

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
2016 MAR 11 10:05 AM
EPA REGION 6 OFFICE
DALLAS, TEXAS

IN THE MATTER OF:

LoneStar Fasteners

Spring, Texas

RESPONDENT

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Consent Agreement and Final Order
Docket No. RCRA-06-2016-0910

CONSENT AGREEMENT AND FINAL ORDER

I. PRELIMINARY STATEMENT

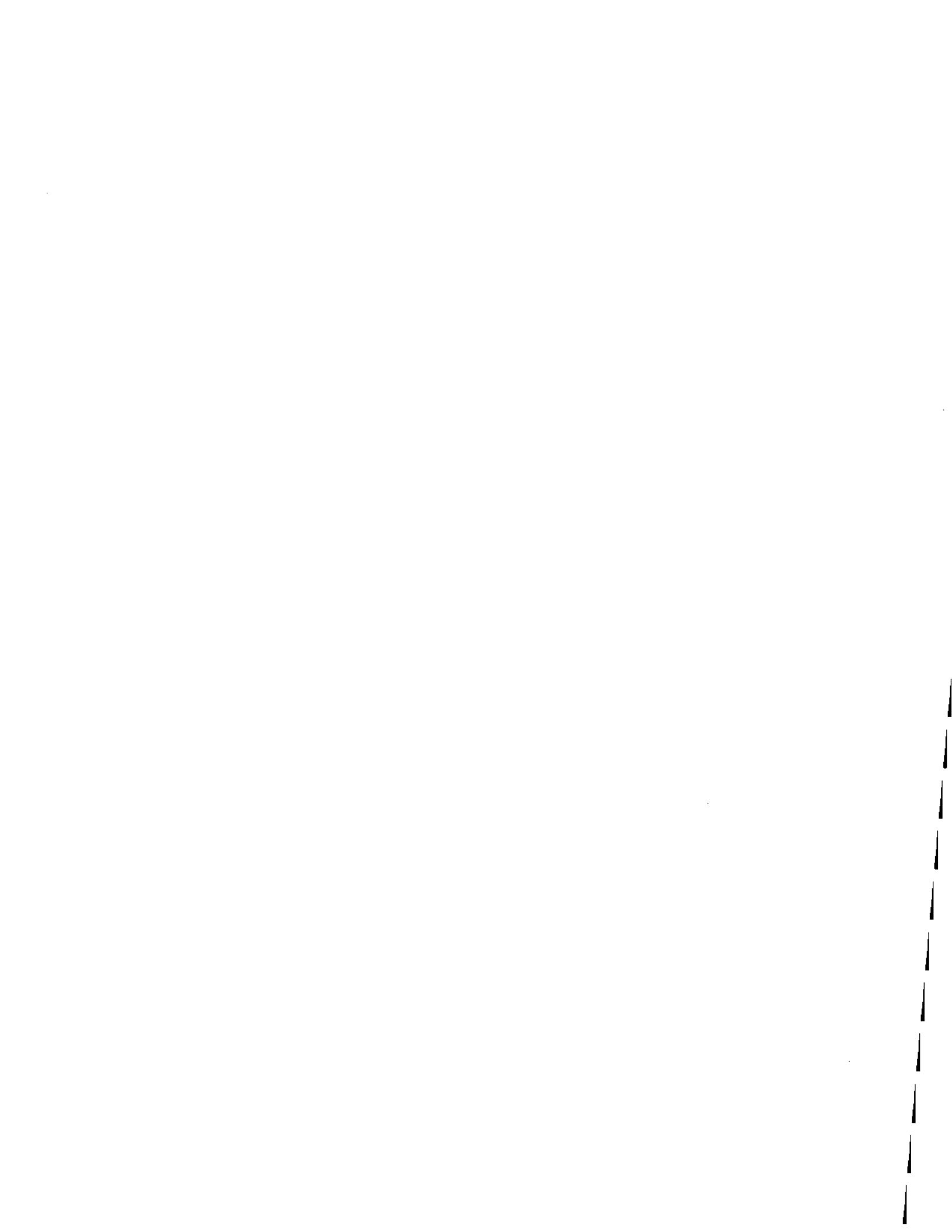
1. This Consent Agreement and Final Order (CAFO) is entered into by the United States Environmental Protection Agency, Region 6 and Respondent, LoneStar Fasteners, and concerns the facility located at 24131 West Hardy Road, Spring, Texas 77373.

2. Notice of this action has been given to the State of Texas, under Resource Conservation and Recovery Act (RCRA) § 3008(a)(2), 42 U.S.C. § 6928(a)(2).

3. For the purpose of these proceedings, Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.

4. Respondent explicitly waives any right to contest the allegations or to appeal the proposed final order contained in this CAFO, and waives all defenses that have been raised or could have been raised to the claims set forth in the CAFO.

5. This CAFO resolves only those violations that are alleged herein.



6. The Respondent consents to the issuance of the CAFO hereinafter recited, consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO, and consents to the specific stated compliance order.

II. JURISDICTION

7. This CAFO is issued by EPA pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a), as amended by the Hazardous and Solid Waste Amendments of 1984 and is simultaneously commenced and concluded through the issuance of this CAFO under 40 C.F.R. §§ 22.13(b), 22.18(b)(2), (3).

8. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by the EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of the EPA to issue or enforce this CAFO, and agrees not to contest the validity of this CAFO or its terms or conditions.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. Respondent is a limited liability company established under the laws of the State of Texas that owns and operates the Facility located at 24131 West Hardy Road, Spring, Texas 77373.

10. Respondent is a “person” within the meaning of RCRA § 1004(15), 42 U.S.C. § 6903(15); and 30 TEX. ADMIN. CODE § 3.2(25) (40 C.F.R. § 260.10).

11. The West Hardy Road facility is a “facility” within the meaning of 30 TEX. ADMIN. CODE § 335.1(59) (40 C.F.R. § 260.10).

12. The primary business at the facility is manufacturing metal products such as bolts, nuts, screws, rivets, and washers.

13. Respondent’s Registered Agent for service is Cass Brown, 24131 West Hardy Road, Spring, Texas 77373.

14. LoneStar Fasteners is a “generator” of “hazardous wastes” at the facility, as those terms are defined in RCRA §§ 1004(5), (6), 42 U.S.C. §§ 6903(5), (6), and 30 TEX. ADMIN. CODE § 335.1(65), (69) (40 C.F.R. § 260.10).

15. As a generator of hazardous waste, LoneStar Fasteners is subject to RCRA §§ 3002 and 3010, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth at 30 TEX. ADMIN. CODE § 335(C), (F) (40 C.F.R. §§ 262 and/or 270).

16. During the period of October 2015 through November 2015, EPA conducted an investigation and record review (“Investigation”) of Respondent’s performance as a hazardous waste generator.

17. During the Investigation and review of the Responses, EPA discovered that LoneStar Fasteners, at a minimum, generated and offered for transport and treatment the following hazardous waste, during 2013 through 2014:

- i. 2013 – 13,872 kg of hazardous wastes, having the hazardous waste characteristics of corrosivity (D002) and toxicity for chromium (D007);
- ii. 2014 – 12,990 kg of hazardous wastes, having the hazardous waste characteristics of corrosivity (D002) and toxicity for chromium (D007).

18. The waste streams identified in Paragraph 17 are hazardous waste as defined in 30 TEX. ADMIN. CODE § 335.1 (69), (40 C.F.R. §§ 261.21 and 261.31).

19. From the Investigation and review of the Response, EPA determined that during the period of 2013 through 2014, LoneStar Fasteners generated, at a minimum, the hazardous waste streams identified in Paragraph 17 in quantities that exceeded the threshold amount of 1,000 kilograms of

hazardous waste per month, which qualified LoneStar Fasteners for the large quantity generator status under 30 TEX.ADMIN.CODE, Chapter 335, Subchapter C (40 C.F.R. § 262), for the periods that such wastes remained onsite.

20. From the Investigation and review of the Response, EPA determined that during the period of 2013 through 2014, LoneStar Fasteners was registered as a small quantity generator (SQG).

21. EPA's investigation found that Respondent violated the requirements of RCRA § 3010 and the regulations promulgated at 40 C.F.R. § 262 by failing to comply with the RCRA notification requirements and failing to make adequate hazardous waste determinations.

Claim 1: Violation of Notification Requirements

22. The allegations in Paragraphs 1-21 are realleged and incorporated herein by reference.

23. Pursuant to RCRA § 3010(a), 42 U.S.C. § 6930(a), any person generating a characteristic or listed waste shall file with the Administrator or authorized State a notification stating the location and general description of such activity and the identified or listed hazardous wastes handled by such person.

24. During the Investigation and review of the Responses, EPA determined that LoneStar Fasteners was generating waste at quantities of a large quantity generator (LQG).

25. At the time of the investigation, LoneStar had not filed with the Administrator or with the authorized State an adequate subsequent notification of hazardous waste activities for 2013 and 2014, in violation of RCRA § 3010(a), 42 U.S.C. § 6930(a).

IV. COMPLIANCE ORDER

26. Pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within ninety (90) calendar days of the effective date of this CAFO, Respondent shall provide in writing the following:

A. Respondent shall certify that it has assessed all its solid waste streams to determine the accurate waste codes and has developed and implemented Standard Operating Procedures (SOP) to ensure that LoneStar is operating in compliance with RCRA and relevant requirements, including procedures for: (i) making hazardous waste determinations; (ii) managing hazardous wastes; and (iii) reporting, transporting, and disposing of hazardous waste.

B. Respondent shall provide, with its certification, a copy of Respondent's SOPs as described in subparagraph A. above.

C. Respondent shall certify that it has complied with all the requirements of a small quantity generator, including ensuring that employees receive proper training as required by 40 CFR § 265.16.

27. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of LoneStar Fasteners and shall include the following certification:

"I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated 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 fine and imprisonment for knowing violations."

Copies of all documents required by the CAFO shall be sent to the following:

U.S. Environmental Protection Agency
Compliance Assurance and Enforcement Division
Hazardous Waste Enforcement Branch
Compliance Enforcement Section (6EN-11C)
1445 Ross Avenue
Dallas, TX 75202-2733
Attn: Debra Pandak

V. TERMS OF SETTLEMENT

A. Penalty Provisions

28. Pursuant to the authority granted in RCRA § 3008, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of \$13,596.

29. The penalty shall be paid within thirty (30) calendar days of the effective date of this CAFO and made payable to Treasurer, United States of America.

30. The following are Respondent's options for transmitting the penalties:

Checks sent via U.S. Postal Mail (including certified mail) or U.S. Postal Service Express Mail should be remitted to:

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

Checks sent via Overnight Mail (non-U.S. Postal Service) should be remitted to:

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

Wire Transfers should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

The case name and docket number (**In the Matter of LoneStar Fasteners, Docket No. RCRA-06-2016-0910**) shall be documented on or within your chosen method of payment to ensure proper credit.

31. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

Mark Potts, Associate Director
Hazardous Waste Enforcement Branch (6EN-H)
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733
Attn: Debra Pandak

Your adherence to this request will ensure proper credit is given when penalties are received by EPA.

32. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 1311, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and 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). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt that remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 40 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

B. Costs

33. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT
AGREEMENT AND FINAL ORDER:**

FOR THE RESPONDENT:

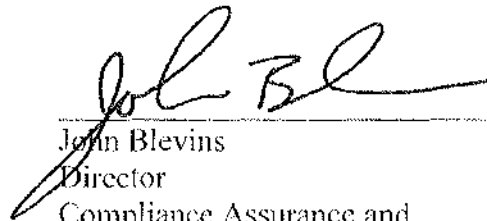
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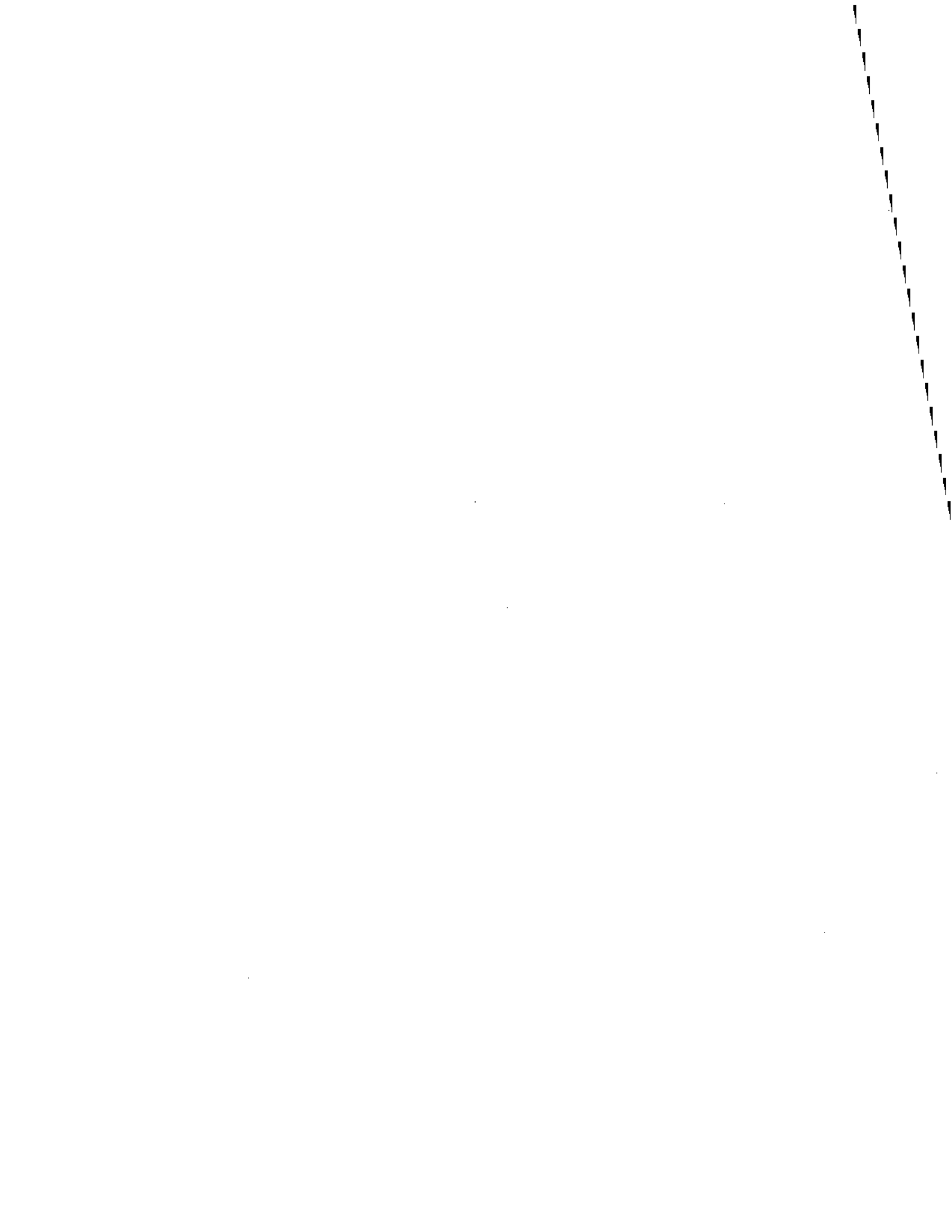
Brad Evans
EHS Manager
LoneStar Fasteners

FOR THE COMPLAINANT:

Date: 3-14-16



John Blevins
Director
Compliance Assurance and
Enforcement Division



FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing CAFO is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 C.F.R. § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: _____

3/15/14



Thomas Rucki
Regional Judicial Officer

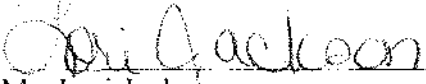


CERTIFICATE OF SERVICE

I hereby certify that on the 15 day of March, 2016, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by the method below:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED 7015155D000339901990

Brad Evans
LoneStar Fasteners
24131 W Hardy Rd.
Spring, TX 77373


Ms. Lori Jackson
Paralegal

