



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUN 27 2018

REPLY TO THE ATTENTION OF:

Mr. Edward B. Witte  
Attorney for Respondent  
EMCO Chemical Distributors, Inc.  
2100 Commonwealth Avenue  
North Chicago, Illinois 60064  
nwwitte@gkllaw.com

Re: EMCO Chemical Distributors, Inc.  
Consent Agreement and Final Order  
DOCKET NO: RCRA-05-2018-0011  
ILD 005 070 495

This is a demand letter to pay the United States the stipulated penalty amount of \$145,770.00, pursuant to the terms and conditions of the Consent Agreement and Final Order (CAFO) between EMCO, the Respondent, and the U.S. EPA (EPA) in the matter of EMCO Chemical Distributors, Inc., Docket Number: RCRA-05-2018-0011.

On July 23, 2015, a representative of the U.S. Environmental Protection Agency inspected the EMCO Chemical Distributors, Inc. (EMCO) facility located in North Chicago, Illinois. As a "large quantity generator" of hazardous waste, EMCO is subject to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (RCRA) and 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3). The purpose of the inspection was to evaluate EMCO's compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment and storage of hazardous waste.

Based on information provided by EMCO, EPA's review of records pertaining to EMCO, and the inspector's observations, EPA had determined that EMCO had unlawfully stored hazardous waste without a permit or interim status as a result of EMCO's failure to comply with certain conditions for a permit exemption under Ill. Admin. Code tit. 35 § 722.134(a)-(c) [40 C.F.R. § 262.34(a)-(c)].

On January 15, 2016, EPA issued a Notice of Violation (NOV) regarding the violations detected during the inspection. EMCO responded to the NOV on February 19, 2016. Then on December 5, 2016, EPA sent EMCO a Notice of Intent to file a Civil Administrative Complaint. EMCO responded to the Notice on December 21, 2016.

After settlement negotiations, EMCO and EPA agreed to the terms of the CAFO, including a civil penalty of \$131,193 and a technology driven Supplemental Environmental Project (SEP), utilizing sensors, RFID tags, and data analytics to manage, track, and process facility operations. Under the CAFO, EMCO would have needed to spend at least \$145,770 on the SEP. The CAFO became effective when it was filed with the Regional Hearing Clerk on May 31, 2018.

On June 26, 2018, EPA received a letter from Edward Witte, EMCO's new appointed legal counsel with the law firm of Godfrey & Kahn, S.C., indicating that EMCO now considers

performance of the SEP is not practical, and as a result, the Respondent has elected to pay the applicable \$145,770.00 penalty under Paragraph 86(a) of the CAFO. According to Paragraph 86(a) of the CAFO, "if [the] Respondent violates any requirements of this CAFO relating to the SEP, [the] Respondent must pay stipulated penalties to the United States." The Agreement stipulates that the Respondent is required to pay a penalty of \$145,770.00 if it did not complete the SEP satisfactorily according to the requirements of the CAFO.

Pursuant to Paragraph 87 of the CAFO, EPA determines that the Respondent did not satisfactorily complete the SEP Agreement and must pay the stipulated penalty of \$145,770.00 to the U.S. Treasury. Please refer to the transmittal instructions listed in Paragraph 70(a)-(b) of the CAFO when submitting the check for stipulated penalties to the Treasury. A transmittal letter stating the Respondent's name, the case title, and the case docket number must accompany the payment, in accordance with the instructions in Paragraph 71 of the CAFO, and please submit a copy of the check and corresponding letter to the Regional Hearing Clerk, Jamie Paulin, and myself. EMCO must pay the stipulated penalties within 15 days of receiving this written demand, by the deadline of July 11, 2018.

If you have any questions or concerns regarding this matter, please contact me at 312-353-3190.



Sincerely,

Puja Lakhani  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
Region 5  
77 W. Jackson Blvd., (C-14J)  
Chicago, IL 60604  
(312) 353-3190  
(312) 385-5437 (Fax)