

Georgia Department of Natural Resources

Environmental Protection Division

2 Martin Luther King Jr. Drive, Suite 1456, Atlanta, Georgia 30334

Judson H. Turner, Director

(404) 656-4713

VIA E-MAIL AND REGULAR MAIL

JUL 28 2014

Apollo Industries, Inc.
c/o Ms. Maria Callas
1850 S. Cobb Industrial Boulevard
Smyrna, Georgia 30082

Re: Consent Order No. EPD-VRP-008
Apollo Industries, Inc., Site, HSI No. 10333
1850 S. Cobb Industrial Blvd, Smyrna, Cobb County, Georgia
Tax Parcels: 17-0678-00-040 17-0678-00-130
17-0678-00-050 17-0678-00-030
17-0618-00-240

Dear Ms. Callas:

An executed copy of Consent Order EPD-VRP-008 is enclosed. Consent Order EPD-HW-1186 is now superseded in its entirety and replaced by the attached Order. We did not receive comments during the 30-day public comment period; therefore, the order was executed as proposed. As specified in the Order, Apollo Industries, Inc. (Apollo) is accepted as a participant and the above-referenced properties are now enrolled in the Voluntary Investigation and Remediation Program (VIRP). The voluntary remediation plan specifies corrective action consisting of the following:

- **Soil** – Continued operation of the existing soil vapor extraction (SVE) system with the potential expansion of the system beneath the production building. Potential implementation of institutional and engineering controls in areas where traditional soil remediation techniques may not be feasible.
- **Groundwater** – Continued operation and expansion of the groundwater recovery system to provide hydraulic control. Use of *in-situ* chemical oxidation (ISCO) to address the overburden groundwater zone.

Because Apollo is performing corrective action at the qualifying property in accordance with an approved voluntary remediation plan, The Georgia Environmental Protection Division (EPD) is hereby reclassifying it from Class II to Class V and designating it as needing corrective action as provided for in §12-8-107(b) of the Act.

Within 45 days of this letter, you are required to file an affidavit stating that your property has been listed on the state's hazardous site inventory and has been designated as needing corrective action due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under state law. This affidavit is to be filed with the clerk of the Superior Court of Cobb County and recorded in the clerk's deed records pursuant to O.C.G.A. § 44-2-20.

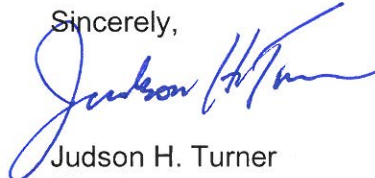
Apollo must also place the following notice in any deed, mortgage, deed to secure debt, lease, rental agreement or other instrument given or caused to be given by the property owner which creates an interest in or grants a use of the property:

"This property has been listed on the state's hazardous site inventory and has been designated as needing corrective action due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under state law. Contact the property owner or the Georgia Environmental Protection Division for further information concerning this property. This notice is provided in compliance with the Georgia Hazardous Site Response Act and the Voluntary Remediation Program Act."

Within 30 days of recording the affidavit, please send a copy of the receipt of the recorded affidavit to the Response and Remediation Program, Georgia Environmental Protection Division, 2 Martin Luther King Jr. Drive SE, Suite 1054, Atlanta, GA 30334.

Please implement the VIRP Application and Plan in accordance with the schedule and specifications contained therein and within the Order, and subject to the comments in our June 4, 2014 letter. EPD anticipates receipt of the first semiannual VIRP Progress Report by March 31, 2015. Please note that all documents more than 25 pages in length should be submitted as one paper copy and two compact disc (CD) copies with the documents in searchable (i.e., tagged) Portable Document Format (PDF). If you have any questions regarding this matter, please contact Robin Futch, PG, PMP of the Response and Remediation Program at (404) 657-8686.

Sincerely,



Judson H. Turner
Director

Encl: Consent Order EPD-VRP-008

c: Adam Sowatzka, King & Spalding (w/ attachment)
Keith Ziobron, O'Brien & Gere (via email)

File: HSI # 10333

**STATE OF GEORGIA
DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION**

IN RE:

Apollo Industries, Inc.
1850 S. Cobb Industrial Blvd
Smyrna, GA

Consent Order No. EPD-VRP- 008

RESPONDENT

CONSENT ORDER

WHEREAS, Apollo Industries, Inc. (the "Respondent") is the owner of certain real property on which Respondent operates a facility that is a contract formulator and packager of aerosol products, located at 1850 S. Cobb Industrial Blvd, Smyrna, Cobb County, Georgia, comprising approximately 11.56 acres and identified as Tax Parcels 17-0678-00-040, 17-0679-00-130, 17-0678-00-050, 17-0678-00-030, and 17-0618-01-240 (hereinafter the "Property"); and

WHEREAS, Respondent operates an active manufacturing facility on the Property that consists of production areas, office/warehouse areas, and a tank farm used for the storage of various production chemicals utilized in large quantities; and

WHEREAS, as a result of historic operation of the production facility on the Property, incidental drips and spills of raw and spent materials have resulted in the release of regulated substances to the environment (the "Release"); and

WHEREAS, Respondent has hired contractors to perform environmental assessments on the Property that revealed both soil and groundwater were contaminated with regulated substances; and

WHEREAS, Respondent has developed a preliminary Remediation Plan that includes capture and recovery of contaminated groundwater and that was approved by the Georgia Environmental Protection Division (hereinafter "EPD"); and

WHEREAS, the substances found to have been released on the Property are hazardous wastes or hazardous constituents under the Georgia Hazardous Waste Management Act, O.C.G. A. Section 12-8-60 et seq., as amended (hereinafter "HWM Act"); and

WHEREAS, on August 8, 1995, the Respondent and EPD entered into Consent Order No. EPD-HW-1186 under the HWM Act requiring Respondent to implement corrective action with respect to the Property; and

WHEREAS, the Respondent has continued to implement corrective action on the Property in accordance with plans approved by EPD; and

WHEREAS, on March 4, 2014 the Respondent submitted to EPD an application, including a Voluntary Investigation and Remediation Plan (hereinafter the "VIRP"), for

enrollment of the Property into the Georgia Voluntary Remediation Program (hereinafter the "VRP"), established under the Georgia Voluntary Remediation Program Act, O.C.G.A. Section 12-8-100 et seq., as amended (hereinafter "VRP Act"); and

WHEREAS, EPD has determined that the Property is eligible for enrollment into the VRP; and

WHEREAS, the Respondent and EPD desire to enable Respondent's participation in the VRP with respect to the Property; and

NOW, THEREFORE, it is hereby ORDERED by the Director and CONSENTED to by the Respondent, as follows:

1. As of the Effective Date of this Order, Consent Order EPD-HW-1186 is superseded in its entirety and replaced with this Order, and as this Order may be amended from time to time upon written agreement by the Respondent and EPD.
2. Upon the Effective Date of this Order, Respondent's VRP application and VIRP dated March 4, 2014 are approved and the Property shall be deemed enrolled in the VRP as of the Effective Date of this Order.
3. Under the VRP, and subject to any relevant modifications thereto, the Respondent must comply with the following schedule for delineation and remediation of the Release, submission of a compliance status report, and submission of financial assurance as required by EPD under the VRP Act, subject to modifications and extensions granted in writing by EPD, such modifications and extensions not to be unreasonably denied:
 - a. The Respondent must submit progress reports to EPD semi-annually, or at such longer interval as EPD may approve, pursuant to Section 12-8-107(b) of the VRP Act, as amended, with the first report being due sixty (60) days following the end of the sixth full month after the Effective Date of this Order.
 - b. Within the first twelve (12) months after the Effective Date of this Order, the Respondent shall complete horizontal delineation of the Release and associated constituents of concern on property where access is available as of the date of execution of this Order.
 - c. Within twenty four (24) months after the Effective Date of this Order, the Respondent shall complete horizontal delineation of the Release and associated constituents of concern extending onto property for which access was not available as of the date of execution of this Order.
 - d. Within six (6) months after completion of Condition 3.c., if regulated substances are detected on a non-qualifying property, Respondent shall either (1) apply to EPD to include such property as a qualifying property under the VRP Act, if Respondent wants to include such property as a qualifying property under the VRP Act, or (2) notify EPD that such property is not included as a qualifying property under the VRP Act.

- e. Within thirty (30) months after the Effective Date of this Order, the Respondent shall update the conceptual site model to include vertical delineation, finalize the VIRP and provide a cost estimate for implementation of remediation and associated continuing actions.
 - f. Within sixty (60) months after the Effective Date of this Order, or other later date approved by the Director, e.g., if the Director concurs that completion of corrective action cannot feasibly be achieved within sixty (60) months after the date of execution of this Order, the Respondent shall submit the compliance status report, including the requisite certifications, required under the VRP Act.
 - g. Within sixty (60) days after the date of execution of this Order, the Respondent shall submit a cost estimate to EPD to complete the work proposed in the VRP application through submittal of the compliance status report. This estimate shall include an estimate of costs as determined by the registered engineer or geologist referenced in paragraph 4 below.
 - h. Within ninety (90) days of the Effective Date of this Order, the Respondent shall provide EPD a financial assurance mechanism to reflect all costs identified in the cost estimate in Condition 3.g. The financial assurance mechanism shall be submitted and maintained on such forms as specified by EPD and shall be subject to EPD's acceptance. The written cost estimate shall be reviewed at least annually by the Respondent to ensure that the amount of the financial assurance mechanism is sufficient to ensure performance of the activities described in the VIRP. If the cost estimate indicates the amount of the financial assurance mechanism is not sufficient to ensure performance of the activities described in the VIRP, the Respondent shall notify EPD within thirty (30) days. Further, if the cost estimate is lowered, the amount of financial assurance may also be lowered, subject to the review and approval of EPD, which such review and approval shall not be unreasonably delayed or withheld.
 - i. Within sixty (60) days after Respondent's receipt from EPD of an invoice for any costs to EPD in reviewing the VRP application and subsequent documents that exceed the initial application fee, Respondent shall reimburse EPD for such costs.
4. The Respondent and one or more registered professional geologists or engineers shall be responsible to oversee the implementation of the VIRP in accordance with the provisions, purposes, standards, and policies of the VRP Act. EPD may, at its sole discretion, review and comment on documents submitted by the Respondent. However, failure of EPD to respond to a submittal within any timeframe does not relieve the Respondent from complying with the specified schedule and the provisions, purposes, standards and policies of the VRP Act and Order.
5. The Respondent must address EPD's comments dated June 4, 2014, and any comment letters addressing the investigation and remediation pursuant to the VRP Act to the satisfaction of the Director that the response is consistent with the provisions, purposes, standards, and policies of the VRP Act.

6. EPD's approval of the VIRP extends only to those technical aspects of the document that expressly require EPD approval under applicable rules and statutes. This approval is not an endorsement by EPD that it accepts as conclusive any representations made in the document. Nor does EPD guarantee or warrant that the document is free of errors or omissions. EPD may later withdraw approval of the VIRP in whole or in part, if EPD reasonably determines that withdrawal is necessary to ensure compliance with applicable statutes and rules.
7. This Order shall terminate if and as of the date the Director concurs under Section 12-8-107(e) of the VRP Act, as amended, with the Respondent's certification that the Property complies with applicable cleanup standards.
8. Enrollment of the property in the VRP shall terminate (hereinafter the "Termination Date") sixty (60) days after either the Director or the Respondent provides written notification to the other party that enrollment of the Property in the VRP is being terminated, as provided in Section 12-8-107(d) of the VRP Act, as amended. As of the Termination Date, the Property and other properties affected by the Release shall be subject to the risk reduction standards promulgated at Section 391-3-19-.07 of the Rules for Hazardous Site Response, or such alternate standards as may be approved by the Director. The Respondent shall take those actions necessary to ensure compliance with these standards within a schedule approved by the Director, and shall submit periodic status reports in such format as required by the Director.
9. Unless otherwise provided in this Order, the following notice provisions shall apply:
 - a. Notifications, submissions or other communications required by this Order, shall be made in writing and addressed as follows:

As to the Respondent:

Ms. Maria Callas, Owner
Apollo Industries, Inc.
1850 South Cobb Industrial Boulevard
Smyrna, Georgia 30082

As to EPD:

Program Manager
Environmental Protection Division – Land Protection Branch
Response and Remediation Program
2 Martin Luther King Jr. Boulevard, Suite 1054
Atlanta, Georgia 30334

- b. Either party may, by written notice to the other party, change its designated representatives for receipt of notice or its notice address.
- c. For purposes of the VRP deliverables referenced in Condition 3 hereof, EPD's receipt of a deliverable by the specified milestone due date via U.S. Mail, courier

or hand delivery, or EPD's receipt of an electronic transmittal of a copy of the deliverable by the specified milestone due date confirming that the deliverable has been sent via U.S. Mail, courier or hand delivery, shall constitute timely submission of the deliverable under the VRP.

10. The individual signing this Order for the Respondent is duly authorized to enter into and bind the Respondent to the terms of the Order.

For purposes of enforcement under any applicable State Law, this Order shall be construed as and shall have the same force and effect as a final Order of the Director pursuant to the HWM Act, as amended, and the VRP Act, as amended.

This Consent Order shall be signed first by the Respondent and then executed by the Director of EPD. The Effective Date of this Consent Order shall be the date signed by the Director of EPD.

It is so ORDERED, CONSENTED, AND AGREED to this 28th day of July, 2014 (to be filled in by the Director upon his signature)

**FOR THE RESPONDENT,
APOLLO INDUSTRIES, INC.**

By: Maria Callas

(Signature)

MARIA CALLAS
(Printed Name)

TITLE: CEO

DATE: 6/12/14

**FOR THE ENVIRONMENTAL
PROTECTION DIVISION**

Judson H. Turner

Judson H. Turner, Director
Environmental Protection Division
Department of Natural Resources
State of Georgia