

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

In the Matter of: :  
 :  
Lord Corporation :  
 :  
Respondent. :  
 :  
Lord Corporation :  
601 South Street :  
Saegertown, Pennsylvania, 16433, :  
 :  
Facility. :  
 :  
\_\_\_\_\_ :

EPA Docket No. RCRA-03-2018-0013  
Proceeding under Section 3008(a) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6928(a)

REGIONS HEARING OFFICE  
EPA REGION III, PHILADELPHIA

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**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 Lord Corporation (“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 and the accompanying Final Order (hereinafter jointly referred to as this “CAFO”) address alleged violations by Respondent of RCRA and the federally authorized Pennsylvania Hazardous Waste Management Regulations (“PaHWMR”), codified at 25 Pa. Code Chapters 260a – 266a, 266b, and 268a – 270a.

3. The Commonwealth of Pennsylvania has received federal authorization to administer a Hazardous Waste Management Program (the “Pennsylvania Hazardous Waste Management Program”)(“PaHWMR”) in lieu of the federal hazardous waste management program authorized under RCRA Subtitle C, 42 U.S.C. §§6921 – 6939 (g). Effective January 30, 1986, the PaHWMR was authorized by the EPA pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A and thereby became requirements of RCRA Subtitle C and enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). *See 51 Fed.Reg. 1791* (January 15, 1986), *65 Fed. Reg. 57734* (September 26, 2000), *69 Fed. Reg. 2674* (January 20, 2004) and *74 Fed. Reg. 19453* (April 29, 2009). The PaHWMR incorporate, with

certain exceptions, specific provisions of Title 40 of the 1999 Code of Federal Regulations by reference. *See* 25 Pa. Code § 260a.3(e).

4. Pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) - (3) of the Consolidated Rules of Practice, this CAFO simultaneously commences and concludes an administrative proceeding against Respondent by the issuance of a Consent Agreement and Final Order, brought under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a), to resolve alleged violations of RCRA at Respondent's facility located at 601 South Street, Saegertown, Pennsylvania, 16433.

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.

6. For purposes of this proceeding only, Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO, 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 Consent Agreement and any right to appeal the accompanying Final Order.

9. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.

10. Respondent and EPA shall bear their own costs and attorney's fees in connection with this proceeding.

#### Notice of Action to the Commonwealth of Pennsylvania

11. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated March 20, 2017, EPA notified the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection ("PADEP"), of EPA's intent to commence this administrative action against Respondent in response to the violations of RCRA Subtitle C that are alleged herein.

12. Upon making a determination that any person has violated or is in violation of any requirement of RCRA Subtitle C, and upon satisfying the notification requirements of RCRA Section 3008(a)(2), 42 U.S.C. 6928(a)(2), RCRA Section 3008(a)(1), 42 U.S.C. 6928(a)(1), authorizes the Administrator of EPA to issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both.

## **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:

13. Respondent is, and was at the time of the violations alleged herein, a corporation of the Commonwealth of Pennsylvania.

14. Respondent is, and was at the time of the violations alleged herein, a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903, 25 Pa. Code § 260a.10.

15. Respondent is, and at all times relevant to this Consent Agreement, was the “owner” and “operator” of a “facility”, described in Paragraph 16, below, as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1.

16. The facility referred to in Paragraph 15, above, including all of its associated equipment and structures (hereinafter the “Facility”), is a manufacturing facility located at 601 South Street, Saegertown, Pennsylvania, 16433.

17. Respondent was at all times relevant to this CAFO, a large quantity generator of hazardous waste that generated more than 1,000 kilograms of hazardous waste per month at its Facility. Respondent is assigned EPA ID No. PAD048203822.

18. Respondent was at all times relevant to this CAFO, 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 in 40 C.F.R. § 260.10, as incorporated by reference by 25 Pa. Code § 260a.1, with the exception of the term “storage”, which is defined in 25 Pa. Code § 260a.10.

19. On August 31, 2016, a representative of EPA conducted a RCRA Compliance Evaluation Inspection (“RCRA CEI”) at the Facility.

20. On August 31, 2016, “hazardous wastes” generated by Respondent, identified below in Paragraphs 21 - 22 were in “storage” in containers at the Facility.

21. Respondent generates waste flammable liquid at the Facility which is comprised of, among other things, waste xylene and waste toluene which are hazardous wastes (EPA Hazardous Waste Nos. D001, and F003) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. §§ 261.21 because it exhibits the characteristic of ignitability.

22. Respondent generates waste flammable liquid at the Facility which is comprised of, among other things, waste methyl ethyl ketone, waste tetrachloroethylene and waste trichloroethylene, which are hazardous wastes (EPA Hazardous Waste Nos. D035, D039, D040, and F005) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. §§ 261.24, because it exhibits the characteristic of toxicity.

23. On May 3, 2017, EPA sent to Respondent an Opportunity to Show Cause letter, advising Respondent of certain alleged violations of RCRA Subtitle C based upon the RCRA CEI and the responses by Lord Corporation to a November 22, 2016 Request for Information issued by USEPA to it pursuant to Section 3007(a) of RCRA regarding generation and management of hazardous waste, and this Consent Agreement resolves those alleged violations.

## COUNT I

(Operating a Treatment, Storage or Disposal Facility Without a Permit or Interim Status)

24. The preceding paragraphs are incorporated by reference.

25. 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), 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. 25 Pa. Code § 262a.10 incorporates by reference 40 C.F.R. § 262.34, which provides, in pertinent part, that a generator that accumulates hazardous waste on site for less than 90 days in compliance with the terms of that section may do so without a permit or interim status.

27. 25 Pa. Code § 262a.10 incorporates by reference 40 C.F.R. § 262.34(a)(1)(i) which 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, the generator complies with the requirements of 40 C.F.R. Part 265, Subpart I, which includes 40 C.F.R. § 265.173(a), which requires that containers holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

28. 25 Pa. Code § 262a.10 incorporates by reference 40 C.F.R. § 262.34(a)(1)(i) 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, the generator complies with the requirements of 40 C.F.R. Part 265 Subpart I, which includes 40 C.F.R. § 265.171, which requires the transfer of hazardous waste from a container not in good condition to a container that is in good condition or management of the waste in some other way that complies with 40 C.F.R. Part 265.

29. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(ii), provides, in pertinent part, that a generator may accumulate hazardous waste in tanks on-site for 90 days or less without a permit or having interim status provided that, among other things, the generator complies with the requirements of 40 C.F.R. Part 265, Subpart J, which includes 40 C.F.R. § 265.193(a), under which all new or existing tank systems must comply with the requirements of 40 C.F.R. § 265.193, and 40 C.F.R. § 265.193(b) which requires that secondary containment systems be designed, installed and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water, or surface water at any time during the use of the tank system, and 40 C.F.R. § 265.193(e)(1)(iii), which requires that secondary containment systems be free of cracks and gaps.

30. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4), provides, in pertinent part, that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or having interim status provided that, among other things, the generator complies with the requirements of 40 C.F.R. Part 265, Subpart D, including 40 C.F.R. § 265.52(a), which requires each facility to have a Contingency Plan that includes the actions facility personnel must take to comply with 40 C.F.R. §§ 265.51 and 265.56 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.

31. 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i) and (ii), provides, in pertinent part, that a generator may accumulate hazardous waste in containers and tanks on-site for 90 days or less without a permit or having interim status provided that, among other things, the generator complies with the requirements of 40 C.F.R. Part 265, Subpart BB, including 40 C.F.R. § 265.1063(d) which requires that in concert with the waste analysis plan required by 40 C.F.R. § 265.13(b), an owner or operator of a facility must determine, for each piece of equipment, whether the equipment contains or contacts a hazardous waste with organic concentration that equals or exceeds 10 percent by weight using one of the methods set forth at 40 C.F.R. § 265.1063(d)(1) – (3).

32. 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i) and (ii), provides, in pertinent part, that a generator may accumulate hazardous waste in containers and tanks on-site for 90 days or less without a permit or having interim status provided that, among other things, the generator complies with the requirements of 40 C.F.R. Part 265, Subpart BB, including 40 C.F.R. § 265.1052(e) which requires pumps designated for no emissions subject to 40 C.F.R. Part 265 Subpart BB to be monitored annually.

33. 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i) and (ii) provides, in pertinent part, that a generator may accumulate hazardous waste in containers and tanks on-site for 90 days or less without a permit or having interim status provided that, among other things, the generator complies with the requirements of 40 C.F.R. Part 265, Subpart BB, including 40 C.F.R. § 265.1057(a) which requires valves in gas/vapor or light liquid service to be monitored monthly to detect leaks by the methods specified in 40 C.F.R. § 265.1063(b) and to comply with the requirements of 40 C.F.R. § 265.1057(b)-(e), except as provided in paragraphs (f), (g), and (h) of this 40 C.F.R. § 265.1057, and 40 C.F.R. §§ 265.1061 and 265.1062.

34. On August 31, 2016, Respondent stored hazardous waste in containers that were not kept closed except when necessary to add or remove waste, in violation of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i), which requires compliance with 40 C.F.R. § 265.173(a). Specifically, the following containers were open and no hazardous waste was being added or removed from the containers:

A. One 250-gallon tote of hazardous waste clean-up solvent (D001, D035, D039, D040, F003, F005) had an open valve connected to an open desiccant filter on the lid in Building 8 at the Facility;

B. One 300-gallon tote of hazardous waste flammable liquid (D001, D035, D039, D040, F003, F005) had an open valve connected to an open desiccant filter on the lid in Building 21 Waste Shelter at the Facility;

C. One 300-gallon tote of waste hazardous waste with an unreadable label had an open valve in Building 21 Waste Shelter at the Facility;

D. One 300-gallon tote of hazardous waste flammable liquid (D001, D007, D008, D035, F003, F005) had a semi-open valve on the lid in Building 21 Waste Shelter at the Facility; and

E. One 250-gallon tote of hazardous waste flammable liquid methanol (D001) had an open bung hole in Building 21 Waste Shelter at the Facility.

35. On August 31, 2016, Respondent failed to transfer hazardous waste from a container not in good condition to a container in that is in good condition or otherwise comply with 40 C.F.R. Part 265, when the outside of a “waste wrangler” cardboard gaylord box containing D001, D007, D008, D0037, D039, D040, F002, F003, and F005 hazardous waste was stained with hydraulic oil in violation of 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i), which requires compliance with 40 C.F.R. § 265.171.

36. On August 31, 2016, Respondent failed to have adequate secondary containment in violation of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(ii), which requires compliance with 40 C.F.R. § 265.193 for the following hazardous waste tanks:

A. A tank known as the “Bromide/Chloride” tank at the Facility used to store hazardous waste had cracks in the walls and floor of the secondary containment.

B. A tank known as the “B-Waste” tank used to store hazardous waste at the Facility had areas where the tank liner had flaked off.

C. Tanks known as the “A/N Hazardous Waste” tanks used to store hazardous waste at the Facility had thin cracks in the secondary containment walls.

37. On August 31, 2016, Respondent failed to have a complete Contingency Plan as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4), which requires compliance with 40 C.F.R. § 265.52(a) by failing to include in the Facility Contingency Plan the actions facility personnel must take to comply with 40 C.F.R. §§ 265.51 and 265.56 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. The chain-of-command listing of Facility personnel in the Facility Contingency Plan did not sufficiently describe the actions that must be taken 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.

38. On August 31, 2016, Respondent failed to determine, for certain pieces of equipment, namely 25 valves, whether the equipment contains or contacts a hazardous waste with organic concentration that equals or exceeds 10 percent by weight using one of the methods set forth at 40 C.F.R. § 265.1063(d)(1) – (3) in violation of 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.34(a)(1)(ii) which requires compliance with 40 C.F.R. § 1063(d).

39. From at least May 8, 2013 through November 10, 2016, Respondent failed to monitor pumps annually that are subject to 40 C.F.R. Part 265 Subpart BB in violation of 25 Pa.

Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(ii) which requires compliance with 40 C.F.R. § 265.1052(e).

40. From at least May 8, 2013 through November 10, 2016, Respondent failed to monitor monthly valves subject to 40 C.F.R. Part 265 Subpart BB in violation of 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.34(a)(1)(ii), which requires compliance with 40 C.F.R. § 265.1057.

41. Respondent failed to qualify for the “less than 90-day” generator accumulation exemption of 25 Pa. Code § 262a.10, which incorporates by reference the requirements of 40 C.F.R. § 262.34(a)(1)(i) and (ii), by failing to satisfy the conditions for such exemptions referred to in Paragraphs 27 – 33, above, and as described in Paragraphs 34 - 40, above.

42. Respondent’s Facility is a hazardous waste treatment, storage or disposal “facility” as that term is defined in 25 Pa. Code § 260a.10 with respect to the storage of hazardous waste as described above.

43. Respondent does not have, and never had, a hazardous waste treatment or storage permit or interim status pursuant to 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), for the treatment or storage of hazardous waste at the Facility.

44. Respondent was required by 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), to obtain a permit for the hazardous waste storage activities described in this count.

45. From at least May 8, 2013 until November 10, 2016, Respondent violated 25 Pa. Code § 270a.1, 40 C.F.R. § 270.1(b) and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by operating a hazardous waste storage facility without a permit, interim status or a valid exemption to the permit requirement.

COUNT II  
(Container Management)

46. The preceding paragraphs are incorporated by reference.

47. 25 Pa. Code § 264a.1 incorporates by reference the requirements of 40 C.F.R. Part 264. 40 C.F.R. Part 264 applies to owners and operators of all facilities which treat, store, or dispose of hazardous waste, except in certain limited circumstances, including a generator accumulating waste on-site in compliance with 40 C.F.R. § 262.34 of this chapter. Respondent did not comply with all of the requirements for a generator permit exemption -set forth in 40 C.F.R. § 262.34 and therefore was obligated to comply with the RCRA permit requirements in 40 C.F.R. Part 264 at its facility located at 601 South Street, Saegertown, Pennsylvania, 16433.

48. Pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), containers used to store hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

49. On August 31, 2016, Respondent failed to keep the following hazardous waste containers closed when hazardous waste was not being added or removed:

A. One 250-gallon tote of hazardous waste clean-up solvent (D001, D035, D039, D040, F003, F005) had an open valve connected to an open desiccant filter on the lid in Building 8 at the Facility.

B. One 300-gallon tote of hazardous waste flammable liquid (D001, D035, D039, D040, F003, F005) had an open valve connected to an open desiccant filter on the lid in Building 21 Waste Shelter at the Facility.

C. One 300-gallon waste hazardous waste with and unreadable label had an open valve connected to a desiccant filter on the lid in Building 21 Waste Shelter at the Facility.

D. One 300-gallon tote of hazardous waste flammable liquid (D001, D007, D008, D035, F003, F005) had a semi-open valve in Building 21 Waste Shelter at the Facility.

E. One 250-gallon tote of hazardous waste flammable liquid methanol (D001) had an open bung hole in Building 21 Waste Shelter at the Facility.

50. On August 31, 2016, Respondent violated 25 Pa. Code § 264a.1, and 40 C.F.R. § 264.173(a) by failing to keep containers storing hazardous waste closed during storage, except when it is necessary to add or remove waste.

### COUNT III

(Failure to Maintain Condition of Hazardous Waste Container or Transfer its Contents)

51. The preceding paragraphs are incorporated by reference.

52. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.171, requires the transfer of hazardous waste from a container not in good condition to a container that is in good condition or management of the waste in some other way that complies with 40 C.F.R. Part 264.

53. On August 31, 2016, a “Waste Wrangler” cardboard Gaylord box which was stained with hydraulic oil on its exterior was being used to store hazardous waste flammable solid (D001, D035, D007, D008, D035, D039, D040, F002, F003, F005) at the Facility.

54. On August 31, 2016, Respondent violated 25 Pa. Code § 264a.1 and 40 C.F.R. § 264.171 by failing to transfer hazardous waste from a container not in good condition to a container that is in good condition or manage of the waste in some other way that complies with 40 C.F.R. Part 264.

### COUNT IV

(Secondary Containment)

55. The preceding paragraphs are incorporated by reference.



56. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.193 with exceptions not relevant herein, requires that an owner or operator of all new and existing tank systems used to store hazardous waste have secondary containment that meets certain requirements, including being free of cracks and gaps.

57. On August 31, 2016, the secondary containment for a hazardous waste tank being used to store waste chemicals in the tank known as the “Bromide/Chloride” tank at the Facility was cracked in the walls and floor.

58. On August 31, 2016, the secondary containment for a hazardous waste tank being used to store hazardous “B Waste” at the Facility had areas where the paint liner had flaked off.

59. On August 31, 2016, the secondary containment for hazardous waste tanks being used to store hazardous “A/N Waste” at the Facility had thin cracks in the containment walls.

60. On August 31, 2016, Respondent violated 25 Pa. Code § 264a.1 and 40 C.F.R. § 264.193 by failing to have adequate secondary containment for the “Bromide/Chloride”, “B Waste” and “A/N” hazardous waste storage tanks at the Facility.

COUNT V  
(Contingency Plan)

61. The preceding paragraphs are incorporated by reference.

62. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.51(a) and 40 C.F.R. § 264.52(a), requires the owner or operator of a hazardous waste facility must have a Contingency Plan that complies with 40 C.F.R. § 264.51 and §264.52.

63. 40 C.F.R. § 264.51(a) requires that the facility contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

64. 40 C.F.R. § 264.52(a) requires that the facility contingency plan describe the actions facility personnel must take to comply with 40 C.F.R. §§ 264.51 and 264.56 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.

65. On August 31, 2016, the Facility 2016 “Preparedness, Prevention and Contingency Plan” did not adequately describe prevention and response measures for fires and explosions other than a chain-of-command listing of Facility personnel.

66. On August 31, 2016, Respondent violated 25 Pa. Code § 264a.1 and the Contingency Plan requirements of 40 C.F.R. §§ 264.51, 264.52 and 265.56 because the Facility Contingency Plan failed to adequately describe prevention and response measures for fires and explosions.

## COUNT VI

(Failure to Determine Whether Equipment Contains or Contacts a Hazardous Waste with 10% or More Organic Concentration)

67. The preceding paragraphs are incorporated by reference.

68. 25 Pa. Code § 264a.1 incorporates by reference 40 C.F.R. Part 264, Subpart BB.

69. The Air Emission Standards for Equipment Leaks in 40 C.F.R. Part 264 Subpart BB includes 40 C.F.R. § 264.1063(d), which requires that in concert with the waste analysis plan required by 40 C.F.R. § 264.13(b), an owner or operator of a facility must determine, for each piece of equipment, whether the equipment contains or contacts a hazardous waste with organic concentration that equals or exceeds 10 percent by weight using one of the methods set forth at 40 C.F.R. § 264.1063(d)(1) – (3).

70. From at least January 1, 2016 until August 31, 2016, Respondent failed to determine whether at least twenty-five valves contained or contacted a hazardous waste with organic concentration that equals or exceeds 10 percent by weight using one of the methods set forth at 40 C.F.R. § 264.1063(d)(1) – (3).

71. From at least January 1, 2016 until August 31, 2016, Respondent violated 25 Pa. Code § 264a.1 and 40 C.F.R. § 264.1063(d), which requires that in concert with the waste analysis plan required by 40 C.F.R. § 264.13(b), an owner or operator of a facility must determine, for each piece of equipment, whether the equipment contains or contacts a hazardous waste with organic concentration that equals or exceeds 10 percent by weight using one of the methods set forth at 40 C.F.R. § 264.1063(d)(1) – (3).

## COUNT VII

(Failure to Monitor Pumps Subject to 40 C.F.R. Part 264 Subpart BB Annually)

72. The preceding paragraphs are incorporated by reference.

73. The Air Emission Standards for Equipment Leaks in 40 C.F.R. Part 264 Subpart BB includes 40 C.F.R. § 264.1052(e)(3), which requires certain pumps in light liquid service designated for no detectable emissions to be monitored annually to detect leaks by the methods specified in 40 C.F.R. § 264.1063(c).

74. Respondent has elected to designate pumps used in light liquid service at the Facility for no detectable emissions, pursuant to 40 C.F.R. § 264.1064(g)(2).

75. Pursuant to 40 C.F.R. § 264.1052(e)(3), pumps used in light liquid service that are designated for no detectable emissions must be tested for compliance with the requirements of 40 C.F.R. § 264.1052(e)(2), initially upon designation, annually, and at other times as requested by PADEP.

76. From May 8, 2013 through and including November 10, 2016 Respondent did not monitor pumps in light liquid service that were designated for no detectable emissions annually.

77. From May 8, 2013 through and including November 10, 2016, Respondent violated 25 Pa. Code § 264a.1 and 40 C.F.R. § 264.1052(e)(3), by failing to monitor pumps in light liquid service that were designated for no detectable emissions annually using the methods specified in 40 C.F.R. § 264.1063(b).

#### COUNT VIII

(Failure to Monitor Valves Subject to 40 C.F.R. Part 264 Subpart BB Monthly)

78. The preceding paragraphs are incorporated by reference.

79. The Air Emission Standards for Equipment Leaks in 40 C.F.R. Part 264 Subpart BB includes 40 C.F.R. § 264.1057(a), which requires each valve in gas/vapor or light liquid service to be monitored monthly to detect leaks by the methods specified in 40 C.F.R. § 264.1063(b) and comply with 40 C.F.R. § 264.1057 (b) - (e), except as provided by 40 C.F.R. § 264.1057 (f) - (h), and 40 C.F.R. §§ 264.1061 and 264.1062.

80. From May 8, 2013 through and including November 9, 2016, Respondent did not perform monthly monitoring of valves subject to 40 C.F.R. Part 264 Subpart BB.

81. From May 8, 2013 through and including November 9, 2016, Respondent violated 25 Pa. Code § 264a.1 and 40 C.F.R. § 264.1057(a)(1), by failing to monitor each valve in gas/vapor or light liquid service monthly to detect leaks by the methods specified in 40 C.F.R. § 264.1063(b) and comply with 40 C.F.R. § 264.1057 (b) - (e), except as provided by 40 C.F.R. § 264.1057 (f) - (h), and 40 C.F.R. §§ 264.1061 and 264.1062.

### **III. CIVIL PENALTIES**

82. Respondent agrees to pay a civil penalty in the amount of ONE HUNDRED SEVENTEEN THOUSAND THREE HUNDRED TWENTY DOLLARS (\$117,320.00) 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 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 executed and filed CAFO is mailed or hand-delivered to Respondent.

83. The aforesaid settlement amount was 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). Complainant also has considered the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 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).*

84. Payment of the civil penalty as required by Paragraph 82, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 87 - 89, 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 Docket Number of this action, *i.e.*, RCRA-03-2018-0013;

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](mailto:steffen.craig@epa.gov)

Additional payment guidance is available at:

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

85. 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

86. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.

87. 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.

88. 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.

89. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly. 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. RESERVATION OF RIGHTS**

90. This CAFO resolves only EPA's claims for civil penalties for the specific 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. 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. SCOPE OF SETTLEMENT**

91. The settlement set forth in this CAFO shall constitute full and final satisfaction of the EPA's civil claims for the specific allegations alleged herein. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of federal laws and regulations administered by EPA.

92. The execution of this Consent Agreement terminates any continuing obligation on Respondent to respond to the November 22, 2016 Request for Information pursuant to Section 3007(a) of RCRA regarding generation and management of hazardous waste by Lord Corporation.

#### **VI. OTHER APPLICABLE LAWS**

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

**VI. CERTIFICATION OF COMPLIANCE**

94. Respondent certifies to EPA that, upon investigation, to the best of Respondent's knowledge and belief, Respondent is currently in compliance with all applicable provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and the federally authorized PaHWMR, for which violations are alleged in this Consent Agreement.

**VII. PARTIES BOUND**


95. This Consent Agreement 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 Consent Agreement on behalf of Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind the Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

**VIII. EFFECTIVE DATE**

96. 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, Lord Corporation:

Date: 11-1-17

By:   
\_\_\_\_\_  
Doug Lorenz, President  
Automotive, Industrial and Electronics  
Assembly  
LORD Corporation

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

Date: \_\_\_\_\_

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.

Date: \_\_\_\_\_

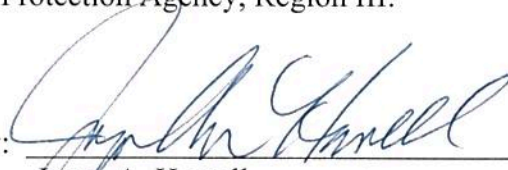
By: \_\_\_\_\_

Martha Shimkin  
Acting Director  
Land and Chemicals Division




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

Date: November 8, 2017

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.

Date: 12-17-2017

By:   
Martha Shimkin  
Acting Director  
Land and Chemicals Division

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

In the Matter of: .  
 .  
 Lord Corporation, .  
 .  
 Respondent. .  
 .  
 Lord Corporation .  
 601 South Street .  
 Saegertown, Pennsylvania, 16433, .  
 .  
 Facility. .  
 .  
 .  
 .  
 .

EPA Docket No. RCRA-03-2018-0013  
 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 OFFICE  
 EPA REGION III PHILA. PA

**FINAL ORDER**


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

NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the Consolidated Rules of Practice and Section 3008(a) and (g) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a) and (g) ("RCRA"), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section 3008(a)(3) and (g), 42 U.S.C. § 6928(a)(3) and

(g), IT IS HEREBY ORDERED that Respondent pay a civil penalty of **ONE HUNDRED SEVENTEEN THOUSAND THREE HUNDRED TWENTY DOLLARS (\$117,320.00)**, and comply with each of the additional terms and conditions as specified in the attached 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.

Dec 19, 2017  
Date:

  
\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial Officer  
U.S. EPA, Region III

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

In the Matter of: :  
 :  
 Lord Corporation :  
 :  
                     Respondent. :  
 :  
 Lord Corporation :  
 601 South Street :  
 Saegertown, Pennsylvania, 16433, :  
 :  
                     Facility. :  
 :  
 \_\_\_\_\_ :  
 :

EPA Docket No. RCRA-03-2018-001  
 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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 U.S. EPA - REGION III  
 PHILADELPHIA, PA

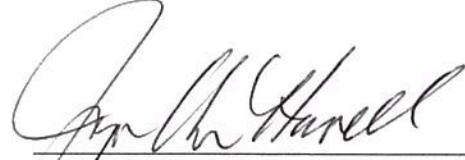
**CERTIFICATE OF SERVICE**

I certify that I sent a copy of the Consent Agreement and Final Order to the addressee 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:

Mr. Mark J. Shaw, Esq.  
 MacDonald Illig  
 100 State Street  
 Suite 700  
 Erie, Pennsylvania 16507 - 1459

Dated: Dec. 20, 2017

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