



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 27 2012

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Barbara H. Gallo
Krevolin & Horst LLC
One Atlantic Center
1201 West Peachtree Street, N.E.
Suite 3250
Atlanta, Georgia 30309

Re: Apollo Industries, Inc.
Consent Agreement and Final Order, Docket Number: RCRA-04-2012-4014(b)

Dear Ms. Gallo:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk (RHC) in the above referenced matter. The CA/FO was effective upon filing with the RHC and payment of the civil penalty is to be paid in accordance with the following schedule, calculated from the effective date:

- \$20,074.97 within thirty (30) calendar days of the effective date of this CA/FO
- \$20,074.97 within 120 calendar days of the effective date of the CA/FO
- \$20,074.97 within 210 calendar days of the effective date of the CA/FO
- \$20,074.97 within 300 calendar days of the effective date of the CA/FO

As a reminder, copies of all payments should be submitted to both of the following individuals:

Patricia Bullock
Regional Hearing Clerk
U.S. EPA, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

And to:

Larry L. Lamberth, Chief
South Section, RCRA & OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Internet Address (URL) • <http://www.epa.gov>

In addition to the payment of a civil penalty, within thirty (30) calendar days of the effective date of the CA/FO, a duly authorized representative of Apollo Industries, Inc. must submit a signed certification statement to the EPA stating that the Smyrna facility is in compliance with the Georgia hazardous waste program and RCRA and that all violations alleged in this CA/FO have been corrected.

Also enclosed is a copy of a document titled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Apollo Industries, Inc. on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental actions taken by the EPA.

If you have any questions, please feel free to contact me at (404) 562-9441 or dixit.naeha@epa.gov.

Sincerely,

A handwritten signature in cursive script that reads "Naeha Dixit".

Naeha Dixit
Assistant Regional Counsel

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

| | | |
|-------------------------------|---|---|
| IN THE MATTER OF: |) | Docket Number: RCRA-04-2012-4014(b) |
| |) | |
| Apollo Industries, Inc. |) | Proceeding under Section 3008(a) of the |
| 1850 S. Cobb Industrial Blvd. |) | Resource Conservation and Recovery Act, |
| Smyrna, Georgia 30082 |) | 42 U.S.C. § 6928(a) |
| |) | |
| |) | |
| EPA ID No.: GAD 051 021 285 |) | |
| |) | |
| |) | |
| Respondent |) | |
| _____ |) | |

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HEARING CLERK

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, ordering compliance with the requirements of Sections 12-8-60 through 12-8-83 of the Georgia Hazardous Waste Management Act (GHWMA), Ga. Code Ann. § 12-8-60 et seq. [Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6921-6939e]. This action seeks civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for alleged violations of Ga. Code Ann. § 12-8-66 [Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e)] and the regulations promulgated pursuant thereto, set forth in the Georgia Hazardous Waste Management Rules, codified at Ga. Comp. R. and Regs. 391-3-11.01 through 391-3-11.18 [Title 40 of the Code of Federal Regulations (40 C.F.R.) Parts 260 through 270 and 273].
2. 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, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).
3. The parties have conferred solely for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), the parties have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

II. THE PARTIES

4. Complainant is the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, Region 4, United States Environmental Protection Agency (the EPA).

5. Respondent is Apollo Industries, Inc., a corporation incorporated under the laws of the State of Georgia (Georgia or the State) and doing business in the State. Respondent is located at 1850 S. Cobb Industrial Boulevard, in Smyrna, Georgia

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), Georgia has received final authorization from the EPA to carry out certain portions of a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the Georgia authorized program are found at Ga. Code Ann. § 12-8-60 through 12-8-83 and Ga. Comp. R. and Regs. 391-3-11.01 through 391-3-11.18.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. Georgia has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), to address violations of the requirements of the authorized state program. The EPA exercises this authority in the manner set forth in the Memorandum of Agreement between the EPA and Georgia.
9. As Georgia's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations alleged herein will be to the authorized Georgia program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CA/FO.
11. Ga. Code Ann. § 12-8-64(1)(A) [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these requirements are found at Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. Part 262].
12. Ga. Code Ann. § 12-8-64(1)(A) [Section 3004 of RCRA, 42 U.S.C. § 6924] requires the promulgation of regulations establishing standards applicable to owners and operators of hazardous waste treatment, storage and disposal facilities. The implementing regulations for these requirements are found at Ga. Comp. R. and Regs. 391-3-11-.10(2) [40 C.F.R. Part 264].
13. Ga. Code Ann. § 12-8-66 [Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e)] sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must either have a permit or achieve interim status, unless it is otherwise exempt as provided by the applicable regulations. The implementing regulations for this requirement are found at Ga. Comp. R. and Regs. 391.3-11-.10(1) (interim status) and (2) (permitted) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

14. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.2], the term “solid waste” means any discarded material that is not otherwise excluded by regulation. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
15. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if the solid waste meets any of the criteria set out in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.3(a)(2)] and it is not otherwise excluded from regulation as a hazardous waste by operation of Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.4(b)].
16. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], the term “person” means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, municipality, commission, or political subdivision, or any agency, board, department, or bureau of this state or of any other state or of the federal government.
17. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], the term “generator” means any person, by site, whose act or process produces hazardous waste identified or listed in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. Part 261] or whose act first causes a hazardous waste to be subject to regulation.
18. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], the term “facility” means all contiguous land and structures, other appurtenances and improvements on the land, used for treating, storing, or disposing of hazardous waste.
19. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], the term “owner” means the person who owns a facility or part of a facility and the term “operator” means the person responsible for the overall operation of a facility.
20. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], the term “tank” means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (*e.g.*, wood, concrete, steel, plastic) which provide structural support.
21. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], the term “tank system” means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.
22. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 264.1031], the term “equipment” means each valve, pump, compressor, pressure relief device, sampling connection system, open-ended valve or line, or flange or other connector, and any control devices or systems.
23. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.
24. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.

25. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.24], solid wastes that exhibit the characteristic of toxicity for methyl ethyl ketone, tetrachloroethylene, and trichloroethylene are hazardous wastes and are identified with the EPA Hazardous Waste Numbers D035, D039, and D040, respectively.
26. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.31], a solid waste is a hazardous waste from a nonspecific source if it is listed in 40 C.F.R. § 261.31 and has not been excluded under 40 C.F.R. §§ 260.20 and 260.22 and is listed in Appendix IX. Hazardous wastes from nonspecific sources are identified with the EPA Hazardous Waste Numbers F001 through F039.
27. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)], a generator of greater than 1,000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Ga. Code Ann. § 12-8-66 [Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e)], provided that the generator complies with the management requirements listed in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)-(4)] (hereinafter referred to as the “LQG Permit Exemption”).
28. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates the requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. §§ 265.1050(c) and .1064], conditions of the LQG Permit Exemption require equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight for more than 300 hours per calendar year to be marked in such a manner that they can be distinguished readily from other pieces of equipment, and to have information about each such piece of equipment recorded in the facility operating record.
29. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates the requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1083], a condition of the LQG Permit Exemption requires a tank system for which hazardous waste entering the unit has an average volatile organic concentration greater than 500 parts per million by weight to be subject to the requirements specified in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085], including determining the maximum organic vapor pressure, and conducting appropriate inspections.
30. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates the requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.195], conditions of the LQG Permit Exemption require a facility to inspect all above ground portions of a tank system and the area immediately surrounding the tank system, including the secondary containment system, and to document in the operating record of the facility these inspections.
31. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates the requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.193(f)], a condition of the LQG Permit Exemption requires a facility to provide full secondary containment for a tank system’s ancillary equipment including portions of hazardous waste pipeline that have threaded flanges, valves, fittings, and connectors.

32. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], which incorporates the requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.16(d)], a condition of the LQG Permit Exemption requires a facility to maintain training records, including job titles and descriptions, in the facility records.
33. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], which incorporates the requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.16(c)], a condition of the LQG Permit Exemption requires a facility to provide annual refresher training to facility personnel.
34. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)(ii)], a generator may accumulate up to fifty-five (55) gallons of hazardous waste at or near the point of generation without a permit or without having interim status provided, among other things, the generator marks the hazardous waste accumulation containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.
35. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.173(a)], a generator may accumulate up to fifty-five (55) gallons of hazardous waste at or near the point of generation without a permit or without having interim status provided, among other things, the generator keeps hazardous waste accumulation containers closed at all times, except when adding or removing waste.

IV. EPA’S ALLEGATIONS AND DETERMINATIONS

36. Respondent is a “person” within the meaning of Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10].
37. At all times relevant to this CA/FO, Respondent is the “owner” and/or “operator” of a “facility” located at 1850 S. Cobb Industrial Boulevard, in Smyrna, Georgia as those terms are defined in Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10].
38. At the facility, Respondent manufactures and packages for distribution several organic and water based solvent cleaners, pesticides, and janitorial aerosol products.
39. In its February 7, 2008 Notification of Regulated Waste Activity (EPA Form 8700-12), Respondent indicated that the facility is a Large Quantity Generator of hazardous wastes, including D001, D002, D035, D039, and D040 characteristic hazardous wastes and F001, F002, F003, and F005 listed hazardous wastes.
40. On December 13, 2010, the EPA and the Georgia Environmental Protection Division (GAEPD) conducted a RCRA Compliance Evaluation Inspection (CEI) at the facility to determine the facility’s compliance status with RCRA (December 2010 CEI).
41. On July 26, 2011, the EPA conducted a follow-up CEI at the facility (July 2011 CEI).
42. Respondent operates a “tank” that contained “hazardous waste” and is a part of a “tank system” as those terms are defined in Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10].

43. Respondent operates "equipment" as that term is defined in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 264.1031].
44. At the time of both the December 2010 CEI and the July 2011 CEI, Respondent had not properly determined the total organic content of its hazardous waste contained in the hazardous waste storage tank outside the facility's production building.
45. In August 2012, Respondent determined that the total organic concentration in its hazardous waste stream is greater than 10%.
46. At the time of both the December 2010 CEI and the July 2011 CEI, Respondent had not marked each piece of equipment in such a manner that they can be distinguished readily from other pieces of equipment, nor kept sufficiently detailed records about each piece of equipment.
47. The EPA therefore alleges that Respondent violated Ga. Comp. R. & Regs. 391-3-11-.10(1) [40 C.F.R. §§ 265.1050(c) and .1064].
48. At the time of both the December 2010 CEI and the July 2011 CEI, Respondent had not determined the maximum organic vapor pressure of the hazardous waste contained in the hazardous waste storage tank outside the facility's production building, nor had Respondent conducted appropriate inspections.
49. The EPA therefore alleges that Respondent violated Ga. Comp. R. & Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085].
50. At the time of the December 2010 CEI, Respondent did not have a sufficiently detailed inspection program, including record keeping, to ensure adequate inspections and recordkeeping were occurring.
51. The EPA therefore alleges that Respondent violated Ga. Comp. R. & Regs. 391-3-11-.10(1) [40 C.F.R. § 265.195].
52. At the time of the July 2011 CEI, Respondent failed to provide secondary containment for some sections of its hazardous waste pipeline that have threaded flanges, valves, fittings, and connectors.
53. The EPA therefore alleges that Respondent violated Ga. Comp. R. & Regs. 391-3-11-.10(1) [40 C.F.R. § 265.193(f)].
54. At the time of the December 2010 CEI, Respondent did not have the appropriate training and job description records.
55. The EPA therefore alleges that Respondent violated Ga. Comp. R. & Regs. 391-3-11-.10(1) [40 C.F.R. § 265.16(d)].
56. At the time of the July 2011 CEI, Respondent failed to provide annual RCRA refresher training to one employee.

57. The EPA therefore alleges that Respondent violated Ga. Comp. R. & Regs. 391-3-11-.10(1) [40 C.F.R. § 265.16(c)].
58. At the time of the July 2011 CEI, Respondent was using a thirty (30) gallon container to collect all hazardous wastes generated at the facility for pumping to the hazardous waste storage tank. The EPA inspector observed that the container had an open bunghole at time when no waste was being added to or removed from the container.
59. The EPA therefore alleges that Respondent violated Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.173(a)].
60. As a result of Respondent's violations identified in Paragraphs 47, 49, 51, 53, 55, 57, and 59, above, Respondent failed to meet the conditions of the LQG Permit Exemption. The EPA alleges that Respondent stored hazardous waste without a permit or interim status, and unless these violations are corrected, must obtain a permit, pursuant to Ga. Code Ann. § 12-8-66 [Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e)].

V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

61. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the paragraphs above pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
62. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
63. Within thirty (30) calendar days of receipt of the executed copy of this CA/FO, Respondent shall submit to the EPA a certification signed by a duly authorized representative stating that the Facility is in compliance with the Georgia hazardous waste program and RCRA and that all violations alleged in this CA/FO have been corrected.
This certification shall be as follows:

"I certify under penalty of law, to the best of my knowledge and belief that all violations alleged in this CA/FO have been corrected. All work was done under my direction or supervision according to a system designed to assure that qualified personnel implemented and completed the required tasks. This certification is based on my inquiry of the person(s) who performed the tasks, or those persons directly responsible for the person(s) who performed the tasks. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

64. The certification required to be submitted under this CA/FO shall be mailed to:

Larry L. Lamberth, Chief
South Section, RCRA & OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

65. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
66. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act.
67. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to the EPA officials where the purpose of such discussion, memorandum or communication is to persuade such official to accept and issue this CA/FO.
68. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
69. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged and facts stipulated to in this CA/FO.
70. Each party will pay its own costs and attorneys' fees.

VI. PAYMENT OF CIVIL PENALTY

71. Respondent consents to the payment of a civil penalty in the amount of **EIGHTY THOUSAND DOLLARS (US \$80,000.00)**. Four (4) payments will be made to complete payment of the entire civil penalty including interest. The first payment is due within thirty (30) calendar days of the effective date of this CA/FO and subsequent payments will be due in ninety (90) calendar day intervals thereafter. Including the civil penalty and interest, the total amount that will be paid upon completion of all payments will be \$80,299.87. Respondent shall make payments in accordance with the following schedule:

| <u>Payment No.</u> | <u>Payment Due Date</u> | <u>Payment Due</u> |
|---------------------------|---|---------------------------|
| 1 | within 30 calendar days of the effective date of the CA/FO | \$20,074.97 |
| 2 | within 120 calendar days of the effective date of the CA/FO | \$20,074.97 |
| 3 | within 210 calendar days of the effective date of the CA/FO | \$20,074.97 |
| 4 | within 300 calendar days of the effective date of the CA/FO | \$20,074.96 |

72. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the facility name and docket number for this matter shall be referenced on the face of the check. If Respondent elects to send payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If Respondent elects to send payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 418-1028

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

PNC Bank
ABA: 051036706
Account Number: 310006
CTX Format Transaction Code 22 – checking
Environmental Protection Agency
808 17th Street, N.W.
Washington, DC 20074
Contact: Jesse White, (301) 887-6548

73. At the time of payment, Respondent shall submit a separate copy of the payment and a written statement that the payment is being made in accordance with this CA/FO, to the following persons at the following addresses:

Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

And to:

Larry L. Lamberth, Chief
South Section, RCRA & OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

74. If Respondent fails to make one of the installment payments in accordance with the schedule set forth above in Paragraph 73, or if the Respondent sells the Facility, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure or sale, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described below in the event of any such failure or default.
75. Further, if Respondent fails to pay the installment payments in accordance with the schedule set forth above in Paragraph 73, or if Paragraph 76 is triggered, in accordance with Paragraph 76, EPA may refer the debt to a collection agency, a credit reporting agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. In any such collection action, the validity, the amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
76. Notwithstanding, Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth above in Paragraph 73, Respondent may pay the entire civil penalty of \$80,000.00 within thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand delivered to Respondent and, thereby, avoid the payment of interest pursuant to 40 C.F.R. 13.11(a). In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance remaining, together with interest accrued up to the date of such full payment.
77. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if it is not paid within thirty (30) calendar days after the effective date of this Consent Agreement. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:
 - a. Interest. Any unpaid portion of a civil penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required.

Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).

- b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar day period over which an unpaid balance remains.
- c. Non-Payment Penalty. On any portion of a civil penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (b) of this Paragraph.

78. Penalties paid pursuant to this CA/FO are not deductible for federal tax purposes under 26 U.S.C. § 162(f).

VII. PARTIES BOUND

- 79. This CA/FO shall be binding upon Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents and all persons, including independent contractors, contractors and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.
- 80. No change in ownership, partnership, corporate or legal status relating to the facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
- 81. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

VIII. RESERVATION OF RIGHTS

- 82. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health or the environment.
- 83. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
- 84. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the transportation, storage, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

85. This CA/FO may be amended or modified only by written agreement executed by both the EPA and Respondent.

IX. OTHER APPLICABLE LAWS

86. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

X. SERVICE OF DOCUMENTS

87. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents the EPA in this matter and who is authorized to receive service for the EPA in the proceeding:

Naeha Dixit
Associate Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. EPA – Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9441

88. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents the Respondent in this matter and who is authorized to receive service for the Respondent in this proceeding:

Maria Theo-Callas
Apollo Industries, Inc.
1850 S. Cobb Industrial Blvd.
Smyrna, Georgia 30082

With a copy to Respondent's Counsel:
Barbara H. Gallo
Krevolin & Horst, LLC
One Atlantic Center
1201 W. Peachtree Street, NE
Suite 3250
Atlanta, Georgia 30309
404-888-0169

XI. SEVERABILITY

89. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such

provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

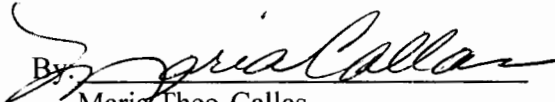
XII. EFFECTIVE DATE

90. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

In the matter of Apollo Industries, Inc., Docket No. RCRA -04-2012-4014(b)

AGREED AND CONSENTED TO:

**FOR
Apollo Industries, Inc.**

By:  Dated: 9/26/12
Maria Theo-Callas
CEO, Apollo Industries, Inc.

U.S. Environmental Protection Agency

By:  Dated: 9/26/12
César A. Zapata, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

| | | |
|-------------------------------|---|---|
| IN THE MATTER OF: |) | Docket Number: RCRA-04-2012-4014(b) |
| |) | |
| Apollo Industries, Inc. |) | Proceeding under Section 3008(a) of the |
| 1850 S. Cobb Industrial Blvd. |) | Resource Conservation and Recovery Act, |
| Smyrna, Georgia 30082 |) | 42 U.S.C. § 6928(a) |
| |) | |
| |) | |
| EPA ID No.: GAD 051 021 285 |) | |
| |) | |
| |) | |
| Respondent |) | |
| _____ |) | |

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order 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. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 27 day of Sept., 2012.

BY: Susan B. Schub
Susan B. Schub
Regional Judicial Officer
EPA Region 4

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Apollo Industries, Inc., Docket Number: RCRA-04-2012-4014(b), and have served copies on each of the parties listed below in the manner indicated:

Naeha Dixit
Associate Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. EPA – Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9441

(Via the EPA Electronic Mail)

Javier Garcia
RCRA and OPA Enforcement and
Compliance Branch
U.S. EPA - Region 4
61 Forsyth St., S.W.
Atlanta, Georgia 30303

(Via the EPA Electronic Mail)

Barbara H. Gallo
Krevolin & Horst LLC
One Atlantic Center
1201 West Peachtree Street, N.E.
Suite 3250
Atlanta, Georgia 30309

(Via Certified Mail - Return Receipt
Requested)

Date: 9-27-12



Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9686