

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

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SUBJECT: Transmittal Memorandum
Consent Agreement and Final Order
In the Matter of Fin -Tec, Inc.
Docket No. RCRA-03-2009-0033

FROM: William C. Early *W.C. Early*
Regional Counsel (3RC00)

Abraham Ferdas, Director *Abraham Ferdas*
Land and Chemicals Division (3LC30)

TO: Renee Sarajian
Regional Judicial Officer (3RC00)

The attached Consent Agreement and Final Order ("CAFO") have been negotiated pursuant to Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3).

The CAFO resolves violations of RCRA Subtitle C, the regulations promulgated thereunder at 40 C.F.R. Parts 260-266 and 268, and the authorized State of Maryland Hazardous Waste Management Regulations ("MdHWMR") set forth at the Code of Maryland Regulations ("COMAR"), Title 26, Subtitle 13 et seq., by Fin-Tec, Inc. ("Respondent") in connection with its management of hazardous waste at its facility located at 406 Naylor Street, Salisbury, Maryland (the "Facility"). Please refer to the CAFO for further details concerning the violations at the Facility.

Under the terms of the settlement, Respondent will pay a civil penalty in the amount of \$77,367.00. This settlement was determined after consideration of the statutory factors set forth in Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. § 6928(a)(3) and (g), with specific reference to EPA's October 1990 RCRA Civil Penalty Policy ("RCRA Penalty Policy").

We concur with the terms of the enclosed Consent Agreement and Final Order. Accordingly, we recommend that you sign the Final Order and return it to the Office of Regional Counsel for further processing.

cc: Louis F. Ramalho (3RC30)
Ed Griffith, President
Fin-Tec, Inc.

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

In the Matter of:

**Fin-Tec, Inc.
406 Naylor Street
Salisbury, Maryland 21804**

Respondent,

**406 Naylor Street
Salisbury, Maryland 21804**

Facility.

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**U.S. EPA Docket Number
RCRA-03-2009-0033**

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

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CONSENT AGREEMENT

This Consent Agreement is entered into by the Director, Land and Chemicals Division (formerly known as the Waste and Chemicals Management Division), U.S. Environmental Protection Agency, Region III ("EPA", "Agency" or "Complainant") and Fin-Tec, Inc. ("Fin-Tec" or "Respondent") pursuant to Section 3008(a) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act ("RCRA") of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments ("HSWA") of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

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. in connection with Respondent's facility located at 406 Naylor Street, Salisbury, Maryland 21804. 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).

GENERAL PROVISIONS

1. Pursuant to § 22.13(b) of the Consolidated Rules of Practice, this CA and the attached FO (hereinafter jointly referred to as this “CAFO”) simultaneously commence and conclude an administrative proceeding against Respondent, brought under Sections 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), to resolve alleged violations of RCRA at Respondent’s Facility.
2. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
3. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CA, except as provided in Paragraph 2, above.
4. For the purposes of this proceeding only, Respondent agrees not to contest EPA’s jurisdiction with respect to the execution and issuance of this CAFO, or the enforcement of the CAFO.
5. For 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.
6. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
7. Each party shall bear its own costs and attorney’s fees in connection with this proceeding.

Notice of Action to the State of Maryland

8. EPA has given the State of Maryland, through the Maryland Department of the Environment (“MDE”), prior notice of the initiation of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

II. Findings of Facts and Conclusions of Law

9. 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:
10. The United States Environmental Protection Agency’s Office of Administrative Law Judges has jurisdiction over this matter pursuant to RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g), and 40 C.F.R. § 22.1(a)(4) and .4(c).

11. Respondent, Fin-Tec, is a Maryland corporation and is a “person” as defined by RCRA Section 1004(15), 42 U.S.C. § 6903(15), and COMAR 26.13.01.03B.
12. Respondent is and has been, since April 4, 1995 through the period of the violations alleged herein, the “owner” and “operator” of a “facility” located at 406 Naylor Street, Salisbury, Maryland as these terms are defined by COMAR 26.13.01.03B. Such facility is hereinafter referred to as the “Facility”.
13. Respondent is and has been, since April 4, 1995 through the period of the violations alleged herein, a “generator” of, and has engaged in the “storage” of, materials that are “solid wastes” and “hazardous waste” at the Facility as those terms are defined by COMAR 26.13.01.03B.
14. Respondent is and, at all times relevant to the violations in this CAFO, has been a large quantity generator who generates hazardous waste in an amount greater than 1,000 kilograms per month as a result of its electroplating activities at the Facility.
15. On February 5, 2008, EPA representatives conducted a Compliance Evaluation Inspection (“CEI”) of the Facility.
16. On February 29, 2008, EPA sent Respondent a request for information letter pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), regarding generation and management of hazardous wastes observed during EPA’s February 5, 2008 CEI of the Facility.

COUNT I

(Operating a hazardous waste storage facility without a permit or interim status)

17. The allegations of Paragraphs 1 through 16 of the CAFO are incorporated herein by reference as though fully set forth at length.
18. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), COMAR 26.13.07.01A, provides, in pertinent part, 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.
19. COMAR 26.13.03.05E(1) provides, in pertinent part, that a generator may accumulate hazardous waste on-site without a permit or without holding interim status for 90 days or less, if:
 - (a) The waste is shipped off-site within 90 days to a permitted facility or placed in an on-site permitted facility;

- (b) The generator accumulates the waste in containers, tanks or certain drip pads;
- (c) Containers used to accumulate the waste meet the standards of COMAR 26.13.03.05A (Packaging);
- (d) The generator accumulates the waste in containers in accordance with COMAR 26.13.05.09;
- (e) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
- (f) Each container is (i) properly labeled and marked according to COMAR 26.13.03.05.B and C ("Labeling and Marking"), and (ii) labeled or marked clearly with the words "Hazardous Waste", while being accumulated on-site; and
- (g) The generator complies with the requirements for owners and operators in COMAR 26.13.05.02G, .03, and .04 ("Personnel Training", "Preparedness and Prevention", and "Contingency Plan and Emergency Procedures", respectively).

- 20. COMAR 26.13.05.09(D), referenced in Paragraph 19(d), above, provides that a container holding hazardous waste shall always be closed during storage, except when it is necessary to add or remove waste.
- 21. COMAR 26.13.05.09(E), referenced in Paragraph 19(d), above, provides, in pertinent part, that the owner or operator shall inspect areas where containers of hazardous waste are stored, at least weekly, looking for leaks and for deterioration of containers.
- 22. COMAR 26.13.05.02G(1)(a), referenced in Paragraph 19(g), above, requires that facility personnel successfully complete a program of classroom training 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 COMAR 26.13.05.
- 23. COMAR 26.13.05.02G(2), referenced in Paragraph 19(g), above, requires, in pertinent part, that facility personnel successfully complete the training program in Paragraph 22, above, within six (6) months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later.
- 24. COMAR 26.13.05.02G(3), referenced in Paragraph 19(g), above, requires that facility personnel take part in an annual review of the initial training referred to in Paragraph 22, above.

25. COMAR 26.13.05.02G(4), referenced in Paragraph 19(g), above, requires the owner or operator of a facility to maintain the following records at the facility:
 1. The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;
 2. A written job descriptions for each position at the facility related to hazardous waste management;
 3. A written description of the type and amount of both introductory and continuing training given to each employee in a position related to hazardous waste management; and
 4. Records that document that the training or job experience required under COMAR 26.13.05.02G(1), (2), and (3) has been given to and completed by facility personnel.
26. COMAR 26.13.05.03B, referenced in Paragraph 19(g), above, provides that facilities shall be designed, constructed, maintained, and operated to minimize the possibility of a fire, explosion, or any other unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.
27. COMAR 26.13.05.04B.(1) referenced in Paragraph 19(g), above, provides that every owner shall have a contingency plan for his facility. The contingency plan shall be 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.
28. COMAR 26.13.05.04C.(3) provides that the plan shall describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services pursuant to COMAR 26.13.05.03H.
29. COMAR 26.13.05.04(C)(4), referenced in Paragraph 19(g), above, provides, in pertinent part, that the contingency plan shall list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinators, and this list shall be kept up to date.
30. COMAR 26.13.05.04(C)(5), referenced in Paragraph 19(g), above, provides, in pertinent part, that the contingency plan shall include a list of all emergency equipment at the facility, including, among other things, the location and a physical description of each

item on the list, and a brief outline of the emergency equipment capabilities.

31. COMAR 26.13.05.04(C)(6), referenced in Paragraph 19(g), above, provides, in pertinent part, that the contingency plan shall include an evacuation plan for facility personnel.
32. During the February 5, 2008 CEI, hazardous wastes were in storage at the Facility in containers that were not marked with an accumulation start date or labeled with the words "Hazardous Waste" in accordance with COMAR 26.13.03.05E(1)(e) and (f), respectively, as follows:
 - (A) Two (2) 55-gallon drums of spent tin/lead plating solution (EPA Hazardous Waste Codes D002 and D008) labeled "SnPb" with a health and safety label;
 - (B) One (1) 55-gallon drum of spent phosphoric brite dip used to remove oxides from parts before plating (EPA Hazardous Waste Code D002) labeled "spent phosphoric brite dip" with a health and safety label. This drum was open even though it was not necessary to add or remove waste;
 - (C) One (1) 55-gallon drum of spent copper brite dip used to remove oxides from the parts before plating (EPA Hazardous Waste Code D002) labeled "spent Cu Brite Dip" with a health and safety label;
 - (D) Seven (7) 55-gallon drums of spent isopropyl alcohol used to displace water from parts prior to plating (EPA Hazardous Waste Code D001) labeled "isopropyl alcohol" and "flammable". One of these drums was open even though it was not necessary to add or remove waste;
 - (E) Two (2) 55-gallon drums of spent Bromothane R Specialty Cleaning Solvent used as a parts degreaser (EPA Hazardous Waste Code D001) labeled "used N-propyl bromide" with a health and safety label. One of the 55-gal drums of spent Bromothane R Specialty Cleaning Solvent was generated by Respondent on August 3, 2007. Both drums were open even though it was not necessary to add or remove waste;
 - (F) One (1) 55-gallon drum of spent copper cyanide plating bath (EPA Hazardous Waste Code F007) labeled "copper cn" with a health and safety label;
 - (G) One (1) metal hopper of waste water treatment sludge (EPA Hazardous Waste Code F006). This drum was open even though it was not necessary to add or remove waste; and

- (H) Three (3) supersacks of waste water treatment sludge (EPA Hazardous Waste Code F006).
33. From November 2, 2007 until February 6, 2008, one (1) of the 55-gal drums of spent Bromothane R Specialty Cleaning Solvent described in Paragraph 32(E), above, was in storage for greater than 90 days at the Facility.
34. The contents of the containers described in Paragraph 32(A) through (H), above, are and were, at all times relevant to the violations alleged herein, "solid wastes" and "hazardous wastes" as defined at COMAR 26.13.01.03B.
35. Respondent's containers as described in Paragraph 32(A) through (H), above, are and were, at all times relevant to the violations alleged herein, "containers" of "hazardous waste" in "storage" at the Facility within the meaning of COMAR 26.13.01.03B.
36. From June 1, 2004 until February 6, 2008, Respondent failed to inspect areas where containers of hazardous waste are stored, at least weekly, looking for leaks and for deterioration of containers as required by COMAR 26.13.05.09(E).
37. Respondent was required by COMAR 10.51.05.02G(1), (2), and (3) and/or COMAR 26.13.05.02G(1), (2), and (3) to provide and to ensure that the Facility's personnel completed introductory and continuing training.
38. During the February 5, 2008 CEI, Respondent did not have at the Facility records of the job titles and written job descriptions for each position at the Facility related to hazardous waste management, the name of the employee filing each position, a written description of the type and amount of both introductory and continuing training given to each employee in a position related to hazardous waste management, and documentation that the training or job experience required under COMAR 26.13.05.02G(1), (2), and (3) had been given to and completed by facility personnel as required by COMAR 26.13.05.02G(4).
39. From January 1, 2004 through February 5, 2008, Respondent failed to provide both introductory and continuing training to each employee in a position related to hazardous waste management at the Facility as required under COMAR 26.13.05.02G(1), (2), and (3).
40. During the February 5, 2008 CEI, a pile of Respondent's waste water treatment sludge (EPA Hazardous Waste Code F006) was located on the concrete floor under Respondent's filter press located at the Facility.
41. During the February 5, 2008 CEI, Respondent's Contingency Plan was missing: (1) a description of the arrangements agreed to by local police departments, fire departments,

hospitals, contractors, and state and local emergency response teams to coordinate emergency services; (2) the names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator; (3) a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), etc.), including the location and a physical description of each item on the list, and a brief outline of its capabilities; and (4) an evacuation plan for Facility personnel as required by COMAR 26.13.05.04(C)(3) - (6).

42. Respondent has never had a permit or interim status pursuant to COMAR 26.13.07, Section 3005 of RCRA, 42 U.S.C. § 6925, or 40 C.F.R. § 270.1(b) for the storage of hazardous waste at the Facility as described in Paragraphs 32 and 35, above.
43. Respondent failed to qualify for the “less than 90 day” generator accumulation exemption of COMAR 26.13.03.05E for the Facility by failing to satisfy the conditions for those exemptions as set forth in COMAR 26.13.03.05E(1)(a), (d), (e), (f) and (g) as described in Paragraphs 19 through 42, above.
44. Respondent violated COMAR 26.13.07.01A. and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by operating a hazardous waste storage facility without a permit or interim status.

COUNT II

(Improper Management of Universal Waste)

45. The allegations of Paragraphs 1 through 44 of the CAFO are incorporated herein by reference as though fully set forth at length.
46. COMAR 26.13.10.18, provides, in pertinent part, that “[a] small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than: (a) another universal waste handler; (b) a destination facility; or (c) a destination outside of the United States.
47. Respondent is and, at all times relevant to the violations alleged herein, was a “small quantity handler of universal waste”, in particular, “lamps”, a type of “universal waste”, as those terms are defined in COMAR 26.13.01.03B.
48. From June 1, 2004 through February 5, 2008, Respondent sent or took its lamps for disposal to a party that was not a “universal waste handler”, a “destination facility”, or a “destination outside of the United States” as required by COMAR 26.13.10.18.

49. Respondent violated COMAR 26.13.10.18 by sending or taking its universal waste lamps to a party other than a “universal waste handler”, a “destination facility”, or a “destination outside of the United States”.

COUNT III

(Failure to keep containers closed during storage)

50. The allegations of Paragraphs 1 through 49 of the CAFO are incorporated herein by reference as though fully set forth at length.
51. Based on the activities described in Paragraphs 32(B), (D), (E), and (G) of this CAFO, above, Respondent violated COMAR 26.13.05.09(D) by failing to keep containers of hazardous waste closed during storage at the Facility even though it was not necessary to add or remove waste from such containers.

COUNT IV

(Failure to perform weekly inspections)

52. The allegations of Paragraphs 1 through 51 of the CAFO are incorporated herein by reference as though fully set forth at length.
53. Based on the activities described in Paragraph 36, of this CAFO, above, from June 1, 2004 until February 6, 2008, Respondent violated COMAR 26.13.05.09(E) by failing to inspect areas where containers of hazardous waste are stored, at least weekly, looking for leaks and for deterioration of containers.

COUNT V

(Failure to provide training)

54. The allegations of Paragraphs 1 through 53 of the CAFO are incorporated herein by reference as though fully set forth at length.
55. Based on the activities and omissions alleged in Paragraphs 38 and 39 of this CAFO, from January 1, 2004 through February 5, 2008, Respondent failed to provide and to ensure that the Facility’s personnel completed introductory and continuing training, and Respondent failed to document the job titles, written job descriptions for each position at the Facility related to hazardous waste management, and the name of the employee filing each position as required by COMAR 26.13.05.02G(1), (2), and (3).

COUNT VI

(Failure to maintain facility)

56. The allegations of Paragraphs 1 through 55 of the CAFO are incorporated herein by reference as though fully set forth at length.
57. Based on the activities described in Paragraph 40, of this CAFO, above, Respondent violated COMAR 26.13.05.03B, by failing to maintain and operate the Facility to minimize the possibility of a fire, explosion, or any other unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

COUNT VII

(Failure to prepare a contingency plan)

58. The allegations of Paragraphs 1 through 57 of the CAFO are incorporated herein by reference as though fully set forth at length.
59. Based on the activities or omissions described in Paragraph 41 of this CAFO, above, Respondent violated COMAR 26.13.05.04(C) by failing to prepare a contingency plan that included: (1) a description of the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services; (2) a list of the names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator; (3) a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), etc.), including the location and a physical description of each item on the list, and a brief outline of its capabilities; and (4) an evacuation plan for Facility personnel as required by COMAR 26.13.05.04(C)(3)-(6).

COUNT VIII

(Unlawful storage of land disposal restricted wastes)

60. The allegations of Paragraphs 1 through 59 of the CAFO are incorporated herein by reference as though fully set forth at length.
61. 40 C.F.R. § 268.50(a) provides, with certain exception not relevant to this matter, that storage of hazardous waste restricted from land disposal under 40 C.F.R. Part 268, Subpart C or RCRA section 3004 is prohibited, unless the following conditions, inter alia, are met:

- (1) A generator stores such wastes in tanks, containers, or containment buildings solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements in 40 C.F.R. § 262.34 and 40 C.F.R. Parts 264 and 265.
- (2) An owner/operator of a hazardous waste treatment, storage, or disposal facility stores such wastes in tanks, containers, or containment buildings solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and each container is clearly marked to identify its contents and the date each period of accumulation begins.

62. The hazardous wastes referred to in Paragraph 32(A) through (H), above, are “land disposal restricted wastes” within the meaning of 40 C.F.R. §§ 268.34 and 268.40.

63. Respondent failed to mark the date on which each period of land disposal restricted hazardous waste accumulation began in containers at the Facility as described in Paragraph 32(A) through (H), above, as required by 40 C.F.R. § 268.50(a)(2).

64. 40 C.F.R. § 262.34, as referenced in 40 C.F.R. § 268.50(a)(1), provides, in pertinent part, that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or interim status, provided that:

(1) The waste is placed in containers and the generator complies with the applicable requirements of Subparts I, AA, BB, and CC of 40 C.F.R. Part 265;

(2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(3) While being accumulated on-site, each container and tank is labeled or marked with the words “Hazardous Waste”; and

(4) The generator complies with the requirements for owners or operators in Subparts C and D in 40 C.F.R. Part 265, with § 265.16 (“Personnel Training”), and with 40 C.F.R. § 268.7(a)(5).

65. 40 C.F.R. Subpart I, § 265.173 provides that a container holding hazardous waste must always be kept closed during storage, except when it is necessary to add or remove waste.

66. 40 C.F.R. Subpart I, § 265.174, above, provides, in pertinent part, that the owner or operator shall inspect areas where containers of hazardous waste are stored, at least weekly, looking for leaks and for deterioration of containers.

67. 40 C.F.R. § 265.16(a)(1) provides that facility personnel must successfully complete a program of classroom training 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 40 C.F.R. § 265.16.
68. 40 C.F.R. § 265.16(b) requires, in pertinent part, that facility personnel successfully complete the training program described in 40 C.F.R. § 265.16(a) within six (6) months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later.
69. 40 C.F.R. § 265.16(c) require that facility personnel take part in an annual review of the initial training as required by 40 C.F.R. § 265.16(a) and (b).
70. 40 C.F.R. § 265.16(d) requires the owner or operator of a facility to maintain the following records at the facility:
 1. The job title for each position at the facility related to hazardous waste management, and the name of the employee filing each job;
 2. A written job description for each position at the facility related to hazardous waste management;
 3. A written description of the type and amount of both introductory and continuing training given to each employee in a position related to hazardous waste management; and
 4. Records that document that the training or job experience required under 40 C.F.R. § 265.16 (a), (b), and (c) has been given to and completed by facility personnel.
71. 40 C.F.R. § 265.16(e) provides that the training records on current personnel must be kept until closure of the facility, and training records on former employees must be kept for at least three years from the date the employee last worked at the facility.
72. 40 C.F.R. § 265.31 provides that facilities shall be designed, constructed, maintained, and operated to minimize the possibility of a fire, explosion, or any other unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

73. 40 C.F.R. § 265.51(a) provides that every owner shall have a contingency plan for his facility. The contingency plan shall be 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.
74. 40 C.F.R. § 265.52(c) provides that the plan shall describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services pursuant to 40 C.F.R. § 265.37.
75. 40 C.F.R. § 265.52(d) provides, in pertinent part, the contingency plan shall list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinators, and this list shall be kept up to date.
76. 40 C.F.R. § 265.52(e), provides, in pertinent part, that the contingency plan shall include a list of all emergency equipment at the facility, including, among other things, the location and a physical description of each item on the list, and a brief outline of the emergency equipment capabilities.
77. Respondent stored land disposal restricted waste in containers at the Facility as described in Paragraph 32(A) through (H), above, without complying with the requirements of 40 C.F.R. §§ 262.34, 265.16, 265.52(c), 265.52(d), 265.52(e), 265.31, and 265.173, as required by 40 C.F.R. § 268.50(a)(1) and/or (2). In addition, Respondent stored land disposal restricted waste at the Facility as described in Paragraph 40, above, without complying with the requirements of 40 C.F.R. § 265.31, as required by 40 C.F.R. § 268.50(a)(1) and/or (2).
78. The land disposal restricted wastes stored in containers and at the Facility as described in Paragraph 77, above, did not meet applicable treatment standards or prohibition levels, as described in 40 C.F.R. § 268.50(e), and were not otherwise exempt or excluded from regulation under 40 C.F.R. § 268.50.
79. Respondent violated 40 C.F.R. § 268.50(a)(1) and/or (2) by storing hazardous waste restricted from land disposal in containers without meeting the conditions for such storage set forth therein.

III. COMPLIANCE ORDER

Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to:

80. Immediately upon the effective date of this Compliance Order, cease storing hazardous waste at the Facility, except in accordance with a permit or interim status obtained pursuant to RCRA Section 3005, 42 U.S.C. § 6925, and COMAR 26.13.07 or in accordance with the generator accumulation requirements of COMAR 26.13.03.05.E. or other applicable exemption from permitting requirements under RCRA, EPA's regulations thereunder, or COMAR, as applicable.
81. Immediately upon the effective date of this Compliance Order, dispose of all universal waste generated at the Facility in accordance with COMAR 26.13.10.18.
82. Immediately upon the effective date of this Compliance Order, keep all containers of hazardous waste closed during storage at the Facility in accordance with COMAR 26.13.05.09(D).
83. Immediately upon the effective date of this Compliance Order, inspect areas where containers of hazardous waste are stored at the Facility, at least weekly, looking for leaks and for deterioration of containers in accordance with COMAR 26.13.05.09E.
84. Immediately upon the effective date of this Compliance Order, provide Facility personnel initial and continuing hazardous waste management training as required by COMAR 26.13.05.02G(1), (2), and (3).
85. Immediately upon the effective date of this Compliance Order, maintain at the Facility documented job titles, including a written description of the type and amount of both introductory and continuing training given to each employee in a position related to hazardous waste management, written job descriptions for each position at the Facility related to hazardous waste management, the name of the employee filling each position, and document that the training or job experience required under COMAR 26.13.05.02G(1), (2), and (3) has been given to and completed by facility personnel as required by COMAR 26.13.05.02G.(4).
86. Immediately upon the effective date of this Compliance Order, prepare a Contingency Plan for the Facility in accordance with COMAR 26.13.05.04C.(3)-(6).
87. Immediately upon the effective date of this Compliance Order, maintain and operate the Facility to minimize the possibility of a fire, explosion, or any other unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment in accordance with COMAR 26.13.05.03B.

88. Immediately upon the effective date of this Compliance Order, cease storing hazardous waste restricted from land disposal in containers without meeting the conditions for such storage as set forth in 40 C.F.R. § 268.50(a).
89. Within thirty (30) days after the effective date of this Compliance Order, submit to EPA a written statement, accompanied by a certification in the form set forth in Paragraph 91, below, by a responsible corporate officer, certifying whether or not the requirements of this Compliance Order have been completed by Respondent.
90. Information or documents required to be submitted to EPA under this Compliance Order shall be sent to:

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

and

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

91. 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: _____

One copy of all documents submitted to EPA shall also be sent by regular mail to the attention of:

Rick Johnson
Chief, Hazardous Waste Compliance/Enforcement
Hazardous Waste Enforcement Division
Waste Management Administration
Maryland Department of the Environment
Montgomery Park Business Center
1800 Washington Boulevard
Baltimore, MD 21230-1701

CIVIL PENALTY

92. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty of Seventy-Seven Thousand Three Hundred Sixty-Seven Dollars (\$77,367.00), which Respondent agrees to pay in accordance with the terms set forth below.
93. The civil penalty of Seventy-Seven Thousand Three Hundred Sixty-Seven Dollars (\$77,367.00) set forth in Paragraph 92, above, shall be paid in nine (9) installments with interest at the rate of three percent (3%) per annum on the outstanding principal balance in accordance with the following schedule:

- a. 1st Payment: The first payment in the amount of Eight Thousand Five Hundred Ninety Six Dollars and Thirty-Three Cents (\$8,596.33), consisting of a principal payment of \$8,596.33 and an interest payment of \$0.00, shall be paid within thirty (30) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- b. 2nd Payment: The second payment in the amount of Eight Thousand Nine Hundred Thirty Five Dollars and Forty-Seven Cents (\$8,935.47), consisting of a principal payment of \$8,596.33 and an interest payment of \$339.14, shall be paid within sixty (60) days on which this CAFO is mailed or hand-delivered to Respondent;
- c. 3rd Payment: The third payment in the amount of Eight Thousand Seven Hundred Forty Four Dollars and Seventy-One Cents (\$8,744.71), consisting of a principal payment of \$8,596.33 and an interest payment of \$148.38, shall be paid within ninety (90) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- d. 4th Payment: The fourth payment in the amount of Eight Thousand Seven Hundred Twenty Three Dollars and Fifty-One Cents (\$8,723.51), consisting of a principal payment of \$8,596.33 and an interest payment of \$127.18, shall be paid within one hundred and twenty (120) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- e. 5th Payment: The fifth payment in the amount of Eight Thousand Seven Hundred Two Dollars and Thirty-One Cents (\$8,702.31), consisting of a principal payment of \$8,596.33 and an interest payment of \$105.98, shall be paid within one hundred and fifty (150) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- f. 6th Payment: The sixth payment in the amount of Eight Thousand Six Hundred Eighty One Dollars and Twelve Cents (\$8,681.12), consisting of a principal payment of \$8,596.33 and an interest payment of \$84.79, shall be paid within one hundred and eighty (180) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- g. 7th Payment: The seventh payment in the amount of Eight Thousand Six Hundred Fifty Nine Dollars and Ninety-Two Cents (\$8,659.92),

consisting of a principal payment of \$8,596.33 and an interest payment of \$63.59, shall be paid within two hundred and ten (210) days of the date on which this CAFO is mailed or hand-delivered to Respondent;

- h. 8th Payment The eighth payment in the amount of Eight Thousand Six Hundred Thirty Eight Dollars and Seventy-Two Cents (\$8,638.72), consisting of a principal payment of \$8,596.33 and an interest payment of \$42.39, shall be paid within two hundred and forty

(240) days of the date on which this CAFO is mailed or hand-delivered to Respondent; and

- i. 9th Payment The ninth payment in the amount of Eight Thousand Six Hundred Seventeen Dollars and Fifty-Six Cents (\$8,617.56), consisting of a principal payment of \$8,596.36 and an interest payment of \$21.20, shall be paid within two hundred and seventy (270) days of the date on which this CAFO is mailed or hand-delivered to Respondent.

94. Pursuant to the above schedule, Respondent will remit total principal payments for the civil penalty in the amount of Seventy-Seven Thousand Three Hundred Sixty-Seven Dollars (\$77,367.00) and total interest payments in the amount of Nine Hundred Thirty Two and Sixty-Five Cents (\$932.65).
95. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in paragraph 93, 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 below in the event of any such failure or default.
96. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth in Paragraph 93, above, Respondent may pay the entire civil penalty of Seventy-Seven Thousand Three Hundred Sixty-Seven Dollars (\$77,367.00) 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) as calculated in Paragraph 93, above, and as described in Paragraph 101. In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.

97. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors set forth in RCRA § 3008(a)(3) and (g), 42 U.S.C. § 6928(a)(3) and (g), and EPA's *RCRA Civil Penalty Policy* (June 2003) ("*Penalty Policy*").
98. Respondent shall remit each installment payment for the civil penalty and interest, pursuant to Paragraph 93, above, and/or the full penalty pursuant to Paragraph 96, above, and/or any administrative fees and late payment penalties, in accordance with Paragraphs 100 through 103, below, by electronic funds transfer ("EFT"), as described below, or by sending a corporate check or certified check, made payable to the order of "United States Treasury."

- A. Checks sent by regular US Postal Service mail delivery must be sent to:

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

Contact numbers = Craig Steffen (513-487-2091) or Eric Volck (513-487-2105).

- B. The following address can be used for common carriers such as FedEx, Airborne, DHL, and UPS:

U.S. Bank
Government Lockbox 979077
US EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
314-418-4087

- C. Checks drawn on foreign banks with no USA branches no matter what the currency should be sent directly to:

Cincinnati Finance
US EPA, MS-NWD
26 W. ML King Drive
Cincinnati, OH 45268-0001

D. Any EFT shall be transmitted to:

Wire Transfer

Federal Reserve Bank of New York
ABA = 021030004
Environmental Protection Agency
Account Number: 6810727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

ACH

(also known as REX or remittance express)

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
ABA: 051036706
Account Number: 310006
CTX Format Transaction Code 22 - checking
Environmental Protection Agency
808 17th Street NW
Washington, D.C. 20074

E. There is now an On Line Payment Option, available through the Department of Treasury. This payment option can be accessed from the information below:

WWW.PAY.GOV

Enter sfo 1.1 in the search field.

Open the form and complete required fields.

F. All payments by Respondent shall reference its name and address and the Docket Numbers of this case (RCRA-03-2009-0033).

99. At the time of payment, Respondent shall send a notice of such payment to:

Louis F. Ramalho
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency

Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

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

100. 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.
101. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the 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).
102. 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.
103. A late payment penalty of six percent 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).
104. 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 Respondent's violations and any good faith efforts by Respondent to comply with all applicable requirements as provided in RCRA § 3008(a)(3) and (g), 42 U.S.C.

§ 6928(a)(3) and (g), which requires EPA to take into account the seriousness of the violation and any good faith efforts by Respondent to comply with the applicable requirements, and EPA's *RCRA Civil Penalty Policy* (June 2003) ("*Penalty Policy*").

105. Respondent shall not deduct for civil taxation purposes the civil penalty specified in this CAFO.

FULL AND FINAL SATISFACTION

106. This CAFO constitutes a settlement by EPA of its claims for civil penalties pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. §6928(a) and (g), for the violations alleged in this CAFO.

RESERVATION OF RIGHTS

107. EPA reserves the right to commence action against any person, including 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.

OTHER APPLICABLE LAWS

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

AUTHORITY TO BIND THE PARTIES

109. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and bind Respondent hereto. By his/her signature hereto, Respondent certifies that he/she is fully authorized to enter into the terms and conditions set forth in this CA and to bind the Respondent hereto.

ENTIRE AGREEMENT

110. This Consent Agreement and the attached Final Order constitute 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 Consent Agreement and the attached Final Order.

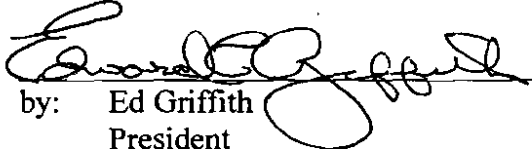
EFFECTIVE DATE

111. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

For Respondent:

Fin-Tec, Inc.

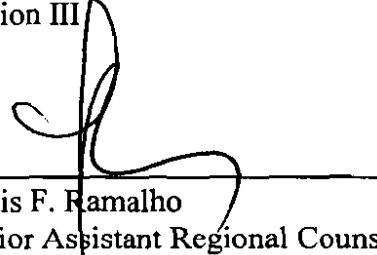
12/11/2008
Date


by: Ed Griffith
President

For Complainant:


U.S. Environmental Protection Agency,
Region III

12/16/09
Date


Louis F. Ramalho
Senior Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

12/17/08
Date

By: 
Abraham Ferdas, Director,
Land and Chemicals Division
EPA Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

In the Matter of:

:

:

**Fin-Tec, Inc.
406 Naylor Street
Salisbury, Maryland 21804**

:

**U.S. EPA Docket Number
RCRA-03-2009-0033**

:

Respondent,

:

**406 Naylor Street
Salisbury, Maryland 21804**

:

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

:

Facility.

:

FINAL ORDER

9000 DTC 29 PM 4:07

RECEIVED

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


NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the *Consolidated Rules of Practice* and Section 3008(a) and (g) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a) and (g) ("RCRA"), and having determined, based on the representations of the

parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section § 3008(a)(3) and (g), 42 U.S.C.

§ 6928(a)(3) and (g), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of Seventy-Seven Thousand Three Hundred Sixty-Seven Dollars (\$77,367.00), and comply with each of the additional terms and conditions as specified in the attached Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date: 12/29/08

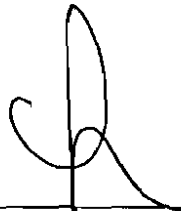

Renée Sarajian
Regional Judicial Officer
U.S. EPA, Region III

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date listed below, the original of the foregoing Complainant's Initial Pre-hearing Exchange, Docket No. RCRA-03-2009-0033 was filed with the Regional Hearing Clerk, U.S. EPA - Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and that a true and correct copy was sent to the following parties:

Mr. Ed Griffith
Finishing Technologies, Inc.
406 Naylor Street
Salisbury, MD 21804

12/29/08
Date



Louis F. Ramalho
Sr. Assistant Regional Counsel
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

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