. This violation is a substantial deviation from the statutory and regulatory requirements.

The penalty for this violation may be adjusted upward to account for bad faith and willfulness/negligence because of Respondent's failure to take the necessary actions to comply with the applicable RCRA requirements even after regulatory authorities had twice given Respondent notice of this violation.

#### **IV. NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

Within thirty (30) days of receipt of this Complaint, Respondent may request a hearing before an EPA Administrative Law Judge and at such hearing may contest any material fact, conclusion of law and/or the appropriateness of any penalty amount proposed to be assessed for the violations alleged in this Complaint. To request a hearing, Respondent must file a written answer ("Answer") within thirty (30) days of receipt of this Complaint. The Answer should comply with the requirements of 40 C.F.R. § 22.15. The Answer should clearly and directly admit, deny or explain each of the factual allegations contained in this Complaint of which Respondent has any knowledge. Where Respondent has no knowledge of a particular factual allegation, the Answer should so state. The Answer should contain: (1) the circumstances or arguments which are alleged to constitute the grounds of any defense; (2) the facts which Respondent disputes; (3) the basis for opposing any proposed relief; and (4) a statement of whether a hearing is requested. All material facts not denied in the Answer will be considered to be admitted.

If Respondent fails to file a written Answer within thirty (30) days of receipt of this Complaint, such failure shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to a hearing. Failure to Answer may result in the filing of a Motion for Default Order and the possible issuance of a Default Order imposing the penalties proposed herein without further proceedings.

Any hearing requested and granted will be conducted in accordance with the Consolidated Rules of Practice. Hearings will be held at a location to be determined at a later date pursuant to the Consolidated Rules of Practice.

Respondent's Answer and all other documents that Respondent files in this action should be sent to:

Regional Hearing Clerk (3RC00)  
U.S. EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.

In addition, a copy of Respondent's Answer should be sent to Joyce A. Howell, Esq., the attorney assigned to represent EPA in this matter, at:

Joyce A. Howell, Esq. (3RC30)  
Senior Assistant Regional Counsel  
United States Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

#### **V. SETTLEMENT CONFERENCE**

Complainant encourages settlement of the proceedings at any time after issuance of the Complaint if such settlement is consistent with the provisions and objectives of RCRA. Whether or not a hearing is requested, a Respondent may request a settlement conference with the Complainant to discuss the allegations of the Complaint and the amount of the proposed civil penalty. A request for a settlement conference does not relieve a Respondent of its responsibility to file a timely Answer.

In the event settlement is reached, the terms shall be expressed in a written Final Agreement prepared by Complainant, signed by the parties, and incorporated into a Final Order signed by the Regional Administrator or his designee. The execution of such a Consent Agreement shall constitute a waiver of the Respondent's right to contest the allegation in the Complaint and its right to appeal the proposed Final Order accompanying the Consent Agreement.

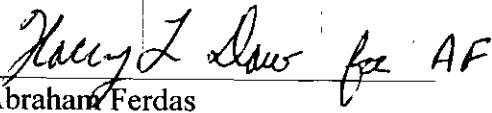
If you wish to arrange a settlement conference or have legal questions concerning this matter, please contact Joyce A. Howell, Senior Assistant Regional Counsel, at (215) 814-2644. Once again, however, such a request for a settlement conference does not relieve a Respondent of its responsibility to file an Answer within thirty (30) days following its receipt of this Complaint.

Please note that the Quick Resolution settlement procedures set forth in 40 C.F.R. § 22.18 do not apply to this proceeding because no specific penalty is proposed at this time. See 40 C.F.R. § 22.18(a)(1).

The following Agency officers, and the staffs thereof, are designated as the trial staff to represent the Agency as the party in this case: the Region III Office of Regional Counsel, the Region III Land and Chemicals Division, the Office of the Assistant Administrator for Solid Waste and Emergency Response, and the Office of the EPA Assistant Administrator for Enforcement and Compliance Assurance. Commencing from the date of issuance of this Complaint until issuance of a final agency decision in this case, neither the Administrator, members of the Environmental Appeals Board, Presiding Officer, Regional Administrator, nor Regional Judicial Officer, may have an *ex parte* (unilateral) communication with the trial staff on the merits of any issue involved in this proceeding. Please be advised that the Consolidated Rules of Practice prohibit any *ex parte* discussion of the merits of a case with, between either party to this case and the Administrator, members of the Environmental Appeals Board, Presiding Officer, Judicial Officer, Regional Administrator, Regional Judicial Officer, or Administrative Law Judge

after this Complaint has been issued (40 C.F.R. § 22.8).

Date: 9/22/2010

  
Abraham Ferdas  
Director  
Land and Chemicals Management Division

**REFERENCES AND ENCLOSURES**

- A. June 2003- RCRA Civil Penalty Policy
- B. Consolidated Rules of Practice - 40 C.F.R. Part 22 (enclosed)
- C. Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19
- D. Pennsylvania Hazardous Waste Management Regulations
- E. Small Business Notice

## Inventory at Norka Manufacturing as of November 12, 2009

### Manufacturing Floor

- 1) The used paint filters remain in place at the back of three of the four paint spraying booths

### Compressor Room

- 1) Thirteen (13) total 5-gallon plastic pails that were labeled as synthetic compressor lubricant. Located within the compressor room. Five were empty. Two had open lids. Six were lidded.
- 2) One (1) 50-pound bag of activated alumina (unopened).

### Area outside of the paint related raw material storage closet

- 1) Seven (7) 5-gallon plastic buckets of water reducible dye.
- 2) One (1) 5-gallon plastic bucket of HAPS/VOC water white sanding sealer.
- 3) One (1) 5-gallon plastic bucket of vinyl sealer.
- 4) Two (2) 5-gallon plastic buckets of KEM Aqua Lacquer.
- 5) One (1) 5-gallon plastic bucket of conversion varnish.
- 6) Two (2) 5-gallon plastic buckets of varnish topcoat.
- 7) Twelve (12) 55-gallon drums which were "RCRA empty".
- 8) Two (2) 5-gallon containers which were "RCRA empty".
- 9) One (1) 5-gallon container and two (2) 55-gallon containers which were unlabeled but still contained an unknown material.
- 10) One (1) 55-gallon drum which was labeled as "hazardous waste" waste solids containing flammable liquids n.o.s. (xylene, isobutonal) D001. The contents were described as paint overspray and filters. Accumulation start date 10-08-2009.
- 11) Two (2) one gallon cans of thinner.
- 12) Two (2) one gallon cans of stain.
- 13) One (1) 5-gallon pail of liquid cleaner.
- 14) Two (2) 5-gallon pails of Solycote 1013 coating.

### Within the raw materials storage closet

- 1) Fifteen (15) 5-gallon plastic containers filled with waste stain or paint.
- 2) One (1) 5-gallon plastic container labeled as "paint booth coater".
- 3) One (1) 55-gallon drum of AK20 Nobel 992150 basecoat retarder (unopened raw material). Date on shipping label was January 12, 2000.
- 4) Two (2) 5-gallon pails of lacquer sealer.
- 5) One (1) 55-gallon drum with a label on the lid that read "Old Black 43 gallons".
- 6) Two (2) 5-gallon pails of Acrylace clear finish.
- 7) One (1) 5-gallon lacquer container.
- 8) Four (4) 5-gallon containers of vinyl sealer.
- 9) One (1) 5-gallon container of butyl cellosolve (coating).
- 10) One (1) 5-gallon container of strippable coating.
- 11) One (1) 5-gallon container with a label reading Kemver LF MRE# (V 84 FH 72, Sherwood)

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- 12) One (1) 5-gallon container which was "RCRA empty"
- 13) Three (3) 5-gallon containers which were not labeled.
- 14) Seven (7) 1-gallon pails of white gloss, flow agent, white varnish, dark oak stain, stain, and one unlabeled.

**Hazardous waste storage area (Properly labeled and stored)**

- 1) Four (4) 55-gallon drums of waste paint related material (top coat and sealer) D001. Three of them were labeled with an accumulation start date of 10-27-09. One of the drums was marked with a start date of 07-06-09.
- 2) Two (2) 55-gallon drums of waste paint related solid material (overspray and filters) (xylene, isobutanol) D001 with start dates of 09-15-09 and 09-28-09.
- 3) One (1) 55-gallon drum of waste paint related material D001 dated on 09-28-09.

**Clark D. Smith  
Solid Waste Specialist  
PA-Department of Environmental Protection  
Northcentral Regional Office**

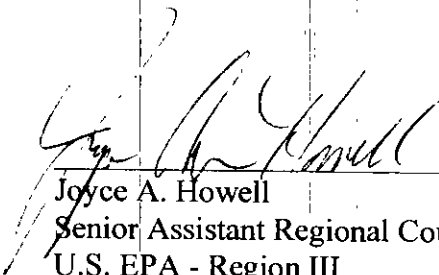
**CERTIFICATE OF SERVICE**

I certify that on September 22, 2010, I sent by UPS next day delivery a copy of the Administrative Complaint to the addressees listed below. The original and one copy of the Administrative Complaint were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Mr. Kevin J. Royer  
Chief Executive Officer  
Norka Manufacturing, Inc.  
1521 Dell Road  
Peninsula, OH 44264

John C. Pierson, Esq.  
Twin Oaks Estate  
1221 W. Market Street  
Akron, Ohio 44313-7107

Dated: Sept. 22, 2010

  
\_\_\_\_\_  
Joyce A. Howell  
Senior Assistant Regional Counsel  
U.S. EPA - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029