

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. RCRA-10-2021-0214
)	
TRA INDUSTRIES, INC., DBA)	CONSENT AGREEMENT
HUNTWOOD INDUSTRIES, INC.,)	
)	
Liberty Lake, Washington)	
)	
Respondent.)	

I. STATUTORY AUTHORITY

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

1.2. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), EPA granted the State of Washington final authorization to administer and enforce a hazardous waste program and to carry out such program in lieu of the federal program.

1.3. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), EPA may enforce the federally-approved Dangerous Waste program codified at Washington Administrative Code (WAC) Chapter 173-303.

1.4. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), notification of this action has been given to the State of Washington.

1.5. Pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, 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 TRA Industries, Inc., doing business as Huntwood Industries, Inc. (“Respondent”) agrees to issuance of, the Final Order attached to this Consent Agreement (“Final Order”).

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Enforcement and Compliance Assurance Division, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of RCRA is proposed to be assessed.

2.3. Part III of this Consent Agreement 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

A. Statutory and Regulatory Background

3.1 As authorized by federal law, the State of Washington has adopted regulations for the management of dangerous wastes at WAC 173-303.

3.2 The regulation at WAC 173-303-016(3)(a) defines solid waste as “any discarded material that is not excluded by WAC 173-303-017(2) or that is not excluded by variance granted under WAC 173-303-017(5).” In accordance with WAC 173-303-016(4), materials are solid waste if they are abandoned by being (a) disposed of; (b) burned or incinerated; or (c) accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.

3.3 The regulation at WAC 173-303-040 defines “dangerous waste” to mean “those solid wastes designated in WAC 173-303-070 through 173-303-100 as dangerous, or extremely hazardous or mixed waste.” In accordance with WAC 173-303-070(3), a solid waste is a “dangerous waste” if, inter alia, the waste is a listed dangerous waste source under WAC 173-303-082 or the waste exhibits any dangerous waste characteristics identified in WAC 173-303-090.

3.4 In accordance with WAC 173-303-800(2), the owner or operator of a dangerous waste facility that transfers, treats, stores, or disposes of (“TSD”) or recycles dangerous waste must obtain a permit covering, inter alia, the active life, closure period, and groundwater protection compliance period for any regulated unit.

B. Violation for Failure to Operate as a Treatment, Storage, or Disposal Facility under a RCRA Permit or RCRA Interim Status

1. General Allegations

3.5 Respondent operates the cabinet manufacturing company located at 23800 East Appleway, Liberty Lake, Washington 99019 (“Facility”).

3.6 On May 1, 2019, EPA conducted an inspection of the Facility pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, to determine Respondent's compliance with Washington's dangerous waste regulations.

3.7 At all times relevant to this Consent Agreement, Respondent generated dangerous waste at the Facility as the term dangerous waste is defined at WAC 173-303-040.

2. 90-day Container Requirements

3.8 Pursuant to WAC 173-303-800(2), the owner or operator of a dangerous waste facility that treats, stores, or disposes of dangerous waste must obtain a permit.

3.9 Pursuant to WAC 173-303-200(1)(b)(i), a generator may accumulate dangerous waste without a permit for no more than 90 days provided that the waste is placed in containers and that the generator complies with WAC 173-303-630(2) through (6), (8) through (10), and 40 C.F.R. Part 265, Subparts AA, BB, and CC.

3.10 Pursuant to WAC 173-303-040, a "container" is any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

3.11 Pursuant to WAC 173-303-630(5)(a), a container holding dangerous waste must always be closed, except when it is necessary to add or remove waste.

3.12 Pursuant to WAC 173-303-200(1)(d), a large quantity generator may accumulate dangerous waste without a permit for no more than 90 days provided that, while dangerous waste is being accumulated on site, each container is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container must also be marked with a label or sign that identifies the major risk(s) associated with the waste in the container.

3.13 At the time of the inspection, EPA observed three containers storing dangerous waste in containers in the area titled the “Satellite Accumulation Area,” and three containers storing dangerous waste near the heater, that were not closed.

3.14 At the time of the inspection, EPA observed two containers storing dangerous waste in containers in the area titled the “Satellite Accumulation Area” that were not marked with the words “hazardous waste” or “dangerous waste.”

3.15 At the time of the inspection, EPA observed two containers storing dangerous waste in containers in the area titled the “Satellite Accumulation Area” that were not marked with a label or sign that identifies the major risk(s) associated with the waste in the container.

3.16 At no time relevant to this consent agreement did Respondent have a permit to store dangerous waste issued pursuant to WAC 173-303-800.

3.17 Therefore, at all times relevant to this consent agreement, Respondent stored dangerous waste at the Facility without complying with the conditions for exemption from the permit requirement at WAC 173-303-200(1) and without a permit, in violation of WAC 173-303-200(1) and WAC 173-303-800(2).

3. Satellite Accumulation Area Requirements

3.18 Pursuant to WAC 173-303-800(2), the owner or operator of a dangerous waste facility that treats, stores, or disposes of dangerous waste must obtain a permit.

3.19 Pursuant to WAC 173-303-200(2)(a), a generator may store no more than fifty-five gallons of dangerous waste in containers at or near any point of generation where waste initially accumulates without a permit, so long as: the satellite area is under the control of the operator of the process generating the waste or secured at all times to prevent improper additions

of wastes to a satellite container; and, the generator complies with WAC 173-303-630(2), (4), (5)(a), (5)(b), (8)(a), (9)(a), and (9)(b).

3.20 Pursuant to WAC 173-303-630(5)(a), a container holding dangerous waste must always be closed, except when it is necessary to add or remove waste.

3.21 Pursuant to WAC 173-303-200(2)(a)(ii) and WAC 173-303-200(1)(d), each container holding dangerous waste must be labeled or marked clearly with the words “dangerous waste” or “hazardous waste,” and the container must be marked with a label or sign that identifies the major risk(s) associate with the waste.

3.22 At the time of inspection, EPA observed the following containers—as that term is defined at WAC 173-303-040—storing dangerous waste that were not closed within the meaning of WAC 173-303-630(5)(a):

- a. One five-gallon container at each the Tow-Cart Paint Booth 1 and Tow-Cart Paint Booth 3, respectively;
- b. Two five-gallon containers at the Hang-Line Booth 3;
- c. One five-gallon container at the Outside Hang-Line Booth 2;
- d. One five-gallon container at the Inside Hang-Line Booth 3;
- e. Three five-gallon containers at the Red Tag Booth;
- f. Three containers, including one cardboard box, at the NGR 1;
- g. One step-can container at the Primac Line;
- h. One step-can container near the Heater;
- i. One 55-gallon drum near Paint Booth 1;
- j. Two five-gallon containers at the Stain area.

3.23 At the time of inspection, EPA observed the following containers storing dangerous waste in containers—as that term is defined at WAC 173-303-040—that were not labeled with the words “Dangerous Waste” or “Hazardous Waste” as required by WAC 173-303-200(1)(d):

- a. One five-gallon container at the Tow Cart Paint Booth 1;
- b. One five-gallon container at the Tow Cart Paint Booth 3;
- c. Two five-gallon containers at the Hang-Line Booth 3;
- d. One five-gallon container at the Outside Hang-Line Booth 2;
- e. One five-gallon container at the Inside Hang-Line Booth 3;
- f. One five-gallon container at the ACC Line Wash Booth;
- g. One step-can near the Heater;
- h. One step-can at the Primac Line;
- i. One five-gallon container at the Stain Area;
- j. One container at the NGR 1.

3.24 At the time of inspection, EPA observed the following containers storing dangerous waste in containers that were not marked with an indication of the hazards of the contents as required by WAC 173-303-200(1)(d):

- a. One five-gallon container at the Tow Cart Paint Booth 3;
- b. One five-gallon container at the Hang-Line Booth 3;
- c. One five-gallon container at the Outside Hang-Line Booth 2;
- d. One step-can container near the Heater;
- e. One step-can container at the Primac Line;

- f. One 55-gallon drum at the Paint Booth 1;
- g. One five-gallon container in the Stain area;
- h. One container at the NGR 1.

3.25 At no time relevant to this consent agreement did Respondent have a permit to store dangerous waste issued pursuant to WAC 173-303-800.

3.26 Therefore, at all times relevant to this consent agreement, Respondent stored dangerous waste at the Facility without complying with the conditions for permit under WAC 173-303-200(2)(a) and without a permit in violation of WAC 173-303-200(2)(a), WAC 173-303-800(2), and 40 C.F.R. § 270.1(c).

4. *Personnel Training Requirements*

3.27 Pursuant to WAC 173-303-800(2), the owner or operator of a dangerous waste facility that treats, stores, or disposes of dangerous waste must obtain a permit.

3.28 Pursuant to WAC 173-303-200(1)(e)(i), a generator may accumulate dangerous waste without a permit for no more than 90 days provided that the waste is placed in containers and that the generator complies with, *inter alia*, WAC 173-303-330.

3.29 Pursuant to WAC 173-303-330(1), a facility owner or operator must provide a program of classroom instruction or on-the-job training for facility personnel. This program must teach personnel to perform their duties in a way that ensures the facility's compliance with WAC Chapter 173-303, must teach facility personnel dangerous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed, must ensure that facility personnel are able to respond effectively to emergencies, and must include the elements set forth in the training plan required in WAC 173-303-330(2).

3.30 Pursuant to WAC 173-303-330(3), a facility owner or operator must keep training records on current personnel until closure of the facility and must keep records on former employees for at least three years from the date the employee last worked at the facility.

3.31 Respondent failed to provide a program of classroom instruction or on-the-job training for facility personnel, as required by WAC 173-303-330(a), during calendar years 2017, 2018, and 2020.

3.32 At no time relevant to this consent agreement did Respondent have a permit to store dangerous waste issued pursuant to WAC 173-303-800.

3.33 Therefore, at all times relevant to this consent agreement, Respondent stored dangerous waste at the Facility without complying with the conditions for exemption from the permit requirement at WAC 173-303-200(1) and without a permit, in violation of WAC 173-303-200(1) and WAC 173-303-800.

5. 90-Day Area Inspection Requirements

3.34 Pursuant to WAC 173-303-800(2), the owner or operator of a dangerous waste facility that treats, stores, or disposes of dangerous waste must obtain a permit.

3.35 Pursuant to WAC 173-303-200(1)(b)(i), a generator may accumulate dangerous waste without a permit for no more than 90 days provided that the dangerous waste is placed in containers and the generator complies with, *inter alia*, WAC 173-303-630(6).

3.36 Pursuant to WAC 173-303-630(6), the owner or operator of a dangerous waste facility that stores containers of dangerous waste must conduct weekly inspections of the areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion, deterioration, or other factors.

3.37 Pursuant to WAC 173-303-630(6), the owner or operator of a dangerous waste facility that stores containers of dangerous waste must keep an inspection log including at least the date and time of the inspection, the printed name and handwritten signature of the inspector, a notation of the observations made, and the date and nature of any repairs or remedial actions taken. The log must be kept at the facility for at least five years from the date of inspection.

3.38 At all times relevant to this Consent Agreement, Respondent stored dangerous waste in containers as that term is defined at WAC 173-303-040.

3.39 At all times relevant to this Consent Agreement, Respondent failed to conduct weekly inspections meeting the requirements of WAC 173-303-200(1)(b)(i) and WAC 173-303-630(6).

3.40 At no time relevant to this consent agreement did Respondent have a permit to store dangerous waste issued pursuant to WAC 173-303-800.

3.41 Therefore, at all times relevant to this consent agreement, Respondent stored dangerous waste at the Facility without complying with the conditions for exemption from the permit requirement at WAC 173-303-200(1) and without a permit, in violation of WAC 173-303-200(1)(b)(i) and WAC 173-303-800(2).

* * * * *

3.42 Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$102,638 per day of noncompliance for each violation of a requirement of Subtitle C of RCRA, issue an order requiring compliance, or both.

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$64,203 (the “Assessed Penalty”).

4.4. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.

4.5. Payments under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier’s check or certified check must be 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, Missouri 63197-9000

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

4.6. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, 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
R10_RHC@epa.gov

Xiangyu Chu
U.S. Environmental Protection Agency
Region 10
chu.xiangyu@epa.gov

4.7. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of the Assessed Penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below. In any collection action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

4.8. If Respondent fails to pay any portion of the Assessed Penalty by this Consent Agreement and the Final Order in full by its due date, Respondent shall also be responsible for payment of the following amounts:

a. Interest. Pursuant to 31 U.S.C. § 3717(a)(1), any unpaid portion of the Assessed Penalty shall bear interest at the rate established by the Secretary of the Treasury from the effective date of the Final Order attached hereto, provided, however, that no interest shall be payable on any portion of the Assessed Penalty that is paid within 30 days of the effective date of the Final Order attached hereto.

b. 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 30 days past due.

c. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the Assessed Penalty that is more than 90 days past due, which nonpayment shall be calculated as of the date the underlying penalty first becomes past due.

4.9. The Assessed Penalty, including any additional costs incurred under Paragraph 4.8 represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

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

4.11. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violation(s) alleged in Part III.

4.12. Except as described in Paragraph 4.8, each party shall bear its own costs and attorneys' fees in bringing or defending this action.

4.13. For the purposes of this proceeding, Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in this Consent Agreement and to appeal the Final Order.

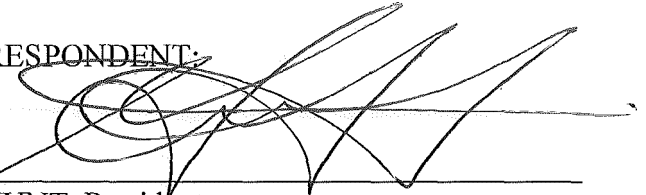
4.14. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

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

DATED:

9/22/2021

FOR RESPONDENT:



TIM HUNT, President
TRA Industries, Inc., dba, Huntwood Industries, Inc.

DATED:

FOR COMPLAINANT:

EDWARD J. KOWALSKI, Director
Enforcement & Compliance Assurance Division
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. RCRA-Docket #
)	
HUNTWOOD INDUSTRIES,)	FINAL ORDER
)	
Liberty Lake, Washington,)	
)	
Respondent.)	
)	

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under RCRA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order 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 Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of RCRA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this _____ day of _____, 2021.

RICHARD MEDNICK
Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Huntwood Industries, Inc.: RCRA-10-2021-0214**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

Brandon Cobb
U.S. Environmental Protection Agency
Region 10
cobb.brandon@epa.gov

Tim Hunt
President
TRA Industries, Inc. dba Huntwood Industries, Inc.
23800 E Appleway Ave
Liberty Lake, WA 99019
th@huntwood.com

DATED this _____ day of _____, 2021.

TERESA YOUNG
Regional Hearing Clerk
EPA Region 10