

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

In the Matter of: :

Electromet Corporation :  
879 Commonwealth Avenue :  
Hagerstown, MD 21740 :

Respondent, :

Electromet Corporation :  
879 Commonwealth Avenue :  
Hagerstown, MD 21740 :

Facility. :

CONSENT AGREEMENT  
AND FINAL ORDER

EPA Docket No. RCRA-03-2012-0322

Proceeding under Section 3008(a)  
of the Resource Conservation and  
Recovery Act, as amended, 42 U.S.C.  
Section 6928(a)

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

2012 SEP 27 PM 12:13

RECEIVED

**I. PRELIMINARY STATEMENT**

1. This Consent Agreement (“CA”) is entered into by the Director of the Land and Chemicals Division, United States Environmental Protection Agency, Region III (“Complainant” or “EPA”), and Electromet Corporation (“Electromet” or “Respondent”), pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. Pursuant to § 22.13(b) of the Consolidated Rules of Practice, this CA and the attached Final Order (“FO”), hereinafter jointly referred to as the “CAFO”) both commence and conclude the above-captioned administrative proceeding against Respondent, brought under Section 3008(a) and (g) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a) and (g), for alleged violations of RCRA at Respondent’s facility at 879 Commonwealth Drive, Hagerstown, Maryland 21740 (the “Facility”).
2. This Consent Agreement (“CA”) and the accompanying Final Order (“FO”) address alleged violations by Respondent of Subtitle C of RCRA and the State of Maryland Hazardous Waste Management Regulations (“MdHWMR”), set forth at the Code of Maryland Regulations (“COMAR”), Title 26, Subtitle 13 et seq. The MdHWMR were originally 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 authorized program are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

3. This CA is entered into by Complainant and Respondent to address the violations alleged in the Allegations of Fact and Conclusions of Law, as set forth below.
4. For the purposes of this proceeding only, Respondent admits the jurisdictional allegations of this CA.
5. For the purposes of this proceeding only, Respondent neither admits nor denies the Allegations of Fact contained in this CA, except as provided in Paragraph 4, above.
6. For the purposes of this proceeding only, Respondent neither admits nor denies the Conclusions of Law contained in this CA, except as provided in Paragraph 4, above.
7. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations herein or to appeal the FO attached hereto.
8. The settlement agreed to by the parties in this CA reflects the desire of the parties to resolve this matter without litigation.
9. Respondent consents to the issuance of this CA and to the attached FO and agrees to comply with their terms. Respondent agrees not to contest Complainant's jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement thereof.
10. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

#### **Notice to the State of Maryland**

11. EPA has given the State of Maryland, through the Maryland Department of the Environment, prior notice of the initiation of this action in accordance with Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

#### **II. ALLEGATIONS OF FACT AND CONCLUSIONS OF LAW**

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant alleges the following findings of fact and conclusions of law:

13. EPA's Office of Administrative Law Judges has jurisdiction over this matter pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), and the 40 C.F.R. § 22.1(a)(4) and .4(c).
14. Respondent is, and was at the time of the violations alleged herein, a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and as defined in COMAR 26.13.01.03B.
15. Respondent is, and was at the time of the violations alleged herein, the "operator" of a "facility" located at 879 Commonwealth Drive, Hagerstown, Maryland, as those terms are defined in 40 C.F.R. § 260.10, and COMAR 26.13.01.03B.
16. On June 8, 2011, representatives from EPA conducted a Compliance Evaluation Inspection ("CEI") at the Facility.
17. At the time of the CEI, and at all times relevant to the violations alleged in this CA, Respondent was a "generator" of and was engaged in the "storage" of materials described herein that are "solid wastes" and "hazardous wastes" in "containers" at the Facility, as those terms are defined in COMAR 26.13.01.03B, specifically hazardous paint waste (D001, D018, D035, F003, F005).

#### **COUNT I**

##### **(Failure to Qualify for Permit Exemption for the Storage of Hazardous Waste)**

18. The preceding paragraphs are incorporated by reference.
19. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and COMAR 26.13.07.01A, provide, with certain exceptions not relevant to the violations alleged herein, that a person may not operate a hazardous waste storage, treatment or disposal facility unless such person has first obtained a permit for the facility.
20. RCRA § 3005(e), 42 U.S.C. § 6925(e), provides, in pertinent part, that any person who owns or operates a facility required to have a permit under RCRA § 3005, which facility was in existence on November 19, 1980, or is in existence on the effective date of statutory or regulatory provisions that render the facility subject to the requirement to have a permit, has complied with the notification requirements of RCRA § 3010(a), 42 U.S.C. § 6930(a), and has applied for a permit under RCRA § 3005, shall be treated as having been issued such permit (*i.e.*, "interim status") until such time as final administrative disposition of such application is made.

21. Respondent's Facility has never had "interim status" pursuant to RCRA Section 3005(e) or COMAR 26.13.06 or a permit issued pursuant to RCRA Section 3005(a) or COMAR 26.13.07 for the treatment, storage, or disposal of hazardous waste.
22. Pursuant to COMAR 26.13.03.05E(1), generators of hazardous waste who accumulate hazardous waste on-site for less than 90 days are exempt from the requirement to obtain a permit for such accumulation, so long as the hazardous waste is stored in accordance with a number of conditions set forth in that section, including, *inter alia*:
  - a. Pursuant to COMAR 26.13.03.05E(1)(a), the generator may not accumulate the waste in containers for more than ninety days.
  - b. Pursuant to COMAR 26.13.03.05E(1)(f)(ii), the generator must properly label and mark each satellite container of hazardous waste with the words "hazardous waste."
  - c. Pursuant to COMAR 26.13.03.05E(1)(e), the date upon which each period of accumulation begins must be clearly marked and visible for inspection on each container of hazardous waste.
23. 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 without a permit and without complying with COMAR 26.13.03.05E(1) provided the generator: (a) Complies with COMAR 26.13.05.09B – D; and (b) Marks the containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.
24. Respondent was not eligible for an exemption under COMAR 26.13.03.05E with respect to the on-site storage of hazardous waste at the Facility because it did not meet the following conditions of that exemption:
  - a. On June 8, 2011, Respondent had stored hazardous waste on site with the waste codes D002 and D007 in containers in excess of 90 days, from May 17, 2010 to October 18, 2010, and from October 18, 2010 to March 14, 2011. By storing hazardous waste in containers at the Facility for greater than 90 days, Respondent failed to satisfy the exemption condition set forth in COMAR 26.13.03.05E(1)(a);
  - b. At the time of the EPA inspection, Respondent failed to mark or label satellite containers of D001, D018, and D035 hazardous waste with the words "Hazardous Waste", specifically two containers in the Paint Shop at the Facility being used for satellite accumulation, Respondent failed to satisfy the exemption condition set forth in COMAR 26.13.03.05E(3)(b) and COMAR 26.13.03.05E(1)(f)(ii);

- c. At the time of the EPA inspection, Respondent failed to move a full 55 - gallon satellite accumulation container to the Facility hazardous waste storage area and mark such container with an accumulation start date, specifically a container of F006 hazardous waste at the wastewater treatment system at the Facility, Respondent failed to satisfy the exemption condition set forth in COMAR 26.13.03.05E(3)(b) and COMAR 26.13.03.05E(1)(e).
25. As a result of Respondent's noncompliance with the "satellite accumulation" exemption of COMAR 26.13.03.05E(3) and the "less than 90 day" generator accumulation exemption of COMAR 26.13.03.05E(1), the Facility was, at all times relevant to the violations alleged in this CA, a hazardous waste treatment, storage or disposal "facility," as the term is defined by COMAR 26.13.01.03B, with respect to the activities and units described herein.
26. On June 8, 2011, Respondent failed to qualify for the "satellite accumulation" exemption of COMAR 26.13.03.05E(3) and "less than 90 day" generator accumulation exemption of COMAR 26.13.03.05E(1), by failing to satisfy the conditions for the exemption as set forth in COMAR 26.13.03.05E.
27. From May 17, 2010 to October 18, 2010 and from October 18, 2010 to March 14, 2011, Respondent stored hazardous waste at the Facility without a permit, interim status or valid exemption, in violation of COMAR 26.13.07.01A and Section 3005a of RCRA, 42 U.S.C. § 6925(a).

**COUNT II**  
**(Failure to Keep Containers Closed During Storage)**

28. The preceding paragraphs are incorporated by reference.
29. COMAR 26.13.05.09D provides that a container holding hazardous waste shall always be closed during storage, except when it is necessary to add or remove waste.
30. On June 8, 2011, Respondent was storing several containers of hazardous waste, namely, two containers of F006 waste in the wastewater treatment plant and four containers of D001 waste in the Paint Shop at the Facility that were not closed as required by COMAR 26.13.05.09D.
31. On June 8, 2011, Respondent violated COMAR 26.13.05.09D by failing to keep containers holding hazardous waste closed during storage, except when it is necessary to add or remove waste.

**COUNT III**  
**(Failure to Make Hazardous Waste Determinations)**

32. The preceding paragraphs are incorporated by reference.
33. COMAR 26.13.03.02 provides that a person that generates a waste must determine if such waste is hazardous using one of the methods set forth in COMAR 26.13.03.02.
34. As a generator of waste, Respondent was required by COMAR 26.13.03.02 to determine whether the waste it generated was hazardous.
35. On June 8, 2011, Respondent disposed of waste aerosol cans and waste fluorescent light bulbs generated at the Facility, which are "solid wastes," within the meaning of COMAR 26.13.03.02 and COMAR 26.13.01.03B, without first performing hazardous waste determinations on such waste.
36. Respondent violated COMAR 26.13.03.02 by disposing of waste aerosol cans and waste fluorescent light bulbs generated at the Facility without first determining whether such waste is hazardous using one of the methods set forth in COMAR 26.13.03.02.

**COUNT IV**  
**(Failure to Perform Weekly Inspections)**

37. The preceding paragraphs are incorporated by reference.
38. COMAR 26.13.05.09E provides that the owner or operator shall inspect areas where hazardous waste containers are stored, at least weekly, looking for leaks and for deterioration of containers and the containment system caused by corrosion or other factors.
39. From at least June 8, 2008 through June 8, 2011, Respondent failed to conduct weekly inspections of the hazardous waste storage area at the Facility.
40. From at least June 8, 2008 through June 8, 2011, Respondent violated COMAR 26.13.05.09E by failing to conduct weekly inspections of the hazardous waste storage area at the Facility.

**COUNT V**  
**(Failure to Develop and Maintain Records of Job Descriptions)**

41. The preceding paragraphs are incorporated by reference.
42. COMAR 26.13.05.02G(4)(a) – (c), require that the owner or operator of a hazardous waste facility keep records which document (1) the job title for each position at the

facility related to hazardous waste management, and the name of the employee filling each such job COMAR 26.13.05.02G(4)(a)); 2) a written job description for each position listed under COMAR 26.13.05.02G(4)(a) (COMAR 26.13.05.02G(4)(b)); and 3) a written description of the type and amount of introductory and continuing training that will be given to each person listed in COMAR 26.13.05.02G(4)(a) (COMAR 26.13.05.02G(4)(c)).

43. Respondent failed to maintain the documentation required by COMAR 26.13.05.02G(4)(a) – (c), specifically: 1) the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each such job; 2) a written job description for each position listed under COMAR 26.13.05.02G(4)(a); and 3) a written description of the type and amount of introductory and continuing training that will be given to each person listed in COMAR 26.13.05.02G(4)(a) for the calendar years 2008, 2009, 2010, and 2011.
44. Respondent violated COMAR 26.13.05.02G(4)(a) – (c) for calendar years 2008, 2009, 2010, and 2011 by failing to maintain the documentation required by COMAR 26.13.05.02G(4)(a) – (c).

#### **COUNT VI**

#### **(Failure to Provide Annual Review of the Initial Hazardous Waste Training Program)**

45. The preceding paragraphs are incorporated by reference.
46. COMAR 26.13.05.02G(3), requires that facility personnel must take part in an annual review of the initial training required by COMAR 26.13.05.02G(1) .
47. Respondent failed to provide Facility personnel an annual review of hazardous waste management training required by COMAR 26.13.05.02G(3) in calendar years 2008, 2009, 2010, and 2011 for employees responsible for managing hazardous waste at the Facility.
48. Respondent violated COMAR 26.13.05.02G(3) by failing to provide facility personnel whose positions required knowledge of hazardous waste management at the Facility with an annual review of hazardous waste management training required by COMAR 26.13.05.02G(3) for calendar years 2008, 2009, 2010, and 2011.

**COUNT VII**  
**(Failure to Have a Contingency Plan)**

49. The preceding paragraphs are incorporated by reference.
50. COMAR 26.13.05.04B(1) requires the owner or operator of a facility to have a Contingency Plan designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water.
51. From at least February 10, 2009 until June 8, 2011 Respondent did not have a Contingency Plan for the Facility as required by COMAR 26.13.05.04B(1).
52. From at least February 10, 2009 until June 8, 2011, Respondent violated COMAR 26.13.05.04B(1) by failing to have a Contingency Plan for the Facility.

**III. CIVIL PENALTY**

53. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this CAFO, Respondent consents to the assessment of a civil penalty in the amount of **\$95,000.00** which Respondent agrees to pay in accordance with the terms set forth below.
54. The Parties find and represent that the aforesaid settlement amount is reasonable and is based upon Complainant's consideration of a number of factors, including the penalty criteria set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), 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 Sections 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, and the November 16, 2009 Memorandum by EPA Office of Civil Enforcement, Waste and Chemical Enforcement Division Director Rosemarie A. Kelly, entitled *Adjusted Penalty Matrices based on the 2008 Civil Monetary Penalty Inflation Adjustment Rule*.
55. The civil penalty of **\$95,000.00** in Paragraph 53, above, may be paid in 30 days without interest or may be paid in five (5) installments with interest at the rate of one percent (1%) per annum on the outstanding principal balance in accordance with the following schedule:



- a. 1<sup>st</sup> Payment: The first payment in the amount of \$19,032.30 shall be paid 30 days after the Effective Date of the Final Order;
- b. 2<sup>nd</sup> Payment: The second payment in the amount of \$19,032.30 plus interest, consisting of a principal payment of \$18,966.88 and an interest payment of \$65.42 shall be paid 60 days after the Effective Date of the Final Order;
- c. 3<sup>rd</sup> Payment: The third payment in the amount of \$ 19,032.30 payment plus interest, consisting of a principal payment of \$18,984.80 and an interest payment of \$47.50 shall be 90 days after the Effective Date of the Final Order;
- d. 4<sup>th</sup> Payment: The fourth payment in the amount of \$19,032.30 plus interest, consisting of a principal payment of \$ 18,999.56 and an interest payment of \$32.74 shall be paid 120 days after the Effective Date of the Final Order;
- e. 5<sup>th</sup> Payment: The fifth payment and final payment in the amount of \$19,032.30 payment plus interest, consisting of a principal payment of \$19,016.46 and an interest payment of \$15.84, shall be 150 days after the Effective Date of the Final Order.

56. Pursuant to the above schedule, Respondent will remit total principal payments for the civil penalty in the amount of \$95,000.00 and total interest payments in the amount of \$161.50.

57. By the signature below, Respondent's representative certifies that the information submitted to EPA regarding any matter at issue in this proceeding, is accurate and not misleading. Respondent and its officers, directors and principals are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability. Complainant reserves the right to seek and obtain appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to Complainant regarding Respondent's claim of inability to pay, or regarding any of other matter herein at issue, are false or, in any material respect, inaccurate.

58. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CA/FO, fully executed by the parties, signed by the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest in connection with such civil penalty as described in this CA/FO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of this CA/FO is mailed or hand-delivered to Respondent.

59. Pursuant to 26 U.S.C. § 162(f), the civil penalty agreed to herein is not tax-deductible.
60. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors of the seriousness of the violations and good faith efforts of the Respondent to comply, as provided for in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3).
61. Payment of the civil penalty amount set forth in paragraph 53, above, shall be made by cashier's check, certified check, electronic wire transfer, or online via credit or debit card 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-03-2012-0232;
  - (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

Contact: Heather Russell 513-487-2063

- (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 with no U.S.A. branches shall be addressed to:

Cincinnati Finance  
USEPA, MS – NWD

26 West Martin Luther King Drive  
Cincinnati, Ohio 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 680107027 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 Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Contact: John Schmid 202-874-7026 or REX 1-866-234-5681

- (h) All on-line payments with a debit or credit card:

WWW.PAY.GOV/PAYGOV

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

62. Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/payment\\_instructions.htm](http://www.epa.gov/ocfo/finservices/payment_instructions.htm)

63. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

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

and

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

64. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CA/FO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
65. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a true and correct copy of this signed CA/FO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
66. 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.
67. If Respondent fails to pay the penalty amount in accordance with the schedule set forth in Paragraph 55, above, a late payment penalty of six percent (6%) per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). The late payment penalty on any portion of the civil penalty that remains delinquent for more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

#### **IV. COMPLIANCE TASKS**

68. Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent will perform the following compliance tasks in accordance with the time periods specified below, upon the effective date of the Final Order accompanying this Consent Agreement, except as otherwise expressly provided:
69. Respondent shall submit to EPA records demonstrating compliance with COMAR 26.13.05.02G(4)(a) – (c) within sixty (60) days of the effective date of this CAFO.
70. Respondent shall submit records to EPA demonstrating compliance with COMAR 26.13.05.02G(3), within sixty (60) days of the effective date of this CAFO.
71. Information or documents required to be submitted to EPA under this Compliance Order shall be sent to:

Kenneth Cox (3LC70)  
Office of Land Enforcement  
Land and Chemicals Division  
United States Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029;

and

Joyce A. Howell (3RC30)  
Sr. Assistant Regional Counsel  
United States Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029.

72. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this Compliance Order which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirements of this Compliance Order shall be certified by a responsible corporate officer of the Respondent. A responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

The certification of the responsible corporate officer required above shall be in the following form:

I certify that the information contained in or accompanying this [type of submission] is true, accurate and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure the qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**V. OTHER APPLICABLE LAWS**

73. Nothing in this CA/FO shall relieve Respondent of any duties or obligations otherwise imposed upon it by applicable Federal, State or local laws or regulations.

**VI. RESERVATION OF RIGHTS**

74. This CA/FO resolves only EPA's claims for civil penalties for the specific violations of RCRA Subtitle C which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, 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 § 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 CA/FO.

**VII. FULL AND FINAL SATISFACTION**

75. This settlement shall constitute full and final satisfaction of Complainant's claims for civil penalties for the specific violations set forth in the CA/FO.

**VIII. PARTIES BOUND**

76. This CA/FO shall apply to and be binding upon EPA, Respondent, and Respondent's officers, employees, agents, successors and assigns. By his/her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized to enter into this Agreement on behalf of Respondent and to bind Respondent to the terms and conditions of this CA/FO.

**IX. EFFECTIVE DATE**

77. The effective date of this CA/FO is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or his designee, is filed with the Regional Hearing Clerk.

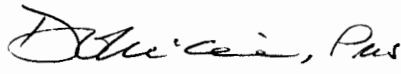
**X. ENTIRE AGREEMENT**

78. This CA/FO 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 CA/FO.

**For the Respondent:**

Electromet Corporation


Date: Sept 25, 2012

By:   
Name: David O. McCain  
Title: President

**For the Complainant:**

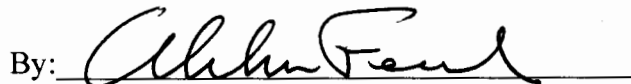
U.S. Environmental Protection Agency, Region III

Date: Sept. 25, 2012

By:   
Joyce A. Howell  
Sr. Assistant Regional Counsel

The Land and Chemicals Division, United States Environmental Protection Agency - Region III, recommends that the Regional Administrator of the U.S. EPA Region III or his designee, the Regional Judicial Officer, issue the accompanying Final Order.

Date: 9/25/12

By:   
Abraham Ferdas, Director  
Land and Chemicals Division



**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
 REGION III  
 1650 Arch Street  
 Philadelphia, PA 19103-2029**

In the Matter of: :

Electromet Corporation :  
 879 Commonwealth Avenue :  
 Hagerstown, MD 21740 :

Respondent, :

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 Hagerstown, MD 21740 :

Facility. :

EPA Docket No. RCRA-03-2012-024

Proceeding under Section 3008(a)  
 of the Resource Conservation and  
 Recovery Act, as amended, 42 U.S.C.  
 Section 6928(a)

2012 SEP 27 PM 12:13  
 REGIONAL HEARING CLERK  
 EPA REGION III, PHILA. PA

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**FINAL ORDER**

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Electromet Corporation, have executed a document entitled "Consent Agreement" which I ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are incorporated herein by reference.

NOW, THEREFORE, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a), and based upon the representations of the parties set forth in the Consent Agreement that the civil penalty amount agreed to by the parties in settlement of the above-captioned matter is based upon a consideration of the factors set forth in RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3), IT IS HEREBY ORDERED THAT Respondent shall pay a civil penalty in the amount of **\$95,000**, as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement, including but not limited to the performance of the Compliance Tasks.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order is filed with the Regional Hearing Clerk of U.S. EPA, Region III.

Date: 9/27/12

By: Renée Sarajian  
Renée Sarajian  
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 ARCH STREET  
PHILADELPHIA, PENNSYLVANIA 19103-2029

In the Matter of:

Electromet Corporation  
879 Commonwealth Avenue  
Hagerstown, MD 21740

Respondent,

Electromet Corporation  
879 Commonwealth Avenue  
Hagerstown, MD 21740

Facility.

EPA Docket No. RCRA-03-200233

Proceeding under Section 3008(a)  
of the Resource Conservation and  
Recovery Act, as amended, 42 U.S.C.  
Section 6928(a)

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

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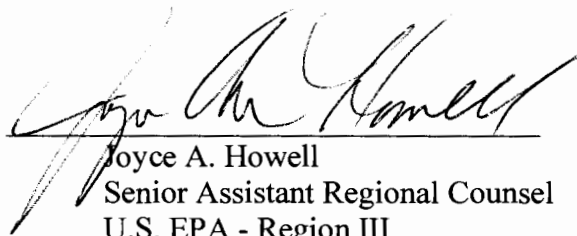
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**CERTIFICATE OF SERVICE**

I certify that I sent by UPS, next day delivery, a copy of the Consent Agreement and Final Order to the addressee listed below. The original and one copy of the Consent Agreement and Final Order, were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Mr. Thomas E. Lynch, III, Esq.  
Miles & Stockbridge  
30 West Patrick Street  
Suite 600  
Frederick, MD 21701-6903

Dated: 9/27/2012

  
Joyce A. Howell  
Senior Assistant Regional Counsel  
U.S. EPA - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029