

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

In the Matter of:	:	
	:	
Formosa Plastics Corporation	:	
	:	
Respondent,	:	EPA Docket No. RCRA-03-2015-0205
	:	
Formosa Plastics Corporation, Delaware	:	
780 Schoolhouse Road	:	
Delaware City, DE 19706,	:	
	:	
Facility.	:	Proceeding under Section 3008(a) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6928(a)
	:	

GENERAL HEARING ROOM
ENVIRONMENTAL AGENCY
DEL. REGION III, L.A. 7A

2015 SEP 17 AM 6:54

RECEIVED

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“EPA”, “Agency” or “Complainant”) and Formosa Plastics Corporation, Delaware (“Respondent”) pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as “RCRA”), 42 U.S.C. §§ 6928(a) and (g), 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).

2. This Consent Agreement (“CA”) and the accompanying Final Order (“FO”) address alleged violations by Respondent of RCRA and the State of Delaware’s federally authorized Delaware Hazardous Waste Management Program, set forth in the Delaware Regulations Governing Hazardous Waste (“DRGHW”) Parts 260 – 279, and Parts 122 and 124.

3. The DRGHW were authorized pursuant to RCRA Section 3006, 42 U.S.C. § 6926, (*see* 53 Fed. Reg. 23837 (June 8, 1984), 61 Fed. Reg. 41345 (August 8, 1996), 62 Fed. Reg. 44152 (August 18, 1998), 65 Fed. Reg. 42871 (July 12, 2000), 67 Fed. Reg. 51478 (August 8, 2002), 69 Fed. Reg. 10171 (March 4, 2004) and 69 Fed. Reg. 60091 (October

7, 2004)). As such, certain provisions of Delaware's hazardous waste management program, through these authorizations, have become requirements of Subtitle C of RCRA, 42 U.S.C. §§ 6921 – 6939g, and are, accordingly, enforceable by EPA pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g).

4. Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, 40 C.F.R. § 22.13(b), 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 at 780 Schoolhouse Road, Delaware City, Delaware, 19706.
5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
6. For purposes of this proceeding, Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CA, except as provided in Paragraph 5, above.
7. 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.
8. 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.
9. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
10. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

Notice of Action to the State of Delaware

11. EPA has given the State of Delaware, through the Delaware Division of Natural Resources and Environmental Control ("DNREC"), 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 FACT AND CONCLUSIONS OF LAW

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:

12. Respondent is, and was at the time of the violations alleged herein, a corporation of the State of Delaware, and is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and as defined in DRGHW § 260.10.

13. Respondent is, and has been at all times relevant to this Consent Agreement, the “owner” and “operator” of a “facility”, described below, as those terms are defined in DRGHW § 260.10.
14. The facility referred to in Paragraph 12, above, including all of its associated equipment and structures (hereinafter the “Facility”), is a manufacturing facility located at 780 Schoolhouse Road, Delaware City, Delaware, 19706.
15. Respondent generates more than 1,000 kilograms of hazardous waste per month. Respondent is assigned EPA ID No. DED002336394.
16. Respondent is a small quantity generator of universal waste as that term is defined at DRGHW § 273.6.
17. Respondent is and, at all times relevant to this CAFO, has been a “generator” of, and has engaged in the “storage” in “containers” at the Facility of materials described below that are “solid wastes” and “hazardous wastes”, as those terms are defined DRGHW § 260.10.
18. On June 19 – 20, 2012 and March 11, 2014, representatives of EPA and DNREC conducted RCRA Compliance Evaluation Inspections (“RCRA CEI”) at the Facility.
19. On June 19 – 20, 2012 and March 11, 2014, “hazardous wastes” generated by Respondent, identified below in paragraphs 20 - 23, were in “storage” in containers at the Facility.
20. Respondent generates waste acetone at the Facility. Waste acetone is a hazardous waste (F003) within the meaning of DRGHW § 260.10 because it exhibits the characteristic for ignitability.
21. Respondent generates waste methanol at the Facility. Waste methanol is a hazardous waste (F003) within the meaning of DRGHW § 260.10 because it exhibits the characteristic for ignitability.
22. Respondent generates waste vinyl chloride resin at the Facility. Waste vinyl chloride is a hazardous waste (D043) within the meaning of DRGHW § 260.10, because it exhibits the characteristic for toxicity.
23. Respondent generates waste chloroform at the Facility. Waste chloroform is a hazardous waste (D022) within the meaning of DRGHW § 260.10, because it exhibits the characteristic for toxicity.

COUNT I

(Operating Without Qualifying for a Permit Exemption or Obtaining Interim Status or a Permit)

24. The preceding paragraphs are incorporated by reference.
25. DRGHW Part 122 and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), provide, in pertinent part, that a person may not own or operate a facility for the treatment, storage or disposal of hazardous waste unless such person has first obtained a permit for such facility or has qualified for interim status for the facility.
26. DRGHW § 262.34(a)(3) provides, in pertinent part, that a generator may accumulate hazardous waste in containers on-site for 90 days or less without a permit or having interim status provided that, among other things, while being accumulated on-site, each container is labeled or marked clearly with the words “Hazardous Waste.”
27. DRGHW § 262.34(a)(2) provides, in pertinent part, that a generator may accumulate hazardous waste in containers on-site for 90 days or less without a permit or having interim status provided that, among other things, while being accumulated on-site the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.
28. DRGHW § 262.34(c) provides, in pertinent part, that a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in DRGHW § 261.33(e) in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or having interim status provided that, among other things, that each such container is at or near the point of generation and under the control of the operator of the process generating the waste.
29. At the time of the June 19 – 20, 2012 RCRA CEI, Respondent had not labeled a metal hopper under shaker unit DG 413, wire baskets located under reactor DR 407, two additional wire baskets in the DR 407 reactor area and a wire basket under reactor SR 403 used to accumulate hazardous waste described in Paragraph 22, above, with the words “Hazardous Waste” as required to meet the permit exemption set forth in DRGHW § 262.34(a)(3).
30. At the time of the March 11, 2014 RCRA CEI, Respondent had not labeled a metal hopper under shaker unit DG 413, a wire baskets located under reactor DR 407, two additional wire baskets in the DR 407 reactor area, a wire basket under SR reactor 403 and a 5 gallon metal container located in the plastics applications lab used to accumulate hazardous waste described in Paragraphs 20 and 22, above, with the words “Hazardous Waste” as required to meet the permit exemption set forth in DRGHW § 262.34(a)(3).

31. At the time of the June 19 – 20, 2012 RCRA CEI, Respondent had not labeled a metal hopper under shaker unit DG 413, wire baskets located under reactor DR 407, two additional wire baskets in the DR 407 reactor area, and a wire basket under reactor SR 403 used to accumulate hazardous waste described in Paragraph 22, above, with the date upon which each period of accumulation began as required to meet the permit exemption set forth in DRGHW § 262.34(a)(2).
32. At the time of the March 11, 2014 RCRA CEI, Respondent had not labeled a metal hopper under shaker unit DG 413, a wire baskets located under reactor DR 407, two additional wire baskets in the DR 407 reactor area, a wire basket under SR reactor 403 and a 5 gallon metal container located in the plastics applications lab used to accumulate hazardous waste described in Paragraphs 20 and 22, above, with the date upon which each period of accumulation began as required to meet the permit exemption set forth in DRGHW § 262.34(a)(2).
33. At the time of the June 19 – 20, 2012 RCRA CEI, Respondent initially accumulated 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in DRGHW § 261.33(e) and described in Paragraphs 20 - 23 above in a 55 gallon drum on the upper level of the E2 building located in a stairwell area; in a 55 gallon drum outside the S2 building; in a 55 gallon drum outside the Facility waste water treatment plant lab; in a 55 gallon metal drum located outside the quality control lab building, and in a 5 gallon metal can under a lab hood in the plastics application lab which were not located at or near the point of generation and under the control of the operator of the process generating the waste.
34. At the time of the March 11, 2014 RCRA CEI, Respondent initially accumulated 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in DRGHW § 261.33(e) and described in Paragraphs 20 - 22 above: in a 55 gallon drum outside the S2 building; in a 55 gallon drum outside the facility quality control lab; in a 5 gallon metal can in the plastics application lab; and a 55 gallon drum outside the plastics application lab which were not located at or near the point of generation and under the control of the operator of the process generating the waste.

35. Respondent failed to qualify for the “less than 90-day” generator accumulation exemption of DRGHW § 262.34(a) by failing to satisfy the conditions for such exemptions as set forth in DRGHW § 262.34(a), as referred to in Paragraphs 26 – 27, above, and described in Paragraphs 29 - 32, above.
36. Respondent failed to qualify for the generator satellite accumulation exemption of DRGHW § 262.34(c), by failing to satisfy the conditions for such exemptions as set forth in DRGHW § 262.34(c), referred to in Paragraph 27, above, as described in Paragraphs 32 - 33, above.
37. By failing to meet the criteria for an exemption from permitting or interim status under DRGHW § 262.34(a) and/or (c), the Facility became a hazardous waste treatment, storage or disposal “facility,” as that term is defined by DRGHW § 260.10.
38. Respondent does not have, and never had, a permit or interim status pursuant to DRGHW § 122.1 and § 122.70 or Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), for the storage of hazardous waste at the Facility.
39. Respondent was required by DRGHW § 122.1 and § 122.70 and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), to obtain a permit for its hazardous waste storage activities described in this count.
40. Respondent violated DRGHW § 122.1 and § 122.70 and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), by operating a hazardous waste storage facility without a permit or interim status or valid exemption.

COUNT II

(Container Management)

41. The preceding paragraphs are incorporated by reference.
42. DRGHW § 264.173(a) requires owners and operators that treat, store or dispose of hazardous waste to keep hazardous waste containers closed during storage, except when it is necessary to add or remove waste.
43. On June 19 – 20, 2012, Respondent did not keep closed the following containers of the types of hazardous waste described in Paragraphs 20 and 22 at a time when it was not necessary to add or remove waste from such container: A metal hopper under shaker unit DG 412, one wire basket located under or near reactor DR 407; nine super sacks, and a 55 gallon drum located outside the quality control lab building.

44. On March 11, 2014, Respondent did not keep closed the following containers of hazardous waste described in Paragraphs 20 – 22 at a time when it was not necessary to add or remove waste from such container: a wire basket located under reactor DR 407, a metal hopper containing hazardous waste PVC solids under shaker unit DG 412 located outside the E-2 building; two chip carts located outside the S-2 building and a five gallon metal can located in the plastics application lab.
45. Respondent violated DRGHW § 264.173(a), by failing to keep the hazardous waste containers described in Paragraphs 43 and 44 closed at times when it was not necessary to add or remove waste.

COUNT III

(Requirement to Maintain and Operate Facility in a Manner to Minimize The Possibility of a Release)

46. The preceding paragraphs are incorporated by reference.
47. DRGHW § 264.31 requires owners and operators of hazardous waste facilities to maintain and operate such facilities to minimize the possibility of fire, explosion, or any unplanned, sudden or non-sudden release of hazardous waste or hazardous waste constituents to the air, soil, or surface water which could threaten human health or the environment.
48. At the time of the June 19 – 20, 2012 and March 11, 2014 RCRA CEIs, EPA inspectors observed hazardous waste described in Paragraph 21, above, spilled on the ground from super saks which were ripped open and at another area around a roll off dumpster where such hazardous waste had was spilled on to the ground at the Facility.
49. At the time of the June 19 – 20, 2012 and March 11, 2014 RCRA CEIs, EPA inspectors observed open containers of hazardous waste described in Count II, above.
50. At the time of the June 19 – 20, 2012 and March 11, 2014 RCRA CEIs, EPA inspectors observed hazardous waste as described in Paragraph 22, being stored on the ground.
51. Respondent violated DRGHW § 264.31, by failing to maintain and operate the Facility to minimize the possibility of fire, explosion, or any unplanned, sudden or non-sudden release of hazardous waste or hazardous waste constituents to the air, soil, or surface water which could threaten human health or the environment.

COUNT IV
(Contingency Plan)

52. The preceding paragraphs are incorporated by reference.
53. Pursuant to DRGHW § 264.52, Respondent is required to, among other things, list the home addresses of all persons qualified to act in an emergency.
54. Pursuant to DRGHW § 264.53(b), Respondent is required to submit a copy of its Contingency Plan to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.
55. At the time of the June 19 – 20, 2012 RCRA CEI, Respondent had not listed in the Facility contingency plan the home addresses of all persons qualified to act in an emergency as required by DRGHW § 264.52.
56. At the time of the June 19 – 20, 2012 RCRA CEI, Respondent had not submitted a copy of the Facility's contingency plan and all revisions of the plan to local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services as required by DRGHW § 264.53(b).
57. Respondent violated DRGHW § 264.52 and DRGHW § 264.53(b), by failing to list in the Facility contingency plan the home addresses of all persons qualified to act in an emergency and failing to submit a copy of the Facility's contingency plan and all revisions of the plan to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

COUNT V
(Inspections)

58. The preceding paragraphs are incorporated by reference.
59. Pursuant to DRGHW § 264.174, Respondent is required to inspect, at least weekly, areas where containers of hazardous waste are stored.
60. From August 11, 2011 through May, 2012, Respondent failed to conduct weekly inspections of the area at the Facility used to store containers of hazardous waste on nine separate occasions.

61. On nine separate occasions between August 11, 2011 through May, 2012, Respondent violated DRGHW § 265.174 by failing to conduct weekly inspections of the area at the Facility used to store containers of hazardous waste.

COUNT VI

(Employee and Training Documentation)

62. The preceding paragraphs are incorporated by reference.
63. Pursuant to DRGHW § 264.16(d) (1) - (2), Respondent must maintain at the Facility documentation of:
- 1) the job title for each position at the Facility related to hazardous waste management, and the name of each employee filling each job; and,
 - 2) a written job description for each position listed under DRGHW 264.16(d)(1).
64. At the time of the June 19 – 20, 2012 RCRA CEI, Respondent did not maintain at the Facility: 1) the job title for each position at the Facility related to hazardous waste management, and the name of each employee filling each job; and 2) a written job description for each position listed, pursuant DRGHW § 264.16(d)(1).
65. Respondent violated DRGHW § 264.16(d)(1) - (2), by failing to maintain at the Facility the documentation required by DRGHW § 264.16(d)(1) and (2).

COUNT VII

(Universal Waste)

66. The preceding paragraphs are incorporated by reference.
67. DRGHW § 273.13(d)(1) requires, in relevant part, that “[a] small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of universal waste to the environment, as follows: (1) A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.”
68. DRGHW § 273.14(e) also requires that [e]ach lamp or container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: “Universal Waste-Lamp(s),” or Waste Lamp(s),” or “Used Lamp(s).”

69. Pursuant to DRGW § 273.15(c), a small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:
- (1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;
 - (2) Marking or labeling each individual item of universal waste with the date it became a waste or was received;
 - (3) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;
 - (4) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;
 - (5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or
 - (6) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.
70. DRGHW § 273.9 defines “lamp” or a “universal waste lamp” to mean the bulb or tube portion of an electric lighting device.
71. DRGHW § 273.9 defines “Small Quantity Handler of Universal Waste” to mean a universal waste handler, as that term is defined in DRGW § 273.9, who does not accumulate 5,000 kilograms or more of total universal waste (batteries, pesticides, thermostats, or lamps, calculated collectively) at any time.
72. At the time of the March 11, 2014 RCRA CEI, Respondent was a Small Quantity Handler of universal waste lamps.
73. At the time of the March 11, 2014 RCRA CEI, Respondent was storing two spent universal waste lamps in the hallway of the Facility Plastics Application Lab that were not in a container and were not labeled or dated as required by DRGHW § 273.13(d)(1) and DRGHW § 273.14(e).
74. Respondent violated DRGHW § 273.13(d)(1) and DRGHW § 273.14(e) by failing to label, date and store universal waste lamps as required by DRGHW § 273.13(d)(1) and DRGHW C.F.R. § 273.14(e).

III. CIVIL PENALTIES

75. Respondent agrees to pay a civil penalty in the amount of **\$112,500** in settlement of the alleged violations set forth in this CAFO, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of the fully executed and filed CAFO. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of the fully executed and filed CAFO is mailed or hand-delivered to Respondent.
76. 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 reflects the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6982(a)(3) and (g), the *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*.
77. Respondent shall remit the full penalty pursuant to paragraph 75, above, and/or any administrative fees and late payment penalties, by cashier's check, certified check or electronic wire transfer, in the following manner:
- A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2015-0205
 - 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
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Contact: Craig Steffen 513-487-2091

- D. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1818

- E. All payments made by electronic wire transfer shall be directed to:

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

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

- F. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

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

- G. On-Line Payment Option: WWW.PAY.GOV/PAYGOV

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

- H. Point Of Contact regarding payment questions (i.e. how to make payment via wire, ACH, check, pay.gov):

Craig Steffen, 513-487-2091, steffen.craig@epa.gov

Additional payment guidance is available at:
<http://www2.epa.gov/financial/makepayment>.

78. At the time of payment, Respondent shall send a notice of such payment, including a copy of any check or electronic transfer, as appropriate, to:

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

and

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

79. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this CAFO.
80. 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 as specified in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
81. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of the executed and filed CAFO 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).

82. 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). 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. A penalty charge of six percent per year will be assessed monthly on any portion of the 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 the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

IV. EFFECT OF SETTLEMENT

83. Payment of the penalty specified in Paragraph 75 above, shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under RCRA Sections 3008(a) and (g), for the violations alleged in Counts I through VII, above. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

V. RESERVATION OF RIGHTS

84. This CAFO resolves only EPA's claims for civil penalties for the violations alleged in the CAFO. 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.

VI. OTHER APPLICABLE LAWS

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

VII. CERTIFICATION OF COMPLIANCE

86. As to all relevant provisions of RCRA Subtitle C, 42 U.S.C. §§ 6901 *et seq.*, and the State of Delaware's federally authorized hazardous waste management program allegedly violated as set forth in at DRGHW Parts 260 - 279 and Parts 122 and 124. Respondent certifies to EPA that, after reasonable inquiry, to the best of Respondent's knowledge and belief, Respondent is currently in compliance with all such relevant provisions and regulations.

VIII. PARTIES BOUND


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

IX. EFFECTIVE DATE

88. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Judicial Officer or Regional Administrator.

For Respondent, Formosa Plastics Corporation, Delaware:

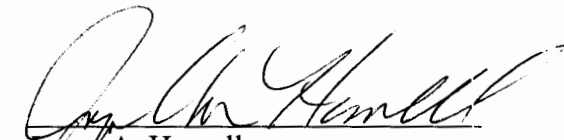
Date: 9/8/15

By: 

Name: Roger Boone
Title: Plant Manager
Formosa Plastics Corporation, Delaware
780 Schoolhouse Road
Delaware City, Delaware 19706

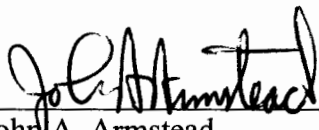
For Complainant, United States Environmental Protection Agency, Region III:

Date: Aug 20, 2015

By: 
Joyce A. Howell
Senior Assistant Regional Counsel

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

9.15.15
Date

By: 
John A. Armstead
Director
Land and Chemicals Division

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

In the Matter of: :
: :
Formosa Plastics Corporation :
: :
Respondent, :
: :
Formosa Plastics Corporation, Delaware :
780 Schoolhouse Road :
Delaware City, DE 19706, :
: :
Facility. :
:

EPA Docket No. RCRA-03-2015-0205

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

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REGIONAL CLERK
EPA REGION III
PHILADELPHIA, PA

FINAL ORDER

Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, Formosa Plastics Corporation, have executed a document entitled "Consent Agreement" which I hereby ratify 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 into this Final Order as if fully set forth at length herein.

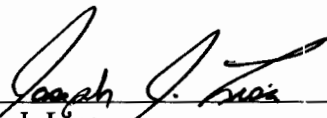
NOW, THEREFORE, PURSUANT TO Section 3008(a) of the Resource Conservation and Recovery Act of 1976, as amended by, inter alia, the Hazardous and Solid

IMO Formosa Plastics Corporation
Docket No. RCRA-03-2015-0205

Waste Amendments of 1984 (RCRA), 42 U.S.C. Section 6928(a), and the Consolidated Rules of Practice, and having determined, on the basis of the parties' representations in the Consent Agreement, that the penalty agreed to therein by the parties is based on a consideration of the factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), it is hereby ordered that Respondent pay \$112,500.00 in accordance with the Consent Agreement and comply with the terms and conditions of this Consent Agreement.

The effective date of this Consent Agreement and Final Order is the date on which such Final Order is filed with the Regional Hearing Clerk.

Sept. 16, 2015
Date



Joseph J. Lisa
Regional Judicial Officer

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

In the Matter of:

Formosa Plastics Corporation

Respondent,

Formosa Plastics Corporation
780 Schoolhouse Road
Delaware City, DE 19706,

Facility.

EPA Docket No. RCRA-03-2015-0205

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

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REGIONAL HEARING CLERK
PHILADELPHIA, PA

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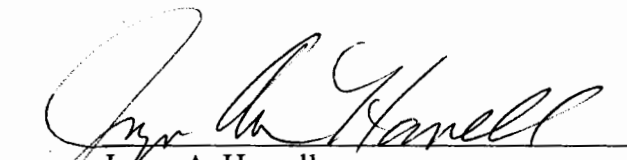
CERTIFICATE OF SERVICE

I certify that I sent a copy of the Consent Agreement and Final Order in the above-captioned matter to the addressee and in the manner listed below. The original and one copy of the Complaint were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Via UPS, next day delivery to:

Robert Whetzel, Esq.
Richards Layton & Finger
One Rodney Square
920 North King Street
Wilmington, DE 19801

Dated: Sept 17, 2015


Joyce A. Howell
Senior Assistant Regional Counsel
U.S. EPA - Region III