



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

OCT 29 2010

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL** 7001 0320 0006 1448 6664  
**RETURN RECEIPT REQUESTED**

LR-8J

Mr. Grahame Burrow  
General Manager  
Norplas Industries, Inc.  
7825 Calpe Boulevard  
Northwood, Ohio 43619

Re: Consent Agreement and Final Order **RCRA -05-2011-0001**  
Norplas Industries, Inc.  
OHR 000 028 977

Dear Mr. Burrow:

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 October 28, 2010, with the Regional Hearing Clerk (RHC).

Please pay the civil penalty in the amount of \$21,360 in the manner prescribed in paragraphs 51-56 of the CAFO, and reference all checks with the billing document (BD) number **2751142R001** and docket number **RCRA-05-2011-0001**. 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,

Paul J. Little  
Acting Chief, RCRA Branch  
Land and Chemicals Division

Enclosures

cc: Harry Sarvis, Ohio EPA, Central Office (w/CAFO)

**NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY  
TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS**

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

Docket #

**RCRA-05-2011-0001**

Billing Docket #  
2751142 R001

RECEIVED  
USEPA REGION 5  
OCT 28 2010  
OFFICE OF ENFORCEMENT &  
COMPLIANCE ASSURANCE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

Billing Docket # 27511420

In the Matter of: ) Docket No. RCRA-05-2011-0001  
)  
)  
Norplas Industries, Inc. ) Proceeding to Commence and Conclude  
) an Action to Assess a Civil Penalty  
7825 Caple Boulevard ) Under Section 3008(a) of the Resource  
) Conservation and Recovery Act,  
Northwood, Ohio 43619 ) 42 U.S.C. § 6928(a)  
)  
Respondent. )  
\_\_\_\_\_ )

RECEIVED  
OCT 28 2010

Consent Agreement and Final Order REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

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

4. Respondent is Norplas Industries, Inc., a corporation doing business in the State of Ohio.

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 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 Ohio final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective June 30, 1989. 54 Fed. Reg. 27170 (June 28, 1989).

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 of up to \$32,500 per day for each violation of Subtitle C of RCRA that occurred after March 15, 2004 through January 12, 2009.

#### **Factual Allegations and Alleged Violations**

16. Respondent was and is a "person" as defined by the Ohio Administrative Code (OAC) 3745-50-10(88), 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. Respondent is the "owner" or "operator" as those terms are defined under OAC

3745-50-10(83) and 3745-50-10(84) and 40 C.F.R. § 260.10, of a facility located at 7825 Caple Boulevard, Northwood, Ohio (facility).

18. The facility consists of land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste.

19. Respondent manufactures various automotive parts.

20. At all times relevant to this CAFO, the State of Ohio had not issued a permit to Respondent to treat, store or dispose of hazardous waste at the facility.

21. At all times relevant to this CAFO, Respondent did not have interim status for treatment, storage or disposal of hazardous waste at the facility.

22. At all times relevant to this CAFO, Respondent used purge solvents to clean adhesive and paint applications equipment, resulting in the generation of a mixture of paint-related materials and purge solvent.

23. Respondent characterized its mixture of paint-related materials and purge solvent as an ignitable hazardous waste and assigned it the hazardous waste code D001.

24. At all times relevant to this CAFO, Respondent's mixture of paint-related materials and purge solvent was a "hazardous waste" as that term is defined under OAC 3745-50-10(48) and 40 C.F.R. § 261.3.

25. At all times relevant to this CAFO, Respondent was a "generator," as that term is defined under OAC 3745-50-10(45) and 40 C.F.R. § 260.10.

26. At all times relevant to this CAFO, Respondent held its hazardous waste in a tank system as that term is defined under OAC 3745-50-10(115) and 40 C.F.R. § 260.10.

27. At all time relevant to this CAFO, Respondent's holding of hazardous waste in a tank system constituted "storage," as that term is defined under OAC 3745-50-10(111) and 40

C.F.R. § 260.10.

28. On or about January 1, 1999, Respondent installed a new hazardous waste tank system at the facility. It consisted of four 80-gallon stainless steel single-walled tanks, four diaphragm pumps and associated piping, hosing, and level monitoring and control devices, all of which come into contact with purge solvent containing organic concentrations of at least 10 percent by weight, used to clean the application equipment. One of the 80-gallon tanks, designated as “Unit #5,” was located in the Mix Room at the facility.

29. On September 12, 2007, EPA conducted a Compliance Evaluation Inspection of the facility (the Inspection).

30. On October 25, 2007, EPA issued a Notice of Violation to Respondent alleging certain violations of RCRA discovered during the Inspection.

### **Count 1**

31. Complainant incorporates paragraphs 1 through 30 of this CAFO as though set forth in this paragraph.

32. Under Section 3005(a) of RCRA, 42. U.S.C. § 6925(a) and the regulations at 40 C.F.R. Part 270, the treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a permit is prohibited.

33. Pursuant to OAC 3745-52-34 and 40 C.F.R. § 262.34(a), however, and subject to certain exceptions, a generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without having a permit or interim status, provided that the generator complies with all applicable conditions set forth in OAC 3745-52-34 and 40 C.F.R. § 262.34(a), including, but not limited to, requirements concerning the accumulation of hazardous wastes in tanks set forth in OAC 3745-66-90 to 3745-66-101 and 40 C.F.R. Part 265, Subparts J, AA, BB and CC.

34. The failure to meet the conditions of OAC 3745-52-34 and 40 C.F.R. 262.34(a) subjects the generator to the requirements of Ohio's New Facility standards for owners and operators who store hazardous waste in tank systems at OAC 3745-55-90 through 3745-55-100 and the operator standards of 40 C.F.R. Part 264, and the requirement to apply for and obtain an Ohio hazardous waste permit (RCRA permit) to store hazardous waste in a new tank system, as described in OAC 3745-50-41(A) and 40 C.F.R. §§ 270.1(c)(1) and 270.10(a) and (d), and 270.13.

35. Under OAC 3745-52-34(A)(3), in order to accumulate hazardous wastes on-site without an Ohio hazardous waste permit, containers and tanks in which hazardous waste is accumulated must be labeled or marked clearly with the words "Hazardous Waste."

36. At the time of the Inspection, Respondent failed to label with the words "Hazardous Waste" a 55-gallon drum used to accumulate hazardous waste in the paint kitchen.

37. Under OAC 3745-66-92(A), owners or operators of new tank systems must obtain a written assessment reviewed and certified by an independent, qualified, registered professional engineer in accordance with paragraph (D) of OAC 3745-50-42 attesting that the system has sufficient structural integrity and is acceptable for storing and the treating of hazardous waste.

38. At the time of the Inspection, Respondent failed to have a written assessment and a certification from an independent, qualified, registered professional engineer for the following parts of its tank system: the four 80-gallon tanks, the ancillary equipment and the tank systems containment system.

39. Under 40 C.F.R. § 265.1050(c) of Subpart BB, for equipment that contains or comes in contact with hazardous waste with an organic concentration of at least 10 percent by weight, each piece of equipment to which Subpart BB applies shall be marked in such a manner that it



can be distinguished readily from other pieces of equipment.

40. At the time of the Inspection, Respondent had not marked each piece of equipment in its hazardous waste tank system in such a manner that it could be distinguished readily from other pieces of equipment.

41. Under 40 C.F.R. § 265.1064(b)(1) of Subpart BB, for equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight, the owner or operator must record: (1) the equipment identification number and hazardous waste management unit identification; (2) the approximate locations within the facility; (3) the type of equipment; (4) the percent-by-weight total organics in the hazardous waste stream at the equipment; (5) the hazardous waste state at the equipment (gas/vapor or liquid); and (6) the method of compliance with the standard (e.g., “monthly leak detection standard” or “equipped with dual mechanical seal”).

42. At the time of the Inspection, Respondent failed to record the information required by 40 C.F.R. § 265.1064(b)(1) for the following parts of its tank system: the four 80-gallon tanks, the ancillary equipment, and their containment systems.

43. Under 40 C.F.R. § 265.1085(c)(4) of Subpart CC, where an owner or operator controls air pollutant emissions from a tank using Tank Level 1 controls, the owner or operator must inspect the air emission control equipment in accordance with the following requirements: (i) The fixed roof and its closure devices must be visually inspected for defects that could result in air pollution emissions; (ii) an initial inspection of the fixed roof and its closure devices must be performed on or before the date the tank becomes subject to air emission control regulations, and at least once a year thereafter, except under special conditions provided under 40 C.F.R. § 265.1085(l); (iii) in the event a defect is detected, the defect must be repaired in accordance with

40 C.F.R. § 265.1085(k); and (iv) a record of the inspection must be maintained in accordance with the requirements of 40 C.F.R. § 265.1085(k).

44. At the time of the Inspection, Respondent failed to comply with air emissions standards for tanks in that it had not performed annual inspections of the air emission control equipment for Unit #5.

45. As a result of Respondent's failure to meet all of the applicable conditions for the generator exemption proved by OAC 3745-52-34 and 40 C.F.R. § 262.34(a), Respondent became an operator of a hazardous waste treatment, storage, and disposal facility (TSDF).

46. Respondent's storage of hazardous waste without having applied for and obtained a permit or interim status violated Section 3005 of RCRA, 42 U.S.C. § 6925(a) and the requirements of OAC 3745-50-40 to 3745-50-66, 3745-205, and 3745-256 [40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13].

#### **Civil Penalty**

51. 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 \$21,362. 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.

52. Within 30 days after the effective date of this CAFO, the Respondent must pay a \$21,362 civil penalty for the RCRA violations by sending a certified or cashier's check, payable to "Treasurer, the United States of America", to:

U.S. EPA, Region 5  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

The check must state "In the Matter of Norplas Industries, Inc." and the docket number of this CAFO.

53. A transmittal letter, stating, Respondent's name, the case title, Respondent's complete address, and the case docket number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk  
U.S. EPA, Region 5 (E-19J)  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

Timothy Thurlow  
U.S. EPA, Region 5  
Office of Regional Counsel (C-14J)  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

Duncan Campbell  
U.S. EPA, Region 5  
RCRA Branch (LR-8J)  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

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

55. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, non-payment 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.

56. 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**

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

58. Respondent has demonstrated, and hereby certifies, that it is now in compliance with the requirements that formed the basis of the allegations in Count 1 of this CAFO, and as such, Respondent is not an operator of a hazardous waste treatment, storage, and disposal facility (TSDF).

59. 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.

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

61. 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).


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

63. 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.


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

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

Agreed to this 15<sup>th</sup> day of OCTOBER, 2010

By:   
Norplas Industries, Inc.  
Respondent

Agreed to this 26<sup>th</sup> day of October, 2010

By:   
Bruce F. Sypniewski  
Acting Director  
Land and Chemicals Division  
U.S. Environmental Protection Agency, Region 5  
Complainant

**RECEIVED**  
OCT 28 2010  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

RECEIVED  
USEPA REGION 5  
OCT 28 2010  
OFFICE OF ENFORCEMENT &  
COMPLIANCE ASSURANCE

**In the Matter of:**  
**Norplas Industries, Inc.**  
**Docket No. RCRA-05-2011-0001**

*Billing Docket# 2751142R001*

**Final Order**

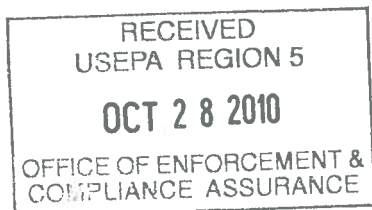
This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

*10-27-10*

Date



Susan Hedman  
Regional Administrator  
United States Environmental Protection Agency  
Region 5



U.S. ENVIRONMENTAL  
PROTECTION AGENCY  
OCT 28 2010  
OFFICE OF REGIONAL  
COUNSEL

**CASE NAME: Norplas Industries, Inc.**  
**DOCKET NO:**

**CERTIFICATE OF SERVICE**

I hereby certify that today I filed the original of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region V, 77 W. Jackson Boulevard, Chicago, Illinois 60604-3590.

I further certify that I then caused a true and correct copy of the filed document to be mailed on the date below, via Certified Mail, Return Receipt Requested to:

Grahame Burrow  
General Manager  
Norplas Industries, Inc.  
7825 Caple Boulevard  
Northwood, OH 43619

Certified Mail Receipt #

RECEIVED  
OCT 28 2010

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

Dated: 10/28, 2010

Margaret Gray

Margaret Gray  
Administrative Program Assistant  
United States Environmental Protection Agency

Region 5  
Land and Chemicals Division LR-8J  
RCRA Branch  
77 W. Jackson Blvd, Chicago, IL 60604-3590