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

In the Matter of:	:	
	:	Docket No.: RCRA-03-2008-0187
Noramco, Inc.	:	
1440 Olympic Dr.	:	
Athens, GA 30601	:	CONSENT AGREEMENT
Respondent	:	
	:	Proceeding Under Section 3008(a) and (g)
Noramco, Inc.	:	of the Resource Conservation and
500 Swedes Landing Road	:	Recovery Act, as amended, 42 U.S.C.
Wilmington, DE 19801	:	§ 6928(a) and (g)
EPA ID No. DED085693646	:	
Facility	:	

CONSENT AGREEMENT

Preliminary Statement

1. This Consent Agreement ("CA") is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III ("Complainant") and Noramco, Inc. ("Respondent") pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976, as amended by, *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. § 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3). This CA and the accompanying Final Order ("FO") pertain to violations by Respondent, as alleged herein, of RCRA and the Delaware Regulations Governing Hazardous Waste (hereinafter "DRGHW") at Respondent's pharmaceutical bulk chemical intermediate manufacturing plant (the "Facility") located in Wilmington, Delaware.
2. The DRGHW were initially authorized by the U.S. Environmental Protection Agency ("EPA") pursuant to RCRA Section 3006, 42 U.S.C. § 6926, on June 8, 1984, effective June 22, 1984 (53 Fed. Reg. 23837). EPA authorized certain revisions to the DRGHW on the following dates: August 8, 1996, effective October 7, 1996 (61 Fed. Reg. 41345); August 18, 1998, effective October 19, 1998 (63 Fed. Reg. 44152); July 12, 2000, effective September 11, 2000 (65 Fed. Reg. 42871); August 8, 2002, effective August 8,

2002 (67 Fed. Reg. 51478); March 4, 2004, effective May 3, 2004 (69 Fed. Reg. 10171); and October 7, 2004, effective December 6, 2004 (69 Fed. Reg. 60091). The State of Delaware administers its authorized, revised hazardous waste management program in lieu of the federal program. The authorized provisions of the State's revised hazardous waste management program, DRGHW Parts 122, 124, and 260-279 (which became effective between July 1, 2002 and August 21, 2004), have become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to RCRA § 3008(a).

3. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this CA and accompanying FO (collectively referred to as the "CAFO").
4. Except as provided in paragraph 3, above, Respondent neither admits nor denies the specific factual allegations set forth in this CAFO.
5. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement of this CAFO.
6. For the purposes of this proceeding, Respondent hereby expressly waives any right to contest the allegations set forth in this CA and any right to appeal the accompanying FO.
7. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
8. Respondent shall bear its own costs and attorneys fees incurred in connection with this proceeding.

State Notification

9. Prior to issuing this CAFO, EPA provided notice to the State of Delaware in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

Findings of Fact and Conclusions of Law

10. Complainant has determined that Respondent has violated RCRA, and adopts the following findings of fact and conclusions of law in accordance with 40 C.F.R. §§ 22.18(b)(2) and .14(a)(2) and (3):
 - A. Respondent is a corporation organized under the laws of the State of Georgia and is a "person" as defined by DRGHW § 260.10 and RCRA § 1004(15), 42 U.S.C. § 6903(15).
 - B. Respondent generates more than 1,000 kilograms of hazardous wastes per month at the Facility, which is located at 500 Swedes Landing Road in Wilmington, New Castle County, Delaware.

- C. Since at least August 2003, Respondent has been a “generator” of, and has engaged in the “storage” of, “hazardous waste” at the Facility, as those terms are defined in DRGHW § 260.10, as more fully described herein.
- D. On or about March 10, 1983, Respondent, through its corporate predecessor, submitted to EPA a Notification of Regulated Waste Activity (EPA Form 8700-12) (“Notification”) for the Facility, pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a). On or about August 12, 1994, Respondent, submitted to EPA a “Subsequent Notification” for the Facility. Based on the initial Notification, EPA assigned EPA ID Number DED085693646 to the Facility.
- E. Respondent’s Facility is a “facility” as that term is defined in DRGHW § 260.10.
- F. At all times relevant to the violations alleged herein, Respondent has been the “owner” and “operator” of the Facility, as those terms are defined in DRGHW § 260.10.
- G. On January 26, 2006 and August 23, 2006, representatives of EPA and the Delaware Department of Natural Resources and Environmental Control (“DNREC”) inspected the Facility pursuant to RCRA § 3007(a), 42 U.S.C. § 6927(a).

COUNT I

(Operating a Hazardous Waste Storage Facility Without a Permit)

- H. RCRA Section 3005(a), 42 U.S.C. § 6925(a), provides, in pertinent part, with exceptions not relevant to this matter, that each person owning or operating an existing facility or planning to construct a new facility for the treatment, storage, or disposal of hazardous waste is required to have a permit issued pursuant to that section and that the treatment, storage, or disposal of hazardous waste or the construction of a new facility is prohibited unless in compliance with such permit.
- I. Pursuant to DRGHW § 122.1(c), with certain exceptions not relevant to the violations alleged herein, owners and operators are required to have a permit for the treatment, storage, and disposal of any hazardous waste. Pursuant to DRGHW § 122.1(c)(2), generators who accumulate hazardous waste in accordance with the conditions set forth in DRGHW § 262.34 are not required to obtain a hazardous waste permit.
- J. RCRA § 3005(e), 42 U.S.C. § 6925(e), provides, in pertinent part, that any person who owns or operates a facility required to have a permit under RCRA § 3005, which facility was in existence on November 19, 1980, or is in existence on the effective date of statutory or regulatory provisions that render the facility subject to the requirement to have a permit, has complied with the notification requirements of RCRA § 3010(a), 42 U.S.C. § 6930(a), and has applied for a permit under RCRA § 3005, shall be treated as having been issued such permit

(i.e., "interim status") until such time as final administrative disposition of such application is made.

- K. Respondent has never had "interim status" pursuant to RCRA Section 3005(e) or a permit issued pursuant to RCRA Section 3005(a) or DRGHW § 122.1 for the treatment, storage, or disposal of hazardous waste.
- L. Pursuant to DRGHW § 260.10, "tank" means a "stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials ... which provide structural support."
- M. DRGHW § 262.34 provides, in pertinent part with exceptions not relevant to the violations alleged herein:
 - (a) ... a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:
 - (1) The waste is placed:
 - * * * *
 - (ii) In tanks and the generator complies with subparts J ... and BB ... of [DRGHW] Part 265 ... ;
 - * * * *
 - (3) While being accumulated on-site, each ... tank is labeled or marked clearly with the words "Hazardous Waste";
- N. Pursuant to RCRA § 3005(a) and DRGHW §§ 122.1 and 262.34(a), Respondent, as a generator of hazardous waste that has not had "interim status" or a permit for the storage of hazardous waste, has been prohibited from storing hazardous waste at its Facility since at least August 2003 unless Respondent qualified for exemption from the RCRA permit requirement by, among other things, managing its tanks containing hazardous waste in accordance with DRGHW Part 265, subparts J and BB, and clearly labeling each tank with the words "Hazardous Waste."
- O. On January 26 and August 23, 2006, Respondent engaged in the "storage" of "hazardous waste," having EPA Hazardous Waste Number D001 as specified in DRGHW § 261.21, in four vacuum receivers, which are "tanks" as defined in DRGHW § 260.10, that were not labeled with the words "Hazardous Waste" as required by DRGHW § 262.34(a)(3).
- P. By failing to mark the tanks referred to in paragraph O, above, with the words "Hazardous Waste," Respondent was not complying with a condition set forth in DRGHW § 262.34(a) for a generator to qualify for exemption from the permit requirements of RCRA § 3005(a) and DRGHW § 122.1.

- Q. Pursuant to DRGHW § 260.10, “tank system” means a “hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.”
- R. Pursuant to DRGHW § 260.10, “new tank system” or “new tank component” means, in relevant part, “a tank system or component that will be used for storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986 for HSWA tanks, as defined in [DRGHW] § 260.10.”
- S. Since August 2003, Respondent has owned and operated the four “vacuum receivers,” referred to in paragraph O, above, which are “new tank components” as defined in DRGHW § 260.10.
- T. DRGHW §§ 264.192(g) and 265.192(g), provide, *inter alia*, “the owner or operator [of a new tank system or component] must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system ... [that] attest that the tank system was properly designed and installed”
- U. From August 2003 through April 2007, Respondent failed to obtain and keep on file the written statements by those persons required to certify the design and supervise the installation of the four vacuum receivers at the Facility in accordance with DRGHW §§ 264.192(g) and 265.192(g).
- V. Pursuant to DRGHW §§ 264.195(b) and 265.195(a), the owner or operator of a tank system must inspect at least once each operating day, among other things, the aboveground portions of the tank system to detect corrosion or releases of waste and to ensure that overflow control equipment is in good working order.
- W. Pursuant to DRGHW §§ 264.195(d) and 265.195(c), the owner or operator must document in the operating record of the facility an inspection of the items specified in, *inter alia*, DRGHW §§ 264.195(b) and 265.195(a), respectively.
- X. From August 2003 through March 2007, Respondent failed to inspect the four tanks (vacuum receivers) referred to in paragraph O, above, once each operating day and failed to document in the operating record of the Facility any inspection of the items listed in DRGHW §§ 264.195(b) and 265.195(a) pertaining to those tanks.
- Y. Because of the acts and omissions alleged in paragraphs U and X, above, Respondent was not complying with the conditions set forth in DRGHW § 262.34(a)(1)(ii) and (3) for a generator to qualify for exemption from the permit requirements of RCRA § 3005(a) and DRGHW § 122.1.
- Z. Pursuant to DRGHW §§ 264.1031 and 265.1031, “equipment” means “each valve, pump ... flange or other connector”

- AA. Pursuant to DRGHW § 260.10, “hazardous waste management unit” means “a contiguous area of land on or in which hazardous waste is placed Examples of hazardous waste management units include . . . a tank and its associated piping and underlying containment system”

- BB. DRGHW §§ 264.1050 and 265.1050 provide in part, with exceptions not relevant to this case:
 - (b) . . . [DRGHW §§ 264.1050 - .1064 and 265.1050 - .1064 apply] to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following:
 - (1) A unit that is subject to the permitting requirements of [DRGHW] Part 122, or
 - ****
 - (3) A unit that is exempt from permitting under the provisions of [DRGHW] § 262.34(a) . . . and is not a recycling unit under the provisions of [DRGHW] § 261.6.
 - ****
 - [(f) and (e) of DRGHW §§ 264.1050 and 265.1050, respectively] Equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year is excluded from the requirements of [DRGHW §§ 264.1052 through 264.1060 or 265.1052 through 265.1060, respectively] . . . if it is identified, as required in [DRGHW § 264.1064(g)(6) or 265.1064(g)(6), respectively]

- CC. From August 2003 until March 2007, Respondent’s Facility generated hazardous wastes (having EPA Hazardous Waste Number D001) with organic concentrations of at least 10 percent by weight that were contained in or were in contact with valves in segments of piping systems used to transfer such wastes to and from four tanks (the vacuum receivers referred to in paragraph O, above), which are units meeting the criteria set forth at DRGHW §§ 264.1050(b)(1) or (3) and 265.1050(b)(1) or (3).

- DD. From August 2003 until September 2007, Respondent’s Facility engaged in the “storage” of “hazardous waste,” having EPA Hazardous Waste Numbers D001, F001, F003, and/or F005 as specified in DRGHW §§ 261.21 and .31(a), in two accumulation tanks identified as ST-600 and ST-700, which are “tanks” as defined in DRGHW § 260.10.

- EE. From August 2003 until September 2007, Respondent’s Facility generated hazardous wastes with organic concentrations of at least 10 percent by weight that were contained in or were in contact with pumps and valves in segments of piping systems through which such wastes were transferred to either of the two

accumulation tanks identified as ST-600 and ST-700, which are units meeting the criteria set forth at DRGHW §§ 264.1050(b)(1) or (3) and 265.1050(b)(1) or (3).

FF. Pursuant to DRGHW §§ 264.1050(b) and 265.1050(b), DRGHW §§ 264.1050 through 264.1064 and 265.1050 through 265.1064 apply to the equipment, including, among other things, valves and pumps, connected by piping to the units referred to in paragraphs CC and EE, above, except that such equipment is excluded from the requirements of DRGHW §§ 264.1052 through 264.1060 and 265.1052 through 265.1060, if the conditions set forth at DRGHW §§ 264.1050(f) and 265.1050(e), respectively, are met.

GG. DRGHW §§ 264.1064(g) and 265.1064(g) provide, in relevant part:

The following information pertaining to all equipment subject to the requirements in [DRGHW §§ 264.1052 through 264.1060 or 265.1052 through 265.1060, respectively] shall be recorded in a log that is kept in the facility operating record:

* * * *

(2)(i) A list of identification numbers for equipment that the owner or operator elects to designate for no detectable emissions ... under the provisions of [DRGHW §§ 264.1052(e) ... and 264.1057(f) or 265.1052(e) ... and 265.1057(f), respectively].

* * * *

(6) Identification, either by list or location (area or group) of equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year.

HH. Between August 2003 and March 2007, the equipment (valves) referred to in paragraph CC, above, contained or was in contact with hazardous waste with an organic concentration of at least 10 percent by weight for at least 300 hours per calendar year, and/or Respondent had not identified such equipment, in a log kept in the facility operating record in accordance with DRGHW §§ 264.1064(g)(6) and 265.1064(g)(6), as containing or being in contact with hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year, and therefore such equipment did not qualify for exclusion under DRGHW §§ 264.1057(f) and 265.1057(f) from the requirements of DRGHW §§ 264.1052 through 264.1060 and 265.1052 through 265.1060.

II. Between August 2003 and September 2007, the equipment (pumps and valves) referred to in paragraph EE, above, contained or was in contact with hazardous waste with an organic concentration of at least 10 percent by weight for at least 300 hours per calendar year, and/or Respondent had not identified such equipment, in a log kept in the facility operating record in accordance with DRGHW §§ 264.1064(g)(6) and 265.1064(g)(6), as containing or being in contact with hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year, and therefore such equipment did

not qualify for exclusion under DRGHW §§ 264.1052(e), 264.1057(f), 265.1052(e), and/or 265.1057(f) from the requirements of DRGHW §§ 264.1052 through 264.1060 and 265.1052 through 265.1060.

JJ. Pursuant to DRGHW §§ 264.1031 and 265.1031, “in light liquid service” means that “the piece of equipment contains or contacts a waste stream where the vapor pressure of one or more of the organic components in the stream is greater than 0.3 kilopascals (kPa) at 20°C, the total concentration of the pure organic components having a vapor pressure greater than 0.3 kilopascals (kPa) at 20°C is equal to or greater than 20 percent by weight, and the fluid is a liquid at operating conditions.”

KK. DRGHW §§ 264.1052 and 265.1052 provide in pertinent part:

(a)(1) Each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in [DRGHW §§ 264.1063(b) or 265.1063(b), respectively], except as provided in paragraphs (d), (e), and (f) of this section.

(2) Each pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal.

* * * *

(e) Any pump that is designated, as described in [DRGHW §§ 264.1064(g)(2) and 265.1064(g)(2)], for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of paragraphs [DRGHW §§ 264.1052(a), (c), and (d) or 265.1052(a), (c), and (d), respectively] if the pump meets the following requirements:

(1) Must have no externally actuated shaft penetrating the pump housing. [and]

* * * *

(3) Must be tested for compliance with paragraph (e)(2) of this section ... annually ...

LL. DRGHW §§ 264.1057 and 265.1057 provide in pertinent part:

(a) Each valve in gas/vapor or light liquid service shall be monitored monthly to detect leaks by the methods specified in [DRGHW §§ 264.1063(b) and 265.1063(b), respectively] ... , except as provided in paragraphs (f), (g), and (h) of this section ...

* * * *

(f) Any valve that is designated, as described in [DRGHW § 264.1064(g)(2) or 265.1064(g)(2), respectively], for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of [DRGHW § 264.1057(a) and 265.1057(a), respectively] if the valve:

(1) Has no external actuating mechanism in contact with the hazardous waste stream. [and]

* * * *

(3) Is tested for compliance with [DRGHW § 264.1057(f)(2) or 265.1057(f)(2), respectively] ... annually

* * * *

(h) Any valve that is designated, as described in [DRGHW §§ 264.1064(h)(2) and 265.1064(h)(2), respectively], as a difficult-to-monitor valve is exempt from the requirements of [DRGHW §§ 264.1057(a) and 265.1057(a), respectively] if:

(1) The owner or operator of the valve determines that the valve cannot be monitored without elevating the monitoring personnel more than 2 meters above a support surface.

(2) The hazardous waste management unit within which the valve is located was in operation before June 21, 1990. [and]

(3) The owner or operator of the valve follows a written plan that requires monitoring of the valve at least once per calendar year.

- MM. The pumps and valves (equipment) referred to in paragraphs CC, EE, HH, and II, above, were in light liquid service from August 2003 until September 2007 and therefore were subject to the monitoring requirements of DRGHW §§ 264.1052(a) and/or 265.1052(a), or 264.1057(a) and/or 265.1057(a), during that time, unless that equipment qualified for one of the exceptions specified in, *inter alia*, DRGHW §§ 264.1052(e) and/or 265.1052(c), or 264.1057(f) or (h) and/or 265.1057(f) or (h), respectively.
- NN. Three of the pumps connected by piping to tank ST-600 and one of the pumps connected by piping to tank ST-700, referred to in paragraphs EE and II, above, have externally actuated shafts penetrating the pump housing, and therefore do not qualify for the exception set forth in DRGHW §§ 264.1052(e) and/or 265.1052(e).
- OO. From August 2003 until September 2007, Respondent failed to monitor monthly to detect leaks and failed to visually inspect each week the three pumps connected to tank ST-600 referred to in paragraph NN, above, in accordance with DRGHW §§ 264.1052(a)(1) and (2) and 265.1052(a)(1) and (2).
- PP. From August 2003 until October 2006, Respondent failed to monitor monthly to detect leaks and failed to visually inspect each week the pump connected to tank ST-700, referred to in paragraph NN, above, in accordance with DRGHW §§ 264.1052(a)(1) and (2) and 265.1052(a)(1) and (2).
- QQ. Three of the pumps (other than those referred to in paragraph NN, above) connected by piping to tank ST-600 and two of the pumps (other than those referred to in paragraph NN, above) connected by piping to tank ST-700, referred to in paragraphs EE and II, above, do not have externally actuated shafts penetrating the pump housing.

- RR. From August 2003 until September 2007, Respondent did not designate the three pumps connected to tank ST-600 referred to in paragraph QQ, above, for no detectable emissions, and thus failed to qualify them for the exemption set forth in DRGHW §§ 264.1052(e) and 265.1052(e), and failed to monitor those pumps monthly to detect leaks and failed to visually inspect them each week, in accordance with DRGHW §§ 264.1052(a)(1) and (2) and 265.1052(a)(1) and (2).
- SS. From August 2003 until October 2006, Respondent failed to designate the two pumps connected to tank ST-700 referred to in paragraph QQ, above, for no detectable emissions, and thus failed to qualify them for the exemption set forth in DRGHW §§ 264.1052(e) and 265.1052(e), and failed to monitor those pumps monthly to detect leaks and failed to visually inspect them each week, in accordance with DRGHW §§ 264.1052(a)(1) and (2) and 265.1052(a)(1) and (2).
- TT. Seventy-eight of the valves connected by piping to tank ST-600, 82 of the valves connected by piping to tank ST-700, and 28 of the valves connected by piping to the four vacuum receivers referred to in paragraphs CC, EE, HH, and II, above, have external actuating mechanisms that contact the hazardous waste stream, and therefore do not qualify for the exemption set forth in DRGHW §§ 264.1057(f) and/or 265.1057(f).
- UU. From August 2003 until September 2007, Respondent failed to monitor monthly 52 of the valves connected by piping to tank ST-600, referred to in paragraphs EE, II, and TT, above, in accordance with DRGHW §§ 264.1057(a) and 265.1057(a).
- VV. From August 2003 until October 2006, Respondent failed to monitor monthly 82 of the valves connected by piping to tank ST-700, referred to in paragraphs EE, II, and TT, above, in accordance with DRGHW §§ 264.1057(a) and 265.1057(a).
- WW. From August 2003 until October 2006, Respondent failed to monitor monthly 26 of the valves (other than those referred to in paragraph UU, above) connected by piping to tank ST-600, referred to in paragraphs EE, II, and TT, above, in accordance with DRGHW §§ 264.1057(a) and 265.1057(a).
- XX. From August 2003 until March 2007, Respondent failed to monitor monthly 28 of the valves connected by piping to the four vacuum receivers referred to in paragraphs CC, HH, and TT, above, in accordance with DRGHW §§ 264.1057(a) and 265.1057(a).
- YY. Seven of the valves (other than those referred to in paragraph TT, above) connected by piping to tank ST-600, nine of the valves (other than those referred to in paragraph TT, above) connected by piping to tank ST-700, and four of the valves (other than those referred to in paragraph TT, above) connected by piping to the four vacuum receivers, referred to in paragraphs CC, EE, HH, and II, above, do not have external actuating mechanisms that contact the hazardous waste stream.

- ZZ.** From August 2003 until September 2007, Respondent failed to designate four of the valves connected by piping to tank ST-600 referred to in paragraph YY, above, for no detectable emissions, and thus failed to qualify them for the exemption set forth in DRGHW §§ 264.1057(f) and 265.1057(f), and failed to monitor those valves monthly to detect leaks, in accordance with DRGHW §§ 264.1057(a) and 265.1057(a).
- AAA.** From August 2003 until October 2006, Respondent failed to designate three of the valves (other than those referred to in paragraph ZZ, above) connected by piping to tank ST-600 referred to in paragraph YY, above, for no detectable emissions, and thus failed to qualify them for the exemption set forth in DRGHW §§ 264.1057(f) and 265.1057(f), and failed to monitor those valves monthly to detect leaks, in accordance with DRGHW §§ 264.1057(a) and 265.1057(a).
- BBB.** From August 2003 until October 2006, Respondent failed to designate the nine valves connected by piping to tank ST-700 referred to in paragraph YY, above, for no detectable emissions, and thus failed to qualify them for the exemption set forth in DRGHW §§ 264.1057(f) and 265.1057(f), and failed to monitor those valves monthly to detect leaks, in accordance with DRGHW §§ 264.1057(a) and 265.1057(a).
- CCC.** From August 2003 until March 2007, Respondent failed to designate the four valves connected by piping to the vacuum receivers referred to in paragraph YY, above, for no detectable emissions, and thus failed to qualify them for the exemption set forth in DRGHW §§ 264.1057(f) and 265.1057(f), and failed to monitor those valves monthly to detect leaks, in accordance with DRGHW §§ 264.1057(a) and 265.1057(a).
- DDD.** DRGHW §§ 264.1064(h) and 265.1064(h) provide, in relevant part:

The following information pertaining to all valves subject to the requirements of [DRGHW §§ 264.1057(g) and (h) or 265.1057(g) and (h), respectively] shall be recorded in a log that is kept in the facility operating record:

* * * *

(2) A list of identification numbers for valves that are designated as difficult to monitor, an explanation for each valve stating why the valve is difficult to monitor, and the planned schedule for monitoring each valve.

- EEE.** In April 2007, Respondent designated one of the valves (other than those referred to paragraphs TT and YY, above) referred to in paragraph CC, above, as difficult-to-monitor, in accordance with DRGHW §§ 264.1064(h)(2) and 265.1064(h)(2), thereby qualifying the valve for the exemption from monitoring under DRGHW §§ 264.1057(a) and 265.1057(a), as set forth at DRGHW §§ 264.1057(h) and 265.1057(h), as of that date.

FFF. From August 2003 until March 2007, Respondent failed to designate the valve referred to in paragraph EEE, above, as difficult-to-monitor, in accordance with DRGHW §§ 264.1064(h)(2) and 265.1064(h)(2), thereby failing to qualify for the exemption from monitoring under DRGHW §§ 264.1057(a) and 265.1057(a), and failed to monitor that valve monthly to detect leaks, in accordance with DRGHW §§ 264.1057(a) and 265.1057(a).

GGG. DRGHW §§ 264.1064 and 265.1064 require, *inter alia*:

(b) Owners and operators must record the following information in the facility operating record:

(1) For each piece of equipment to which Subpart BB of DRGHW Part [264 or 265, respectively] applies:

(i) Equipment identification number and hazardous waste management unit identification.

(ii) Approximate locations within the facility

(iii) Type of equipment

(iv) Percent-by-weight total organics in the hazardous waste stream at the equipment.

(v) Hazardous waste state at the equipment (*e.g.*, gas/vapor or liquid).

(vi) Method of compliance with the standard

* * * *

(g) The following information pertaining to all equipment subject to the requirements in [DRGHW §§ 264.1052 through 264.1060 or 265.1052 through 265.1060, respectively] shall be recorded in a log that is kept in the facility operating record:

(1) A list of identification numbers for equipment (except welded fittings) subject to the requirements of this subpart.

HHH. From August 2003 to August 23, 2006, Respondent failed to record in the operating record of the Facility any of the information required by DRGHW §§ 264.1064(b)(1) and (g)(1) and 265.1064(b)(1) and (g)(1) for the equipment referred to in paragraphs CC and EE, above, which is subject to Subpart BB (§§ 1050 to 1064) of DRGHW Parts 264 and 265.

III. By failing to monitor and inspect pumps, to monitor valves, and to record certain information for each piece of equipment in the facility operating record in accordance with subpart BB of DRGHW Part 265, as alleged in paragraphs OO through FFF and HHH, above, Respondent was not complying with the conditions set forth in DRGHW § 262.34(a) for a generator to qualify for exemption from the permit requirements of RCRA § 3005(a) and DRGHW § 122.1.

JJJ. For each of the reasons alleged in paragraphs P, Y, and III, above, Respondent did not qualify for exemption from the permit requirements of RCRA § 3005(a) and DRGHW § 122.1 and, therefore, was prohibited from treating, storing, and disposing of hazardous waste at the Facility without a permit.

KKK. Respondent violated RCRA § 3005(a) and DRGHW § 122.1 by storing hazardous waste in the six tanks (four vacuum receivers, ST-600, and ST-700) referred to in paragraphs CC and EE, above, without obtaining a permit and without qualifying for an exemption from the permit requirement in accordance with DRGHW § 262.34(a), for which violation RCRA § 3008(a) and (g) authorizes EPA to assess a penalty.

COUNT II

(Failure to Obtain and Keep Tank Certification on File)

LLL. As an owner and operator subject to RCRA permit requirements, as alleged in paragraph JJJ in reference to the six tanks referred to in paragraphs CC and EE, above, from August 2003 through April 2007, Respondent was required to comply with the standards set forth at DRGHW Part 264, subparts J and BB.

MMM. Respondent's failure to obtain and keep on file written statements by those persons required to certify the design and supervise the installation of four vacuum receivers at the Facility from August 2003 through April 2007, as alleged in paragraph U, above, violates DRGHW §§ 264.192(g), for which violation RCRA § 3008(a) and (g) authorizes EPA to assess a penalty.

COUNT III

(Failure to Conduct and Record Visual Inspections of Tanks)

NNN. Respondent's failure to inspect four tanks (vacuum receivers) at the Facility once each operating day and failure to document in the operating record of the Facility any inspection of the items listed in DRGHW § 264.195(b) pertaining to those tanks from August 2003 through April 2007, as alleged in paragraph X, above, violates DRGHW § 264.195(b) and (d), for which violation RCRA § 3008(a) and (g) authorizes EPA to assess a penalty.

COUNT IV

(Failure to Monitor and Inspect Pumps)

OOO. Respondent's failure to perform monthly monitoring and weekly inspections of pumps in light liquid service as alleged in paragraphs NN through SS, above, violates DRGHW § 264.1052(a)(1) and (2), for which violation RCRA § 3008(a) and (g) authorizes EPA to assess a penalty.

COUNT V

(Failure to Monitor Valves)

PPP. Respondent's failure to perform monthly monitoring of valves in light liquid service as alleged in paragraphs TT through CCC, above, violates DRGHW § 264.1057(a), for which violation RCRA § 3008(a) and (g) authorizes EPA to assess a penalty.

COUNT VI
(Failure to Record Information in Operating Record)

QQQ. Respondent's failure to record required information for the equipment referred to in paragraphs CC and EE, above, in the operating record of the Facility as alleged in paragraph HHH, above, violates DRGHW §§ 264.1064(b)(1) and (g)(1), for which violation RCRA § 3008(a) and (g) authorizes EPA to assess a penalty.

COUNT VII
(Violation of Prohibition on Storage of Restricted Waste)

RRR. DRGHW § 268.50 provides, in pertinent part with exceptions not relevant to the violations alleged herein, that:

(a) ... the storage of hazardous wastes restricted from land disposal ... is prohibited, unless the following conditions are met:

(1) A generator stores such wastes in tanks ... and the generator complies with the requirements in [DRGHW] § 262.34 and Parts 264 and 265

* * * *

(c) The prohibition in paragraph (a) of this section does not apply to hazardous wastes that meet the treatment standards specified under [DRGHW] §§ 268.41, 268.42, and 268.43

SSS. The wastes referred to in paragraphs CC and DD are and, at the time of the violations alleged in this Consent Agreement, were "hazardous wastes restricted from land disposal" as that term is used in DRGHW § 268.50, and did not meet the treatment standards referenced in DRGHW § 268.50(e) or otherwise qualify for exemption from the prohibition set forth at DRGHW § 268.50(a).

TTT. As alleged in Count I, above, Respondent failed to comply with the requirements of DRGHW § 262.34(a) and Parts 264 and 265, subparts J and BB, while storing land disposal restricted hazardous waste in the six tanks referred to in paragraphs CC and EE.

UUU. Respondent's storage of land disposal restricted hazardous waste in six tanks without complying with the requirements of DRGHW § 262.34(a) and Subparts J and BB of Parts 264 and 265, as alleged in Count I, above, is a violation of DRGHW § 268.50(a), for which violation RCRA § 3008(a) and (g) authorizes EPA to assess a penalty.

Civil Penalty

11. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil monetary penalty in the amount of One Hundred Fifteen Thousand Nine Hundred Thirty-Four Dollars (\$115,934.00) which Respondent agrees to pay in accordance with the terms

below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent.

12. In determining that the aforesaid settlement amount is reasonable and appropriate, Complainant has considered the factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), *i.e.*, the seriousness of Respondent's violations and any good faith efforts by Respondent to comply with the applicable requirements of RCRA. These factors were applied to the facts and circumstances of this case with specific reference to EPA's *RCRA Civil Penalty Policy* (June 2003), which provides a rational, consistent and equitable calculation methodology for applying the statutory penalty factors to specific cases.
13.
 - a. Respondent shall pay the civil penalty specified in paragraph 11, above, by electronic funds transfer ("EFT"), as described below, or by sending a cashier's check or certified check, made payable to the order of "United States Treasury."
 - b. Checks sent by regular US Postal Service mail delivery must be addressed to:

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

Contact: Eric Volck (513)487-2105
 - c. Checks sent by private commercial overnight delivery service must be sent to:

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: (314)418-1028
 - d. Any EFT shall be transmitted to:

Wire Transfer

Federal Reserve Bank of New York
ABA = 021030004

Account = 68010727
SWIFT Address = FRNYUS33
33 Liberty Street
New York, NY 10045
(Field Tag 4200 of the wire transfer message should read:
"D 68010727 Environmental Protection Agency")

Automated Clearing House (ACH) Transfer for receiving U.S. currency (also known as REX or remittance express)

PNC Bank
ABA = 051036706
Account 310006
CTX Format Transaction Code 22 - checking

Environmental Protection Agency
808 17th Street, NW
Washington, DC 20074

Contact for ACH: Jessie White (301)887-6548

- e. There is now an On Line Debit and Credit Card Payment Option, available through the Department of Treasury. This payment option can be accessed from the information below:

WWW.PAY.GOV
Enter sfo 1.1 in the search field

Open the form and complete required fields.

- f. All payments by Respondent shall reference its name and address and the Docket Number of this case (RCRA-03-2008-0187).
14. At the time of payment, Respondent shall send a notice of such payment, including a copy of any check or EFT authorization form and EFT transaction record, as appropriate, to:

John Ruggero
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

15.
 - a. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this Consent Agreement and Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
 - b. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
 - c. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days during which the penalty remains unpaid.
 - d. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
16. Respondent agrees not to deduct for federal taxation purposes the civil penalty paid pursuant to this CAFO.

Certification of Compliance

17. The individual who signs this Consent Agreement on behalf of Respondent certifies that, based on his inquiry of the person or persons responsible for managing and assuring RCRA compliance at the Facility referred to in this Consent Agreement and to the best of his knowledge and belief, such Facility is currently in compliance with all applicable requirements of RCRA and the DRGHW.

Other Applicable Laws

18. This CAFO shall not relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local law, regulation, or permit.

Reservation of Rights

19. This Consent Agreement and the accompanying Final Order resolve only EPA's civil claims for penalties for the specific violations alleged herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition that EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.
20. The settlement embodied in this Consent Agreement is based in part upon information submitted to Complainant by the Respondent on April 13, 2007, October 29, 2007, December 17, 2007, and January 15, 2008. Respondent and its undersigned representative, by such representative's signature to this Consent Agreement, certify that the information submitted was accurate and not misleading at the time of its submission. Complainant reserves the right to seek and obtain appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to Complainant regarding the matters at issue in the Findings of Fact and Conclusions of Law are false or, in any material respect, inaccurate.

Full and Final Satisfaction

21. Payment of the penalty specified in paragraph 11, above, shall constitute full and final satisfaction of Complainant's civil claims for penalties for the specific violations alleged herein. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

Parties Bound

22. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, successors, and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent certifies that he or she is fully authorized by Respondent to enter into this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

Effective Date

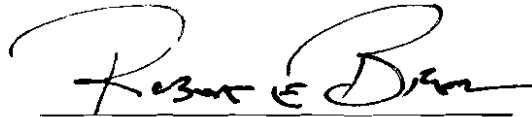
23. The effective date of this CAFO is the date on which the Final Order, signed by the Regional Administrator of EPA Region III, or the Administrator's designee, the Regional Judicial Officer, is filed with the EPA Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

Entire Agreement

24. This CAFO constitutes the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein, and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

For Respondent:

Date: 8/26/08



Robert E. Brede
Site Manager
Noramco, Inc.

For Complainant:

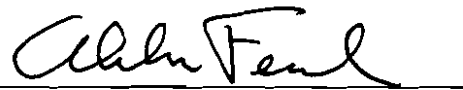
Date: 9/10/08



John Ruggero
Senior Assistant Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 9/12/08



Abraham Ferdas, Director
Land and Chemicals Division

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

In the Matter of:	:	Docket No.: RCRA-03-2008-0187
Noramco, Inc. 1440 Olympic Dr. Athens, GA 30601	:	FINAL ORDER
Respondent	:	
Noramco, Inc. 500 Swedes Landing Road Wilmington, DE 19801	:	Proceeding Under Section 3008(a) and (g) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6928(a) and (g)
EPA ID No. DED085693646	:	
Facility	:	

FINAL ORDER


Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Noramco, Inc., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22 ("Consolidated Rules of Practice"). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

NOW, THEREFORE, PURSUANT TO Section 3008(a) and (g) of the Resource Conservation and Recovery Act of 1976, as amended by, *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. § 6928(a) and (g), and the Consolidated Rules of Practice, and based on the representations in the Consent Agreement that the penalty agreed to in the Consent Agreement is based on a consideration of the factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), IT IS HEREBY ORDERED that Respondent pay a penalty of One Hundred Fifteen Thousand Nine Hundred Thirty-Four Dollars (\$115,934.00) and comply with the terms and conditions of the Consent Agreement.

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date:

9/18/08


Renee Sarajian
Regional Judicial Officer
U.S. EPA, Region III

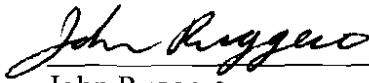
CERTIFICATE OF SERVICE

I hereby certify that, on the date noted below, I hand-delivered to the Regional Hearing Clerk, EPA Region III the original CONSENT AGREEMENT AND FINAL ORDER (CAFO) in *In the Matter of: Noramco, Inc.*, Docket No. RCRA-03-2008-0187, and the original memo from Mr. William C. Early and Mr. Abraham Ferdas transmitting the CAFO to the Regional Judicial Officer (RJO). In addition, I sent, to the following individual via the manner specified below, a true and correct copy of the CAFO with original signatures and a true and correct copy of the transmittal memo to the RJO:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED:

Carl B. Everett, Esq.
Saul Ewing LLP
1500 Market Street, 38th Floor
Centre Square West
Philadelphia, PA 19102

Sept. 18, 2008
Date



John Ruggero
Senior Assistant Regional Counsel
EPA Region III (3RC30)
1650 Arch St.
Philadelphia, PA 19103-2029
215-814-2142