

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

A.J. D'Angelo (3RC30)
Sr. Asst. Regional Counsel

Direct Dial: (215) 814-2480
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Via E-Mail with .pdf Attachments

1006 09 2016

Heather Russell
U.S. Environmental Protection Agency
Cincinnati Finance Management Center (CFMC)
26 W. Martin Luther King Drive
Cincinnati, OH 45268

Re: In the Matter of: Cytec Engineered Materials Inc.
1300 Revolution Street, Havre de Grace, MD 21078
RCRA § 3008(a) and (g) Consent Agreement - Docket No. RCRA-03-2016-0204

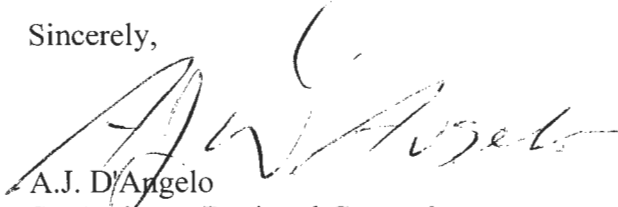
Dear Heather:

Please find attached .pdf copies of an Administrative Penalty Order – a Consent Agreement and Final Order (collectively, “CAFO”), with attached Certificate of Service – and of the associated EARCNF form in the above-referenced matter.

Please note that the Final Order calls for the Respondent, Cytec Engineered Materials Inc. to pay a civil penalty of Fifteen Thousand Dollars (\$15,000.00) no later than *thirty (30) calendar days* after the date on which the CAFO is mailed or hand-delivered to Respondent.

If at all possible, I'd appreciate your advising me (a short e-mail would be fine) when payment is made and providing attached .pdf copies of associated proof of payment documentation.

Sincerely,



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

Attachments

cc: Lydia Guy
Regional Hearing Clerk (3RC00)

Steve Forostiak
Office of Land Enforcement (3LC70)

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

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REGIONAL HEADQUARTERS
ENVIRONMENTAL PROTECTION AGENCY
1650 ARCH STREET
PHILADELPHIA, PA 19103

In Re:)
)
Cytec Engineered Materials Inc.)
1300 Revolution Street) Docket No. RCRA-03-2016-0204
Havre de Grace, Maryland 21078)
)
RESPONDENT.) Proceeding Under Section
) 3008(a) and (g) of the
Cytec Engineered Materials Inc.) Resource Conservation and
1300 Revolution Street) Recovery Act, as amended,
Havre de Grace, Maryland 21078) 42 U.S.C. § 6928(a) and (g)
EPA Facility I.D. # MDD003075942)
)
FACILITY.)

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant"), and Cytec Engineered Materials Inc. ("Respondent"), pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as 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. The *Consolidated Rules of Practice*, at 40 C.F.R. § 22.13(b), provide, in pertinent part, that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3). Pursuant thereto, this Consent Agreement ("CA") and the accompanying Final Order ("FO"), collectively referred to herein as the "CAFO") simultaneously commences and concludes this administrative proceeding against Respondent.
3. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, the State of Maryland has been granted final authorization to administer its hazardous waste management program, set forth at the Code of Maryland Regulations ("COMAR"),

Title 10, Subtitle 51 *et seq.*, in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g. The State of Maryland Hazardous Waste Management Regulations (“MdHWMR”) originally were authorized by the U.S. Environmental Protection Agency (“EPA” or the “Agency”) on February 11, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b). Revisions to the MdHWMR set forth at COMAR, Title 26, Subtitle 13, were authorized by EPA effective July 31, 2001 and September 24, 2004. The provisions of the revised federally-authorized program have thereby become requirements of RCRA Subtitle C that are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

4. The factual allegations and legal conclusions in this CA are based on provisions of the federally-authorized MdHWMR in effect at the time of the violations alleged herein.
5. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil penalty against any person who violates any requirement of Subtitle C of RCRA. Respondent is hereby notified of EPA’s determination that Respondent has violated RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and federally-authorized MdHWMR requirements, at their facility located at 1300 Revolution Street, Havre de Grace, Maryland 21078, EPA Facility I.D. # MDD003075942.
6. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated April 11, 2014, EPA notified the State of Maryland (hereinafter, the “State”), through the Solid Waste Program Administrator of the Maryland Department of the Environment (“MDE”), of EPA’s intent to commence this administrative action against Respondent in response to the violations of RCRA Subtitle C that are alleged herein.

II. GENERAL PROVISIONS

7. Respondent admits the jurisdictional allegations set forth in this CAFO.
8. Respondent neither admits nor denies the specific factual allegations or the conclusions of law contained in this CAFO, except as provided in Paragraph 7, immediately above, of this CA.
9. Respondent agrees not to contest EPA’s jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement of the CAFO.
10. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CA and any right to appeal the accompanying FO.
11. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
12. Respondent shall bear its own costs and attorneys’ fees.

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

III. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW

In accordance with the *Consolidated Rules of Practice* at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant makes the following findings of fact and conclusions of law:

15. Respondent Cytec Engineered Materials Inc. is a corporation organized under the laws of the State of Delaware with a principal office a 5 Garret Mountain Plaza, West Patterson, New Jersey. Respondent is licensed to do business in the State of Maryland, is a "person" as defined by RCRA Section 1004(15), 42 U.S.C. Section 6903(15) and COMAR 26.13.01.03B(61) and has an office and facility located at 1300 Revolution Street, Havre de Grace, Maryland 21078.
16. Respondent is, and has been, the "operator" of a specialty bonding adhesive and composite material production facility located at 1300 Revolution Street, Havre de Grace, Maryland 21078, EPA Facility I.D. # MDD003075942 (the "Facility"), as the term operator is defined by COMAR 26.13.01.03.B (58), at all times during the period of the violations alleged in this CA.
17. As described below and at all times relevant to the allegations set forth in this CAFO, Respondent has been a "generator" of "solid waste" and "hazardous waste" at the Facility, as these terms are defined in COMAR 26.13.01.03.B(29), (73) and (31), and has engaged in the "storage" of "solid waste" and "hazardous waste" in "container[s]" at the Facility, as those terms are defined in COMAR 26.13.01.03.B(76), (73), (31) and (9).
18. The Facility is, and at all times herein relevant has been, a hazardous waste storage "facility" as that term is defined in COMAR 26.13.01.03B(23).
19. Respondent submitted to EPA a Notification of Hazardous Waste Activity ("Notification"), pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, for its operations at the Facility, which includes operation as a large quantity generator of hazardous waste.
20. Duly authorized representatives of EPA (the "EPA Inspectors") performed a compliance evaluation inspection ("CEI") at the Facility and conducted file reviews of certain Facility records on August 7 and 8, 2013 in order to assess Respondent's compliance with federally-authorized MdHWMR requirements at the Facility.

21. In March of 2014, EPA informally requested additional information from Respondent which was answered, via written e-mail correspondence, on March 14, 2014 and March 20, 2014, respectively.
22. On May 7, 2014, EPA issued an information request letter (“IRL”) to Respondent pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a) which Respondent answered, by written letter, on July 25, 2014 (“IRL Response”).
23. On May 7, 2014, EPA also sent a Notice of Noncompliance and Request to Show Cause letter (“NON”) to the Facility advising Respondent of EPA’s preliminary findings of MdHWMR violations at the Facility and offering Respondent an opportunity to provide such additional information as it believed the Agency should review and consider before reaching any final conclusions as to the Respondents’ MdHWMR compliance at the Facility.
24. In response to the NON and related EPA correspondence, Respondent provided EPA with supplemental written information on October 6, 2014, April 29, 2016 and May 31, 2016 (“NON Response”).
25. On the basis of the Facility CEI and associated file review, Respondent’s IRL Response and Respondent’s NON Response, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and federally-authorized MdHWMR requirements promulgated thereunder.

Permit/Interim Status Requirements

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

Permit Exemption Conditions - Accumulation Time Requirements

29. COMAR 26.13.03.05E(1) provides, in relevant part, that a generator may accumulate hazardous waste on-site in containers or in tanks without a permit or without having interim status, for 90 days or less, so long as the hazardous waste is accumulated in accordance with a number of conditions set forth in that section, including, *inter alia*:
 - a. the condition set forth at COMAR 26.13.03.05E(1)(e), which requires that “[t]he date upon which each period of accumulation begins must be clearly marked and visible for inspection on each container”; and

- b. the condition set forth at COMAR 26.13.03.05E(1)(g), which requires, in relevant and applicable part, that “[t]he generator complies with the requirements for owners and operators in COMAR 26.13.05.02G . . .”, including the “Contingency and Emergency Procedures” of COMAR 26.13.05.04.

COUNT I

(Operating Without a Permit or Interim Status)

- 30. The allegations in the preceding paragraphs of this CA are incorporated herein by reference.
- 31. On August 7, 2013, Respondent was storing five (5) containers of hazardous waste in the “Barrel Yard” less than 90-day hazardous waste container storage area of the Facility in such a way that the date upon which each period of hazardous waste accumulation began was not “marked and clearly visible for inspection” as required pursuant to COMAR § 26.13.03.05.E(1)(e).
- 32. On August 7, 2013, Respondent was storing one (1) container of hazardous waste at the Facility’s “Barrel Yard” less than 90-day hazardous waste container storage area that was marked with an incorrect hazardous waste accumulation start date that, as a result, was not compliant with the requirement of COMAR § 26.13.03.05.E(1)(e).
- 33. The permit exemption conditions of COMAR 26.13.03.05E(1)(g) require, in relevant and applicable part, that a generator of hazardous waste must comply with “the requirements for owners and operators” in COMAR 26.13.05.04 pertaining to the “Contingency and Emergency Procedures,” as follows:
 - A. Applicability. This regulation applies to owners and operators of all hazardous waste facilities [with an exception not herein applicable].
 - B. Purpose and Implementation of Contingency Plan.
 - (1) Every owner or operator shall have a contingency plan for his facility . . . designed to minimize hazards to human health and 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. . . .
 - C. Content of Contingency Plan.
 - (1) The contingency plan shall describe the actions facility personnel shall take . . . in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility[:]

(2) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR part 112 or Part 1510, or some other emergency or contingency plan, he need only amend the plan to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of this chapter [;]

(3) The plan shall describe the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services . . . [;]

(4) The plan shall list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator . . . and this list shall be kept up to date . . . [;]

(5) The plan shall include a list of emergency equipment at the facility . . . [; and]

(6) The plan shall include an evacuation plan for facility personnel . . .” .

D. Copies of Contingency Plan. A copy of the contingency plan and all revisions to the plan shall be:

(1) Maintained at the facility; and

(2) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

* * *

E. Amendments of Contingency Plan. The contingency plan shall be reviewed, and immediately amended, if necessary, whenever the: (1) Facility permit is revised; (2) Plan fails in an emergency; (3) Facility changes its design, operation, maintenance, or other circumstances in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency; (4) List of emergency coordinators changes; or (5) List of emergency equipment changes.

34. On August 8, 2013, the Facility’s SPCC Plan (or “Plan”) did not comply with requirements of COMAR 26.13.05.04C(3) and (4), COMAR 26.13.05.04D(2) and COMAR 26.13.05.04E(4), respectively, and therefore also failed to comply with the permit exemption conditions of COMAR § 26.13.03.05.E(1)(g), because the Plan: (a) did not include a description of the arrangements agreed to, if any, by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services; (b) the “Emergency Contact” page of the Plan did not list the home addresses of all persons qualified to act as emergency coordinator; (c) there was no information in the Plan to indicate that copies of the Plan, and any revisions to the Plan, had

- been submitted to all local police departments, fire departments, hospitals, contractors, and State and local emergency response teams called upon to provide emergency services; and (d) the “Emergency Contact” page of the Plan listed as an “Emergency Coordinator” an individual who was no longer employed at the Facility, thereby indicating that the plan had not been properly or timely amended when the list of Facility emergency coordinators changed.
35. For the reasons and during each of the dates and time periods identified in Paragraphs 31 through 34, above, Respondent failed to comply with the permit exemption conditions set forth in COMAR 26.13.03.05E, E(1)(e) and COMAR 26.13.03.05E(1)(g), as identified in Paragraph 29, above, for temporary (*i.e.*, 90 days or less) or satellite accumulation of hazardous waste by a generator at the Facility, and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such section.
36. For each of the reasons and during each of the dates and time periods identified in Paragraphs 31 through 34, above, Respondent engaged in the operation of a hazardous waste storage facility (*i.e.*, the Facility) without having interim status or obtaining a permit for the Facility pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, or COMAR 26.13.07.
37. 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 (*i.e.*, the Facility) without a permit, interim status or valid exemption to the permitting/interim status requirements.

COUNT II

(Failure to Comply with Contingency Plan Preparation and Maintenance Requirements)

38. The allegations in the preceding paragraphs of this CA are incorporated herein by reference.
39. The requirements and provisions of COMAR 26.13.05.04, pertaining to “Contingency and Emergency Procedures” requirements applicable to owners and operators of hazardous waste treatment, storage and disposal facilities, are set forth, in relevant and applicable part, in paragraph 33, above.
40. Respondent violated the “Contingency and Emergency Procedures” requirements of COMAR 26.13.05.04 on August 8, 2013 by and through its failure to comply with important “Contingency Plan and Emergency Procedures” requirements of COMAR 26.13.05.04C(3) and (4), COMAR 26.13.05.04D(2) and COMAR 26.13.05.04E(4), as previously described in paragraphs 34 and 35, above.

COUNT III

(Failure to Manage Universal Waste Properly)

41. The allegations in the preceding paragraphs of this CA are incorporated herein by reference.
42. Pursuant to COMAR 26.13.01.03B(89-1), the term “Universal Waste” applies to certain hazardous wastes that are managed under the universal waste requirements of COMAR 26.13.10.06 – 25,” including “(a) Batteries as described in COMAR 26.13.10.07.”

43. Pursuant to COMAR 26.13.10.06, the regulations at COMAR 26.13.10.06 – 25, establish requirements for the management of universal waste and include standards for managing “Batteries, as described in Regulation [COMAR 26.13.10].07.”
44. Pursuant to COMAR 26.13.10.07, and with exceptions not herein applicable, the requirements of COMAR 26.13.10.06 – 25 apply, in relevant and applicable part, “to persons managing: (1) Batteries, as defined in COMAR 26.13.01.03B” which, at COMAR 26.13.01.03B(4-1), defines the term “Battery” to mean “(a) A device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy; or (b) An intact, unbroken device, which would otherwise meet the definition of battery in §B(4-1)(a) of this regulation from which the electrolyte has been removed.”
45. Pursuant to COMAR 26.13.10.07C(1), “A used battery becomes a waste on the date it is discarded, as defined by the criteria in COMAR 26.13.02.02A(2)” --- i.e., by being: “abandoned” (i.e., disposed of; burned or incinerated; or accumulated, stored, or treated (but not recycled), before or instead of being abandoned by being disposed of, burned, or incinerated), “recycled” (or accumulated, stored, or treated before recycling in a manner constituting disposal, by being burned for energy recovery, by being reclaimed, or by being accumulated speculatively), or “considered inherently waste-like.” [See, COMAR 26.13.02.02A – D.]
46. COMAR 26.13.10.11 sets forth the general requirements applicable to “Small Quantity Handlers of Universal Waste” and provides that COMAR 26.13.10.11 – 18 applies “to small quantity handlers of universal waste, as defined in COMAR 26.13.01.03B” which term is defined, at COMAR 26.13.01.03B(72-2) to mean “a universal waste handler that does not accumulate 5,000 kilograms or more of universal waste at any time during a calendar year.”
47. COMAR 26.13.10.17 sets forth the general management standards applicable to Small Quantity Handlers of Universal Waste and includes labeling and marking requirements. In that respect, COMAR 26.13.10.17A(1) provides that: “A small quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste as specified in §A(2) of this regulation. COMAR 26.13.10.17A(2) thereafter provides, in relevant and applicable part, that: “A small quantity handler of universal waste shall: (a) Clearly label or mark each universal waste battery that is not in a container, and each container in which universal waste batteries are being held with one of the following phrases: (i) “Universal Waste—Battery(ies)”; (ii) “Waste Battery(ies)”; or (iii) “Used Battery(ies)[.]”
48. COMAR 26.13.10.17B sets forth the allowable accumulation time limits for universal waste by a small quantity handler and provides, at COMAR 26.13.10.17B(3), that “A small quantity handler of universal waste shall: (a) 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; and (b) Make the demonstration required by §B(3)(a) of this regulation by: (i) 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 by the handler; (ii)

Marking or labeling each individual item of universal waste, such as each battery or thermostat, with the date the individual item became a waste or was received by the handler; (iii) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received by the handler; (iv) 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 by the handler; (v) 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 by the handler; or (vi) Using any other method that clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received by the handler."

49. At all times herein relevant, Respondent is, and has been, a small quantity handler of universal waste batteries.
50. On August 7, 2013, in a caged storage area of the Facility's "Barrel Yard," Respondent was storing individual and containerized spent universal waste batteries including: one (1) individual universal waste battery that was not at all labeled or marked with any of the required "Universal Waste—Battery(ies)"; "Waste Battery(ies)"; or "Used Battery(ies)" phrases required pursuant to COMAR 26.13.10.17A(2); and one (1) container of universal waste batteries that was improperly labeled with a phrase different than required pursuant to COMAR 26.13.10.17A(2).
51. On August 7, 2013, neither the caged storage area used by Respondent to store the Facility's accumulated universal waste batteries (including those described in the preceding paragraph), any of the containers of universal waste batteries then being stored in that area of the Facility, or any individual (non-containerized) universal waste battery then being stored in that area of the Facility, were marked or labeled so as to identify the earliest date that any of the universal waste being accumulated in that particular area of the Facility had become a waste and Respondent did not then have available any documents indicating that a universal waste inventory system, or any other method, was being used at the Facility to demonstrate the length of time that universal waste, including the universal waste identified in the preceding paragraph, had been accumulated at the Facility from the date that it became a waste.
52. Respondent violated the universal waste storage requirements of COMAR 26.13.10.17A(1) and COMAR 26.13.10.17B(3)(a) on August 7, 2013, by then: by failing to properly label or mark stored individual and containerized universal waste batteries in the manner required by COMAR 26.13.10.17A(2); and by failing to demonstrate, by any of the available methods specified in COMAR 26.13.10.17B(3)(b)(i) – (vi), the length of time that universal waste batteries had been accumulated at the Facility from the date that they became waste.

IV. CIVIL PENALTIES

53. Respondent agrees to pay a civil penalty in the amount of FIFTEEN THOUSAND DOLLARS (\$15,000.00) in full and final settlement and satisfaction of all civil claims for penalties which Complainant may have concerning the violations and facts alleged and set forth in Section III (“EPA Findings of Fact and Conclusions of Law”) of this CA. Such civil penalty shall become due and payable immediately upon Respondent’s receipt of a true and correct copy of this CAFO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent.
54. The civil penalty settlement amount set forth in preceding paragraph was determined after consideration of the statutory factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA’s October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 (“RCRA Penalty Policy”), which reflect the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g). Complainant has also considered the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, and the December 6, 2013 Memorandum by EPA Assistant Administrator, Cynthia Giles, entitled, Amendments to the U.S. Environmental Protection Agency’s Civil Penalty Policies to Account for Inflation (effective December 6, 2013). The settlement in this proceeding is consistent with the provisions and objectives of Section 3008 of RCRA, and its implementing regulations.
55. Payment of the civil penalty set forth in Paragraph 53, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 57 through 60, below, shall be made by either 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 EPA Docket Number of this CA, i.e., **RCRA-03-2016-0204**;
 - b. All checks shall be made payable to “**United States Treasury**;
 - b. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

Customer service contact: 513-487-2091

- d. All payments made by check and sent by overnight delivery service shall be addressed and mailed 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 check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

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

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

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

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

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

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

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

Contact: 866-234-5681

- h. On-Line Payment Option: WWW.PAY.GOV/paygov/

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

- i. Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>

or by contacting Craig Steffen at 513-487-2091

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

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

and

A.J. D'Angelo, Acting Chief
Waste & Chemical Law Branch (3RC30)
Office of Regional Counsel
U.S. EPA, Region III
650 Arch Street
Philadelphia, PA 19103-2029.

57. 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. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
58. 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).
59. 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.

60. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
61. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this CA and the accompanying Final Order.

V. CERTIFICATIONS

62. Respondent certifies to Complainant by its signature hereto, to the best of Respondent's knowledge and belief, that Respondent is in compliance with all relevant provisions of the current, authorized revised MdHWMR, and of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, for which violations are alleged in this CA.

VI. OTHER APPLICABLE LAWS

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

VII. RESERVATION OF RIGHTS

64. This CAFO resolves only EPA's claims for civil penalties for the specific violations and facts which are alleged in this CA. Nothing in this CAFO shall be construed as limiting the authority of EPA to undertake action against any person, including the Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the *Consolidated Rules of Practice*. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO following its filing with the Regional Hearing Clerk.

VIII. FULL AND FINAL SATISFACTION

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

IX. PARTIES BOUND

66. This CAFO 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 CAFO.

X. EFFECTIVE DATE

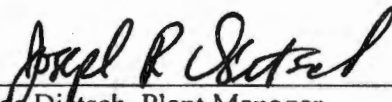
67. The effective date of this CAFO is the date on which the FO is filed with the Regional Hearing Clerk after signature by the Regional Administrator or his designee, the Regional Judicial Officer.

XI. ENTIRE AGREEMENT

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

For Respondent:

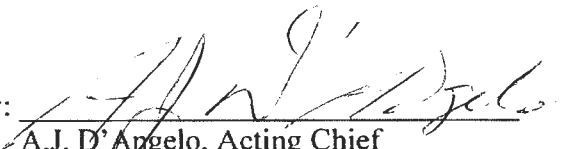
Date: 7/29/2016

By: 
Joe Dietsch, Plant Manager
Cytex Engineered Materials Inc.

For the Complainant:

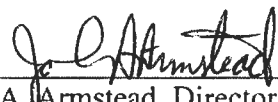
U.S. Environmental Protection Agency, Region III

Date: 8/5/2016

By: 
A.J. D'Angelo, Acting Chief
Waste & Chemical Law Branch
Office of Regional Counsel

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

Date: 8.8.16

By: 
John A. Armstead, Director
Land and Chemicals Division

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

RECEIVED
2016 AUG -9 PM 2: 19
REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

In Re:)
)
Cytec Engineered Materials Inc.)
1300 Revolution Street) Docket No. RCRA-03-2016-0204
Havre de Grace, Maryland 21078)
)
RESPONDENT.) Proceeding Under Section
) 3008(a) and (g) of the
Cytec Engineered Materials Inc.) Resource Conservation and
1300 Revolution Street) Recovery Act, as amended,
Havre de Grace, Maryland 21078) 42 U.S.C. § 6928(a) and (g)
EPA Facility I.D. # MDD003075942)
)
FACILITY.)

FINAL ORDER

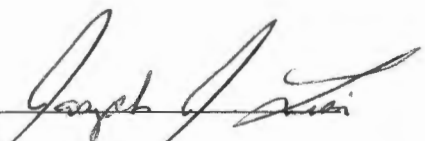
Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, Cytec Engineered Materials Inc., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules 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, with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3). 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)(1) and (g) of the Solid Waste Disposal Act, commonly known as Resource Conservation and Recovery Act of 1976, as amended, *inter alia*, by the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. § 6928(a)(1) and (g), and the *Consolidated Rules*

of Practice, after having determined, based on the representations of the Parties set forth in the Consent Agreement, that the civil penalty of Fifteen Thousand Dollars (\$15,000.00) agreed to therein was based upon a consideration of, *inter alia*, the statutory penalty factors set forth at RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3), the U.S. Environmental Protection Agency's current *RCRA Civil Penalty Policy*, and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, **IT IS HEREBY ORDERED** that Respondent pay a civil monetary penalty of Fifteen Thousand Dollars (\$15,000.00), in accordance with the provisions of the foregoing Consent Agreement, and comply timely with each of the additional terms and conditions thereof.

The effective date of the foregoing Consent Agreement and this Final Order, signed by the Regional Administrator of the U.S. Environmental Protection Agency, Region III, or his designee, the Regional Judicial Officer, is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: Aug 9, 2016



Joseph J. Lisa
Regional Judicial Officer
U.S. Environmental Protection Agency, Region III

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

In Re:)	
)	
Cytec Engineered Materials Inc.)	
1300 Revolution Street)	Docket No. RCRA-03-2016-0204
Havre de Grace, Maryland 21078)	
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EPA Facility I.D. # MDD003075942)	
)	
FACILITY.)	

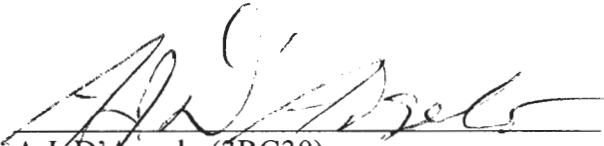
CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, I caused to be hand-delivered to Ms. Lydia Guy, Regional Hearing Clerk (3RC00), U.S. EPA Region III, 1650 Arch Street, 5th Floor, Philadelphia, PA 19103-2029, the original and one copy of the foregoing Consent Agreement and of the accompanying Final Order (collectively, "CAFO"). I further certify that on the date set forth below, I caused true and correct copies of the same to be mailed via Certified Mail, Return Receipt Requested, Postage Prepaid (Article No. 7001 2510 0001 1042 9658), to the following person at the following address:

Kenneth M. Kastner, Esq.
Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004
(Counsel for Respondent)

AUG 09 2016

Date


A.J. D'Angelo (3RC30)
Acting Chief, Waste & Chemical Law Branch
Office of Regional Counsel
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
Tel. (215) 814-2480