



3. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, the State of Maryland has been granted final authorization to administer its hazardous waste management program, set forth at the Code of Maryland Regulations (“COMAR”), Title 10, Subtitle 51 *et seq.*, in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. The State of Maryland Hazardous Waste Management Regulations (“MdHWMR”) originally were authorized by EPA on February 11, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b). Revisions to the MdHWMR set forth at COMAR, Title 26, Subtitle 13, were authorized by EPA effective July 31, 2001 and September 24, 2004. The provisions of the revised federally-authorized program have thereby become requirements of RCRA Subtitle C are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
4. The factual allegations and legal conclusions in this CA are based on provisions of the federally-authorized MdHWMR in effect at the time of the violations alleged herein.
5. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil penalty against any person who violates any requirement of Subtitle C of RCRA. Respondent is hereby notified of EPA’s determination that Respondent has violated RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, and federally-authorized MdHWMR requirements, at its facility located at 4100 Benson Avenue, Baltimore, Maryland 21227.
6. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated March 30, 2012, EPA notified the State of Maryland (hereinafter, the “State”), through the Solid Waste Program Chief of the Maryland Department of the Environment (“MDE”), of EPA’s intent to commence this administrative action against Respondent in response to the violations of RCRA Subtitle C that are alleged herein.

## **II. GENERAL PROVISIONS**

7. Respondent admits the jurisdictional allegations set forth in this CAFO.
8. Respondent neither admits nor denies the specific factual allegations or the conclusions of law contained in this CAFO, except as provided in Paragraph 7, immediately above, of this CA.
9. 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.
10. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CA and any right to appeal the accompanying FO.
11. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
12. Respondent shall bear its own costs and attorney’s fees.

13. The provisions of this CAFO shall be binding upon Complainant and Respondent, its officers, directors, employees, successors and assigns.
14. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit; nor does this CAFO constitute a waiver, suspension or modification of the requirements of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, or any regulations promulgated and/or authorized thereunder.

### **III. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW**

15. In accordance with the *Consolidated Rules of Practice* at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant makes the following findings of fact and conclusions of law.
16. Respondent is a Maryland corporation which operates a steel wire shelving and fabricated wire product manufacturing facility located at 4100 Benson Avenue, Baltimore, Maryland 21227, EPA ID No. MDD003065117 (hereinafter, the "Facility").
17. Respondent is a "person" as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15), and COMAR 26.13.01.03(61).
18. The Facility identified in Paragraph 16, above, is a hazardous waste storage "facility" as that term is defined in COMAR 26.13.01.03(23).
19. At all times relevant to the allegations in this CAFO, Respondent was and is the "owner" and "operator" of the Facility, as those terms are defined in COMAR 26.13.01.03(59) and (58).
20. As described below, Respondent is and, at all times relevant to the allegations in this CAFO has been, a "generator" of "solid waste" and "hazardous waste" at the Facility, as these terms are defined in COMAR 26.13.01.03(29), (73) and (31).
21. At all times relevant to the allegations in this CAFO, and as described below, Respondent has engaged in the storage of solid waste and hazardous waste in containers at the Facility, as the terms "storage" and "container" are defined in COMAR 26.13.01.03(76) and (9).
22. Respondent has submitted to EPA a Notification of Hazardous Waste Activity ("Notification"), pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, for its operations at the Facility, which include operation as a large quantity generator of hazardous waste.
23. Duly authorized representatives of EPA (the "Inspectors") performed a compliance evaluation inspection ("CEI"), including a review of records, at the Facility on May 25, 2011 in order to assess Respondent's compliance with federally authorized MdHWMR requirements at the Facility.

24. On October 11, 2011, EPA issued an information request letter (“IRL”) to Olson Wire pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a) and Olson Wire provided a written response to EPA’s IRL that was dated November 7, 2011 (“IRL Response”).
25. On April 16, 2012, EPA sent a Notice of Noncompliance and Request to Show Cause letter (“NON”) to the Respondent which advised the Respondent of EPA’s preliminary findings of MdHWMR violations at the Facility and offered the Respondent an opportunity to provide such additional information as it believed the Agency should review and consider before reaching any final conclusions as to the Respondent’s MdHWMR compliance at the Facility.
26. In response to the NON, and after meeting with EPA representatives on May 14, 2012, Respondent provided EPA with supplemental information by correspondence dated June 18, 2012.
27. On the basis of the CEI performed at the Facility and a review of the supplemental information Respondent provided to EPA in response to the NON, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, and federally authorized MdHWMR requirements promulgated thereunder.

**Permit/Interim Status Requirements**

28. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and COMAR 26.13.07.01, with exceptions not herein relevant, no person may own or operate a facility for the treatment, storage or disposal of hazardous waste without first obtaining a permit or interim status for such facility.
29. At all times relevant hereto, Respondent did not have a permit, pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), or COMAR 26.13.07.01, for the storage of hazardous waste at the Facility, and did not have interim status pursuant to Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), or COMAR 26.13.07.23.

**Permit Exemption Conditions - Accumulation Time/Requirements**

30. Pursuant to COMAR 26.13.03.05E(1), “[a] generator may accumulate hazardous waste on-site without a permit or without holding interim status for 90 days or less” so long as the hazardous waste is accumulated in accordance with a number of conditions set forth in that section, including, *inter alia*:
  - a. the condition set forth at COMAR 26.13.03.05E(1)(a), which requires that “[t]he waste [be] shipped off-site within 90 days to a permitted facility or places in an on-site permitted facility”;
  - b. the condition set forth at COMAR 26.13.03.05E(1)(b), which requires that “[t]he generator accumulates the waste: (i) In containers, (ii) In tanks, or (iii) On drip pads, if the waste is drippage from a wood-preserving process, precipitation, or surface water run-on”;

- c. the condition set forth at COMAR 26.13.03.05E(1)(d), which requires that waste in containers must be accumulated in accordance with COMAR 26.13.05.09, which further requires, in relevant part and at COMAR 26.13.05.09D, that “[a] container holding hazardous waste shall always be kept closed during storage, except when it is necessary to add or remove waste, and the container may not be opened, handled, or stored in any manner which may rupture the container or cause it to leak”;
  - d. the condition set forth at COMAR 26.13.03.05E(1)(e), which requires that “[t]he date upon which each period of accumulation begins must be clearly marked and visible for inspection on each container”;
  - e. the condition set forth at COMAR 26.13.03.05E(1)(f)(ii), which requires that each container be “[l]abeled or marked clearly with the words ‘Hazardous Waste’, while being accumulated on site”; and
  - f. the condition set forth at COMAR 26.13.03.05E(1)(g), which requires, in relevant and applicable part, that “[t]he generator complies with the requirements for owners and operators in COMAR 26.13.05.02G . . .”, pertaining to “Personnel Training”.
31. Pursuant to COMAR 26.13.03.05E(3), “[a] generator may accumulate as much as 55 gallons of hazardous waste or 1 quart of acutely hazardous waste listed in COMAR 26.13.02.19E in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit and without complying with §E(1) provided the generator: (a) Complies with COMAR 26.13.05.09B — D; and (b) Marks his containers either with the words ‘Hazardous Waste’ or with other words that identify the contents of the containers.”

**COUNT I**  
**(Operating Without a Permit or Interim Status)**

32. The allegations of Paragraphs 1 through 31 of this CA are incorporated herein by reference.
33. At all times relevant to the allegations in this CAFO, Respondent has been the owner and operator of a facility (*i.e.*, the Facility), where the Respondent was a generator of hazardous waste and engaged in hazardous waste management activities that included the storage of solid waste and hazardous waste in container[s] and at hazardous waste management unit[s], as these terms are defined in COMAR 26.13.01.03.

***Storage of Hazardous Waste for Periods Greater than 90 Days***

34. The Respondent stored containers of hazardous waste at the Wastewater Treatment (“WWT”) Area of the Facility for time periods in excess of the ninety day storage limitation set forth at COMAR 26.13.03.05E(1) as identified and described immediately below:

- a. Two open, unlabeled and undated 1.5 cubic yard metal hopper containers of F006 hazardous waste sludge, each filled with a volume of hazardous waste that exceeded the COMAR 26.13.03.05E(3) 55-gallon satellite accumulation limit and each of which failed to meet COMAR 26.13.03.05E(3)(a) and (b) prerequisite requirements for generator storage at or near any point of generation where wastes initially accumulate, were stored on-site (under the Facility's WWT Filter Press) at this area of the Facility from on or about April 14, 2010 through June 24, 2011;
- b. An additional open, unlabeled and undated 1.5 cubic yard metal hopper container of F006 hazardous waste sludge filled with a volume of hazardous waste that exceeded the COMAR 26.13.03.05E(3) 55-gallon satellite accumulation limit and which failed to meet COMAR 26.13.03.05E(3)(a) and (b) prerequisite requirements for generator storage at or near any point of generation where wastes initially accumulate was stored on-site at this area of the Facility from on or about April 14, 2010 through June 24, 2011;
- c. Two closed, labeled and dated blue 60-gallon drum containers of F006 hazardous waste sludge, each filled with a volume of hazardous waste that exceeded the COMAR 26.13.03.05E(3) 55-gallon satellite accumulation limit for generator storage at or near any point of generation where wastes initially accumulate were stored on-site at this area of the Facility from on or about April 14, 2010 through June 24, 2011; and
- d. One partially-filled open, unlabeled and undated container of F006 hazardous waste sludge that failed to meet COMAR 26.13.03.05E(3)(a) and (b) prerequisite requirements for generator storage at or near any point of generation where wastes initially accumulate was stored on-site at this area of the Facility, beneath the Facility's inactive WWT filter press, from on or about May 1, 2009 through June 24, 2011.

***Failure to Keep Containers Holding Hazardous Waste Closed***

35. On May 25, 2011, at the time of the CEI, Respondent was storing hazardous waste at the WWT Area of the Facility in four containers, previously described in paragraphs 34.a, 34.b and 34.d, above, that were not kept closed by the Respondent at a time when it was not necessary to add or remove waste from the containers, as required pursuant to COMAR 26.13.03.05E(1)(d).

***Failure to Mark Containers of Hazardous Waste with Accumulation Start Date***

36. On May 25, 2011, at the time of the CEI, Respondent was storing the F006 hazardous waste sludge previously described in paragraphs 34.a, 34.b and 34.d, above, and a closed 55-gallon drum of D002 hazardous waste corrosive liquid nickel salts at the WWT Area of the Facility in containers that were not marked with the date upon which the period of hazardous waste container accumulation began, as required pursuant to COMAR 26.13.03.05E(1)(e).

***Failure to Label or Mark Containers with the Words “Hazardous Waste”***

37. On May 25, 2011, at the time of the CEI, the three 1.5 cubic yard containers of F006 hazardous waste sludge, the partially-filled container of F006 hazardous waste sludge and the 55-gallon drum container of D002 hazardous waste corrosive liquid nickel salts previously identified and described in paragraphs 34.a, 34.b, 34.d and 36, above, were not labeled with the words “Hazardous Waste” as required pursuant to COMAR 26.13.03.05E(1)(f)(ii).

***Failure to Properly Store Hazardous Waste***

38. On May 25, 2011, at the time of the CEI, Respondent was storing five D001/D008 hazardous waste spent lead anode rods (previously used in plating processes) near the zinc plating line at the Facility in an un-contained manner that failed to comply with the hazardous waste generator accumulation requirements of COMAR 26.13.03.05E(1)(b).

***Failure to Comply with Generator Personnel Training Recordkeeping Requirements***

39. COMAR 26.13.05.02G(1) is entitled “Program of Instruction or Training” and provides, in relevant and applicable part, that: “(a) Facility personnel shall successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility’s compliance with the requirements of this chapter [and that t]he owner or operator shall ensure that this program includes all the elements described in the document required under [COMAR 26.13.05.02] § G(4)(c) [. . . ;] (b) This program shall . . . include instruction which teaches facility personnel hazardous waste management procedures . . . relevant to the positions in which they are employed [; and] (c) At a minimum the training shall be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems . . .”.
40. COMAR 26.13.05.02G(2) provides, in relevant and applicable part, that “Facility personnel shall successfully complete the program required in [COMAR 26.13.05.02] § G(1), above, within 6 months after the effective date of these regulations or 6 months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later . . .”.
41. COMAR 26.13.05.02G(3) provides that “Facility personnel shall take part in an annual review of the initial training required in [COMAR 26.13.05.02] § G(1), above.”
42. COMAR 26.13.05.02G(4) provides, in relevant and applicable part, that “The owner or operator shall maintain the following documents and records at the facility: (a) The job title for each position at the facility related to hazardous waste management, and the name of each employee filling each job[;] (b) A written job description for each position listed under [COMAR 26.13.05.02] § G(4)(a), above . . . [;] (c) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under [COMAR 26.13.05.02] § G(4)(a), above [; and]

- (d) Records that document that the training or job experience required under [COMAR 26.13.05.02] § G(1), (2), and (3) has been given to, and completed by, facility personnel.”
43. COMAR 26.13.05.02G(5) provides, in relevant and applicable part, that “Training records on current personnel shall be kept until closure of the facility. . .”.
44. In its IRL Response, Respondent identified Facility Plating Manager Rodney Stotler as having hazardous waste management responsibilities at the Facility in calendar years 2008 and 2009 and Olson Wire Vice President Gary Olson as having hazardous waste management responsibilities at the Facility in calendar year 2010.
45. At the time of the May 25, 2011 CEI, Respondent failed to keep or maintain at the Facility records necessary to document that an annual review of initial training, required pursuant to COMAR 26.13.05.02G(3), had been given to, and was completed by: (i) Facility Plating Manager Rodney Stotler, during calendar years 2008 and 2009; and (ii) Olson Wire Vice President Gary Olson, during calendar year 2010.
46. Respondent failed to comply with the hazardous waste generator accumulation condition of COMAR 26.13.03.05E(1)(g) as a result of its failure to comply with the applicable personnel training recordkeeping requirements of COMAR 26.13.03.05.02G(4)(d).

***Violation***

47. Respondent failed to comply with the conditions, identified in Paragraphs 30 and 31, above, for temporary (*i.e.*, 90 days or less) or satellite accumulation of hazardous waste by a generator that are required pursuant to COMAR 26.13.03.05E(1) and (3), and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such section.
48. Respondent violated COMAR 26.13.07.01 and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by operating a hazardous waste storage facility (*i.e.*, the Facility) without a permit, interim status or valid exemption to the permitting/interim status requirements.

**COUNT II**

**(Failure to Make Required Hazardous Waste Determinations)**

49. The allegations of Paragraphs 1 through 48 of this CA are incorporated herein by reference.
50. COMAR 26.13.03.02A provides that “[a] person who generates a solid waste, as defined in COMAR 26.13.02.02, shall determine if that waste is a hazardous waste using the following method: (1) The person should first determine if the waste is excluded from regulation under COMAR 26.13.02.04---.04.5; (2) The person shall then determine if the waste is listed as a hazardous waste in COMAR 26.13.02.15---.19; [Agency Note omitted] (3) If the waste is not listed as a hazardous waste in COMAR 26.13.02.15---.19, the person shall determine whether the waste is identified by either: (a) testing the waste according to the methods set forth in COMAR 26.13.02.10---.14, or, according to an equivalent method approved by the Secretary [of MDE] under COMAR 26.13.01.04B;



or (b) Applying knowledge of the hazardous characteristic of the waste in light of the materials or processed used.”

51. COMAR 26.13.03.02B additionally requires that “[i]f the person determines that the waste is a hazardous waste, the person shall refer to COMAR 26.13.02, 20.13.05, 26.13.06, and 26.13.10 for possible exclusions or restrictions pertaining to management of the specific waste.”

#### *Aerosol Can Waste Stream*

52. On May 25, 2011, at the time of the CEI, three spent aerosol cans of the product “Match-it” had been discarded and were present in a regular solid waste trash container located in the Facility’s Powder Coat Preparation Room.
53. During the May 25, 2011 CEI, a Facility representative advised the Inspectors that: Olson Wire has aerosol cans of “Match-it” custom made for the Company; the Facility uses quite a few cans of this product to spray parts in preparation for powder coating; and that spent aerosol cans of “Match-it” routinely are thrown away by Facility personnel in the regular trash as solid waste.
54. In its IRL Response, Respondent indicated that it had subsequently determined, on June 9, 2011, that spent aerosol cans of the product “Match-it” are a hazardous waste, and that “the specific EPA Hazardous Waste Codes associated with the used aerosol cans are D001, F003, and F005” based upon Material Safety Data Sheets for the contents.
55. In its IRL Response, Respondent further indicated that the waste aerosol cans on-site at the time of the CEI were processed through an “enclosed aerosol can crushing device,” which “was assembled and placed for used [sic] on June 28, 2011.”
56. On information and belief, as based upon a review of the above-referenced IRL Response statements and upon Facility commercial trash removal service invoices submitted by the Respondent with its IRL Response, the Respondent disposed of spent aerosol cans of the product “Match-it” that were generated at the Facility as regular solid waste trash, without determining if such waste was a hazardous waste, on numerous occasions during the period from at least September 30, 2007 through on or about June 9, 2011.

#### *Spent Universal Lamp Waste Stream*

57. During the May 25, 2011 CEI, a Facility representative advised the Inspectors that spent universal waste lamps are generated at the Facility and that such spent universal waste lamps routinely are thrown away in the regular solid waste trash by Facility personnel.
58. In its IRL Response, Respondent stated the “[i]t was [the Company’s] practice to dispose of universal waste lamps in the ‘regular’ trash” and Respondent has further indicated, upon information and belief, that such practice occurred on numerous occasions from at least September 30, 2007 to May 25, 2011.

59. The spent universal waste lamps generated by the Respondent at the Facility and disposed as general commercial trash were solid wastes and may have been characteristic hazardous wastes, potentially exhibiting the D008 characteristic of toxicity for lead and/or the D009 characteristic of toxicity for mercury.
60. On information and belief, as based upon a review of the above-referenced IRL Response statement and upon Facility commercial trash removal service invoices submitted by the Respondent with its IRL Response, the Respondent disposed of spent universal waste lamps generated at the Facility as regular solid waste trash, without determining if such waste was a hazardous waste, on numerous occasions during the period from at least September 30, 2007 through on or about May 25, 2011.

***Violation***

61. Respondent violated the requirements of COMAR 26.13.03.02A by failing to make required hazardous waste determinations for: (a) the D001/F003/F005 "Match It" aerosol can waste stream generated at the Facility during the period from at least September 30, 2007 through on or about June 9, 2011, which were solid and hazardous wastes pursuant to COMAR 26.13.02.11 and .16, respectively; and (b) the spent universal waste lamp waste stream generated at the Facility during the period from at least September 30, 2007 until on or about May 25, 2011, which were solid wastes and may have been characteristic hazardous wastes, potentially exhibiting the D008 characteristic of toxicity for lead and/or the D009 characteristic of toxicity for mercury, pursuant to COMAR 26.13.02.14.

**COUNT III**

**(Failure to Comply with Container Management Requirements)**

62. The allegations of Paragraphs 1 through 61 of this CA are incorporated herein by reference.
63. The provisions of COMAR 26.13.05.09.D, pertaining to the "Management of Containers" requires that "[a] container holding hazardous waste shall always be kept closed during storage, except when it is necessary to add or remove waste, and the container may not be opened, handled, or stored in any manner which may rupture the container or cause it to leak."
64. On May 25, 2011, at the time of the CEI, each of the four containers of hazardous waste, previously identified and described in paragraphs 34.a, 34.b and 34.d, above, were being stored on-site at the Facility and were not kept closed during storage at times when it was not necessary to add or remove waste from any such container.
65. Respondent violated the requirements of COMAR 26.13.05.09.D on May 25, 2011 by failing to keep each of the four containers of hazardous waste identified and described in paragraphs 34.a, 34.b and 34.d, above, closed during storage at the Facility at times when it was not necessary to add or remove waste from any such container.

**COUNT IV**

**(Improperly Offering Hazardous Waste for Transport and Disposal)**

66. The allegations of Paragraphs 1 through 65 of this CA are incorporated herein by reference.
67. Pursuant to COMAR 26.13.03.03C, “[a] generator [of hazardous waste] may not offer his hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.”
68. COMAR 26.13.03.04A(1) and (2) additionally provide that: “(1) A generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal shall prepare an approved manifest (OMB control number 2050-0039) on EPA Form 8700-22 or an equivalent state form, and, if necessary, EPA Form 8700-22A or an equivalent state form, according to the instructions included on the form before the waste is transported off-site [; and] (2) A generator shall designate on the manifest one facility which is permitted to handle the waste described on the manifest.”
69. On numerous occasions from at least September 30, 2007 through June 9, 2011, Respondent offered D001/F003/F005 hazardous waste spent aerosol cans for off-site transport from the Facility via a commercial trash removal service that had not received an EPA identification number and for disposal at a treatment, storage or disposal facility that had not received an EPA identification number.
70. On each of the numerous occasions that the Respondent offered D001/F003/F005 hazardous waste spent aerosol cans for transportation and off-site disposal during the above-referenced time period, the Respondent failed to prepare an approved manifest, on EPA Form 8700-22 or an equivalent state form, according to the instructions included on the form.
71. Respondent violated COMAR 26.13.03.03C and COMAR 26.13.03.04A(1) on numerous occasions from at least September 30, 2007 through June 9, 2011 by offering D001/F003/F005 hazardous waste spent aerosol cans to a transporter and to a treatment, storage or disposal facility that had not received EPA identification numbers and by failing to prepare for each such hazardous waste shipment the required approved manifest form.

**COUNT V**

**(Noncompliance with Personnel Training Recordkeeping Requirements)**

72. The allegations of Paragraphs 1 through 71 of this CA are incorporated herein by reference.
73. The provisions of COMAR 26.13.05.02.G(1) through (5) pertaining to the “Personnel Training” requirements applicable to owners and operators of hazardous waste treatment, storage and disposal facilities, are set forth, in relevant and applicable part, in paragraphs 39 through 43, above.

74. On May 25, 2011, and as previously alleged in paragraph 45, above, Respondent failed to maintain at the Facility training records on current Facility personnel having hazardous waste management responsibilities at the Facility (*i.e.*, training records for Plating Manager Rodney Stotler for calendar years 2008 and 2009 and for Vice President Gary Olson for calendar year 2010).
75. Respondent violated the personnel training recordkeeping requirements of COMAR 26.13.03.05.02G(4)(d), applicable to owners and operators of hazardous waste treatment, storage and disposal facilities, by failing, on May 25, 2011, to maintain at the Facility certain calendar year 2008, 2009 and 2010 training records on Facility personnel having hazardous waste management responsibilities at the Facility.

**COUNT VI**  
**(Noncompliance with Biennial Reporting Requirement)**

76. The allegations of Paragraphs 1 through 75 of this CA are incorporated herein by reference.
77. COMAR 26.13.03.06B(1) provides, in relevant and applicable part, that “[a] person who generates hazardous waste and ships it off-site to a facility within the United States shall: (a) Periodically, submit reports to the Secretary concerning hazardous waste generated during the preceding calendar year on EPA or State Form 8700-13A, or on an alternate form provided by the Secretary; (b) Submit the reports required by §B(1)(a) of this regulation with the following frequency: . . . (ii) Biennially, for periods beginning January 1, 1997; [and] (c) Submit the reports required by §B(1)(a) of this regulation not later than: . . . (ii) March 1 of each even numbered year for the preceding calendar year for the reporting periods beginning January 1, 1997 . . . .”
78. In its IRL Response, Respondent acknowledged that it had not submitted the required calendar year 2009 “Hazardous Waste Report (biennial)” for the Facility to the State of Maryland by the March 1, 2010 submission deadline.
79. Respondent violated COMAR 26.13.03.06B(1)(c)(ii) by failing to prepare and timely submit to the Secretary of the Maryland Department of the Environment a Biennial Report concerning the hazardous waste generated at the Facility in calendar year 2009.

**IV. CIVIL PENALTIES**

80. In settlement of the above-captioned action, Respondent agrees to pay a civil penalty in the amount of Eighty Thousand Dollars (\$80,000.00) plus interest and all applicable costs, penalties and handling charges in accordance with the provisions and the schedule set forth in Paragraphs 82 through 87, below.
81. The civil penalty settlement amount set forth in the paragraph immediately above was determined after consideration of the statutory factors set forth in Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to

the particular facts and circumstances of this case with specific reference to EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 ("RCRA Penalty Policy"), which reflect the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, the September 21, 2004 memorandum by Acting EPA Assistant Administrator Thomas V. Skinner, entitled *Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule* ("Skinner Memorandum") and the December 29, 2008 memorandum by EPA Assistant Administrator Granta Y. Nakayama, entitled *Amendments to EPA's Civil Penalty Policies to Implement the 2008 Civil Monetary Penalty Inflation Adjustment Rule (Effective January 12, 2009)* ("Nakayama Memorandum"). Pursuant to 40 C.F.R. Part 19, penalties for RCRA violations occurring after January 30, 1997 were increased by 10% to account for inflation, not to exceed a \$27,500.00 per violation statutory maximum penalty. Pursuant to 40 C.F.R. Part 19, and as further provided in the Skinner Memorandum, penalties for RCRA violations occurring after March 15, 2004 and up to January 12, 2009 have been increased by an additional 17.23% to account for subsequent inflation, not to exceed a \$32,500.00 per violation statutory maximum penalty. Pursuant to 73 Fed. Reg. 75340-46 (Dec. 11, 2008), and as further provided in the Nakayama Memorandum, penalties for RCRA violations occurring after January 12, 2009 have been increased by an additional 9.83% to account for subsequent inflation, not to exceed a \$37,500.00 per violation statutory maximum penalty.

82. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs 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.
83. In accordance with 40 C.F.R. § 13.11(a), interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of such 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).
84. The aforesaid Eighty Thousand Dollar (\$80,000.00) civil penalty is due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO; however, Respondent may pay such civil penalty amount, and an interest assessment of one percent (1%) per annum on the outstanding principal, in six (6) installment payments in the following amounts and according to the following schedule:

**1st Payment** - The deadline for the first payment, in the amount of **Twenty Thousand Dollars (\$20,000.00)**, is thirty (30) days after the CAFO is mailed or hand-delivered to the Respondent;

2nd Payment - The deadline for the second payment, in the amount of **Twelve Thousand Fifty One Dollars and Sixty-Seven Cents (\$12,051.67)** (which consists of \$12,000.00 in principal and \$51.67 in accrued interest), is sixty (60) days after the CAFO is mailed or hand-delivered to the Respondent;

3rd Payment - The deadline for the third payment, in the amount of **Twelve Thousand Forty Dollars and Two Cents (\$12,040.02)** (which consists of \$12,000.00 in principal and \$40.02 in accrued interest), is ninety (90) days after the CAFO is mailed or hand-delivered to the Respondent;

4th Payment - The deadline for the fourth payment, in the amount of **Twelve Thousand Thirty One Dollars and Three Cents (\$12,031.03)** (which consists of \$12,000.00 in principal and \$31.03 in accrued interest), is one hundred and twenty (120) days after the CAFO is mailed or hand-delivered to the Respondent;

5th Payment - The deadline for the fifth payment, in the amount of **Twelve Thousand Twenty Dollars and Three Cents (\$12,020.03)** (which consists of \$12,000.00 in principal and \$20.03 in accrued interest), is one hundred and fifty (150) days after the CAFO is mailed or hand-delivered to the Respondent; and

6th Payment - The deadline for the sixth payment, in the amount of **Twelve Thousand Ten Dollars and Thirty-Five Cents (\$12,010.35)** (which consists of \$12,000.00 in principal and \$10.35 in accrued interest), is one hundred and eighty (180) days after the CAFO is mailed or hand-delivered to the Respondent.

This results in the Respondent's *total payment of Eighty Thousand One Hundred Fifty-Three Dollars and Ten Cents (\$80,153.10)*, which consists of a civil penalty payment in the aforesaid amount of Eighty Thousand Dollars (\$80,000.00) and the payment of accrued interest in the amount of One Hundred Fifty-Three Dollars and Ten Cents (\$153.10).

85. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in Paragraph 84, immediately above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, 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 in Paragraphs 86 and 87, below, in the event of any such failure or default. A payment is deemed as having been made as of the date of receipt of such payment by Complainant.

86. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a 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 the penalty remains unpaid.
87. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of a 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 a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
88. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the schedule set forth in Paragraph 84, above, Respondent may pay the entire civil penalty of Eighty Thousand Dollars (\$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)(1), as described in Paragraph 83, above.
89. Respondent's civil penalty payments and all applicable late payment penalties and associated administrative handling charges and processing costs, as required by this Section IV ("Civil Penalties"), may be made by certified or cashier's check, or by EFT (electronic wire transfer), in the following manner:
- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, i.e., RCRA-03-2012-0231;
  - b. All checks shall be made payable to "**United States Treasury**";
  - c. All payments made by check and sent by regular mail shall be addressed to:  
  
U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000  
  
Customer service contact: 513-487-2105

- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery 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
- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:
- Cincinnati Finance  
US EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001
- f. All payments made by electronic wire transfer shall be directed to:
- Federal Reserve Bank of New York  
ABA = 021030004  
Account No. = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045
- Field Tag 4200 of the Fedwire message should read:  
**"D 68010727 Environmental Protection Agency"**
- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:
- US Treasury REX / Cashlink ACH Receiver  
ABA = 051036706  
Account No. 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking  
Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737
- Contact: 866-234-5681



h. On-Line Payment Option:

WWW.PAY.GOV/paygov/

Enter **sfo 1.1** in the search field. Open and complete the form.

i. Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

j. At the time of each payment, Respondent simultaneously shall send a notice of such payment, including a copy of the check or electronic fund transfer, as applicable, to:

A.J. D'Angelo  
Senior Assistant Regional Counsel  
U.S. EPA, Region III (3RC30)  
1650 Arch Street  
Philadelphia, PA 19103-2029

and

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

90. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty assessed in this CAFO.

#### **V. CERTIFICATIONS**

91. The individual who signs this CA on behalf of Respondent certifies to Complainant, to the best of his/her knowledge and belief, that Respondent and the Facility currently are in compliance with all relevant provisions of the authorized revised MdHWMR and of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, for which violations are alleged in this CA.

#### **VI. OTHER APPLICABLE LAWS**

92. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

**VII. RESERVATION OF RIGHTS**

93. This CAFO resolves only EPA's claims for civil penalties for the specific violations which are alleged in this CA. Nothing in this CAFO shall be construed as limiting the authority of EPA to undertake action against any person, including the Respondent, in response to any condition which 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.

**VIII. FULL AND FINAL SATISFACTION**

94. This settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g), for the violations alleged in this CA.

**IX. PARTIES BOUND**

95. This CA and the accompanying FO shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this CA on behalf of Respondent acknowledges that he or she is fully authorized to enter into this CA and to bind the Respondent to the terms and conditions of this CA and the accompanying FO.

**X. EFFECTIVE DATE**

96. The effective date of this CAFO is the date on which the FO is filed with the Regional Hearing Clerk after signature by the Regional Administrator or his designee, the Regional Judicial Officer.

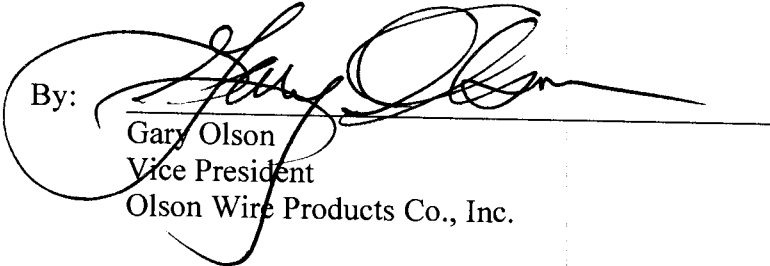
**XI. ENTIRE AGREEMENT**

97. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

For Respondent Olson Wire Products Co., Inc.:

Date: AUGUST 20, 2012

By:

  
\_\_\_\_\_  
Gary Olson  
Vice President  
Olson Wire Products Co., Inc.

For the Complainant:

U.S. Environmental Protection Agency, Region III

Date:

8/24/2012

By:



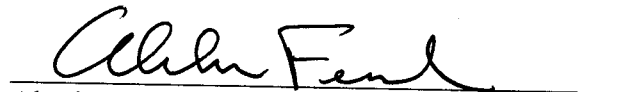
A.J. D'Angelo  
Sr. Assistant Regional Counsel

After reviewing the EPA Findings of Fact, Conclusions of Law and other pertinent matters, the Land and Chemicals Division of the United States Environmental Protection Agency, Region III, recommends that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date:

8/27/12

By:



Abraham Ferdas, Director  
Land and Chemicals Division



after having determined, based on the representations of the Parties set forth in the Consent Agreement, that the civil penalty of Eighty Thousand Dollars (\$80,000.00) agreed to therein was based upon a consideration of the factors set forth in RCRA Section 3008(a), 42 U.S.C. § 6928(a), IT IS HEREBY ORDERED that Respondent pay a civil monetary penalty of Eighty Thousand Dollars (\$80,000.00), in accordance with the provisions of the foregoing Consent Agreement, and comply timely with each of the additional terms and conditions thereof.

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.

8/30/12  
Date

Renée Sarajian

Renée Sarajian  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region III

