

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

In the matter of: :
: :
Composite & Metal Products USA, Inc. : U.S. EPA Docket RCRA-03-2016-0419
1 Peninsula Drive :
North East, MD 24501 :
: :
Respondent, : Proceeding under Section 3008(a) and (g)
: of the Resource Conservation and
Composite & Metal Products USA, Inc. : Recovery Act, as amended,
1 Peninsula Drive : 42 U.S.C. § 6928(a) and (g)
North East, MD 24501 :
: :
Facility. :
: :

RECEIVED
2016 APR 24 PM 12:17
EPA REGION III
PHILADELPHIA

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division (“Complainant”), U.S. Environmental Protection Agency, Region III (“EPA” or the “Agency”), and Composite & Metal Products USA, 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 and the accompanying Final Order simultaneously commence and conclude this administrative proceeding against the 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. §§ 6921-6939e. The State of Maryland Hazardous Waste Management Regulations (“MdHWMR”) originally were authorized by EPA on February 11, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b). Revisions to the MdHWMR set forth at COMAR, Title 26, Subtitle 13, were authorized by EPA effective July 31, 2001 and September 24, 2004. The provisions of the revised federally-authorized program have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
4. The State of Maryland has not been granted authorization to administer its hazardous waste management program *in lieu* of certain provisions of the Hazardous and Solid Waste Amendments (“HSWA”) enacted on November 8, 1984 (Pub. Law No. 98-616), which amended Subtitle C of RCRA. Consequently, pursuant to RCRA Section 3006(g), 42 U.S.C. § 6926(g), these provisions are enforceable in Maryland exclusively by EPA.
5. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes EPA to initiate an enforcement action whenever it is determined that a person is in violation of any requirement of RCRA Subtitle C, EPA’s regulations thereunder, or any regulation of a state hazardous waste program which has been authorized by EPA. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment if a civil penalty against any person who violates any requirement of Subtitle C of RCRA.
6. This Consent Agreement (“CA”) and the accompanying Final Order (“FO”) (collectively, the “CAFO”) address alleged violations by Respondent of Subtitle C of RCRA, 42 U.S.C. §§ 6921–6939g, certain federally-authorized Maryland hazardous waste regulations, set forth at COMAR, Title 26, Subtitle 13 *et seq.*, and certain of the federal hazardous waste regulations, set forth at 40 C.F.R. Parts 260–266, for which the State of Maryland has not been granted authorization to administer in lieu of the federal hazardous waste management program under HSWA, in connection with Respondent’s facility. Respondent’s facility is located at 1 Peninsula Drive, North East, Maryland 24501 (“Facility”) and is further described below.
7. Factual allegations or legal conclusions in this CA that are based on provisions of federally-authorized MdHWMR requirements cite those respective provisions as the authority for such allegations or conclusions. Factual allegations or legal conclusions in this CA that are based solely on provisions of the federal hazardous waste management program for which the State of Maryland has not yet received authorization alternatively cite the associated federal provisions as the authority for those particular allegations or conclusions.

8. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated December 11, 2015, EPA notified 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

9. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
10. Respondent neither admits nor denies the specific factual allegations or the conclusions of law contained in the CAFO, except as provided in Paragraph 9, above.
11. Respondent agrees not to contest EPA’s jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
12. 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.
13. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
14. Respondent shall bear its own costs and attorney’s fees.
15. This CAFO shall not relieve Respondent of its obligations 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

16. 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:
17. EPA has jurisdiction over this matter pursuant to RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g).
18. Respondent is a Delaware Corporation organized under the laws of the State of Delaware. Respondent is now, and was at the time of the violations alleged herein, a “person” as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15), 40 C.F.R. § 260.10 and COMAR 26.13.01.03B(61).

19. The Facility (RCRA I.D. Number MDR000012013) consists of a 50,000 square foot building located on a 2-acre parcel, and has been operating at its current location since 1990. Respondent produces fiberglass pipes and tanks at the Facility.
20. At all times relevant to the allegations set forth in this CA, Respondent is, and has been, the “operator” and the “owner” of the Facility, as those terms are defined in COMAR 26.13.01.03.B(58) and (59), during the period of the violations alleged in this CAFO. Respondent has owned and operated the Facility since at least 2010.
21. As described below, at all times relevant to the allegations set forth in this CA, Respondent is, and 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).
22. At all times relevant to the allegations set forth in this CA, and as described below, Respondent is, and has been, engaged in the “storage” of “solid waste” and “hazardous waste” in “containers” at the Facility, as those terms are defined in COMAR 26.13.01.03.B(76), (73), (31) and (9).
23. At all times relevant to the allegations set forth in this CA, Respondent’s Facility is, and has been, a hazardous waste storage “facility” as that term is defined in COMAR 26.13.01.03.B(23).
24. On June 25, 2015, a duly-authorized representative of EPA (“EPA Inspector”), along with an inspector from MDE, conducted a Compliance Evaluation Inspection at the Facility (the “CEI” or “Inspection”), to examine the Respondent’s compliance with the federally-authorized MdHWMR and applicable federal hazardous waste regulations.
25. On September 29, 2015, EPA issued to Respondent a formal information request letter (“IRL”), pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a). Respondent provided information to EPA in response to this IRL, via letter dated November 2, 2015 (“IRL Response”).
26. On March 10, 2016, EPA sent a Request to Show Cause and Request for Information (“Show Cause letter”) to Respondent advising it of EPA’s preliminary findings of violations at the Facility and offering the 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 Respondent’s compliance with the MdHWMR and federal hazardous waste regulations at the Facility. Respondent provided additional information to EPA in response to the Show Cause letter.
27. On the basis of EPA’s findings during the Inspection, Respondent’s IRL Response, and Respondent’s response to EPA’s Show Cause letter, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, certain federally-authorized MdHWMR requirements promulgated thereunder, and certain applicable federal hazardous waste regulations.

Permit/Interim Status Requirements

28. 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.
29. At no time did the 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.
30. At no time did the 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

31. The provisions of COMAR 26.13.03.05E(1) provide, 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)(a), which requires that “[t]he waste [be] shipped off-site within 90 days to a permitted facility or placed in an on-site permitted facility”;
 - b. the condition set forth at COMAR 26.13.03.05E(1)(d), which requires that waste in containers must be accumulated in accordance with COMAR 26.13.05.09, which includes provisions pertaining to the “Management of Containers” and “Inspections”, which are set forth at COMAR 26.13.05.09D and E, and which further require that:
 - i. “A container holding hazardous waste shall always be kept closed during storage, except when it is necessary to add or remove waste, and the container may not be opened, handled, or stored in any manner which may rupture the container or cause it to leak” [COMAR 26.13.05.09D]; and
 - ii. The owner or operator shall inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration of containers and the containment system caused by corrosion or other factors.” [COMAR 26.13.05.09E];
 - c. 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”;

- d. the condition set forth at COMAR 26.13.03.05E(1)(f)(ii), which requires that each container be “[l]abeled or marked clearly with the words ‘Hazardous Waste’, while being accumulated on site”; and
- e. 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 . . .”, pertaining to “Personnel Training,” including, but not limited to, the initial training program and the annual review requirements of COMAR 26.13.05.02G(1)(a) - (c), (2) and (3), and the document and record maintenance requirements of COMAR 26.13.05.02G(4)(a) – (c) and (5), and the “Contingency and Emergency Procedures” of COMAR 26.13.05.04.

COUNT I

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

32. The information in the preceding Paragraphs is incorporated herein by reference, as though fully set forth at length.
33. Although the provisions of COMAR 26.13.03.05E(1) provide hazardous waste generators with an exemption from the permitting requirements for the temporary storage (90 days or less) of hazardous waste generated by a facility (referred to here as the “90-day storage exemption”), Respondent failed to meet the conditions necessary to qualify for the exemption set forth in COMAR 26.13.03.05E(1).
34. The following acts or omissions, further described below, prevented Respondent from meeting the regulatory permit exemption conditions in COMAR 26.13.03.05(E)(1):
 - a. Respondent stored D001 hazardous waste acetone on-site at the Facility for time periods in excess of the 90-day storage limitation set forth at COMAR 26.13.03.05E(1) from:
 1. April 18, 2012 to August 22, 2012 (126 days total, 36 days beyond the 90-day time limit);
 2. November 28, 2012 to February 27, 2013 (91 days total, 1 day beyond the 90-day time limit);
 3. April 10, 2014 to July 11, 2014 (93 days total, 3 days beyond the 90-day time limit); and
 4. December 10, 2014 and June 17, 2015 (189 days total, 99 days beyond the 90-day time limit).
 - b. On June 25, 2015, in the Facility’s Hazardous Waste Accumulation Area located at the southern end of the Acetone Storage Shed, Respondent was

storing nine 55-gallon drums containing hazardous waste that were not marked with the date that hazardous waste began accumulating in those containers, in contravention of the applicable permit exemption condition set forth at COMAR 26.13.03.05E(1)(e).

- c. On June 25, 2015, in the Facility's Hazardous Waste Accumulation Area located at the southern end of the Acetone Storage Shed, Respondent was storing eight 55-gallon drums containing D001 hazardous waste acetone that were not labelled with the words "Hazardous Waste" or other appropriate words indicating that they were being used to store hazardous waste. In this Area on that same date, there was one drum containing D001 hazardous waste acetone that was labeled with the words "Hazardous Waste." However, this drum was labeled with an Avery label that was falling off of the drum. Therefore, Respondent failed to properly label or mark clearly nine hazardous waste containers, then being used to store hazardous waste at the Facility, in contravention of the applicable permit exemption condition set forth at of COMAR 26.13.03.05E(1)(f)(ii).
- d. During calendar year 2014, Respondent failed to provide initial and annual refresher hazardous waste management training, as required pursuant to COMAR 26.13.05.02G(1), to Facility personnel with hazardous waste management responsibilities, as further described in Count II, below, in contravention of COMAR 26.13.05.02G(2) – (3), and the applicable permit exemption condition of COMAR 26.13.05E(1)(g).
- e. At the time of the June 25, 2015 Inspection, Respondent failed to maintain adequate training and personnel records at the Facility, as further described in Count III, below, in contravention of COMAR 26.13.05.02G(4), and the applicable permit exemption condition set forth at COMAR 26.13.05E(1)(g).
- f. At the time of the June 25, 2015 Inspection, Respondent failed to maintain at the Facility a Contingency Plan for the Facility, as further described in Count IV, below, in contravention of COMAR 26.13.05.04B(1), and the applicable permit exemption condition set forth at COMAR 26.13.05.05E(1)(g).
- g. At the time of the June 25, 2015 Inspection, in the Acetone Storage Shed, Respondent failed to keep hazardous waste acetone containers closed except when adding or removing waste, as further described in Count V, below, in contravention of COMAR 26.13.05.09D, and the applicable permit exemption condition set forth at COMAR 26.13.05.05E(1)(d).
- h. During calendar year 2014, Respondent failed to perform required inspections of the Facility's Acetone Storage Shed hazardous waste container accumulation area, as further described in Count VI, below, in

contravention of COMAR 26.13.05.09E, and the applicable permit exemption condition set forth at COMAR 26.13.05.05E(1)(d).

35. For each of the reasons and during each of the dates and time periods identified in Paragraph 34, above, Respondent failed to comply with the permit exemption conditions set forth in COMAR 26.13.03.05E(1)(a), E(1)(d), E(1)(e), E(1)(f)(ii) and E(1)(g), as identified in Paragraph 31, above, for temporary (*i.e.*, 90 days or less) accumulation of hazardous waste by a generator at the Facility, as required pursuant to COMAR 26.13.03.05E(1), 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 Paragraph 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 Provide Initial and Annual Hazardous Waste Refresher Training)

38. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
39. The provisions of COMAR 26.13.05.02G, entitled "Personnel Training," provide, in relevant and applicable part, as follows:

- (1) Program of Instruction or Training.

- (a) Facility personnel shall successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this chapter [and that] [t]he owner or operator shall ensure that this program includes all the elements described in the document required under [COMAR 26.13.05.02] § G(4)(c)

- (b) This program shall . . . include instruction which teaches facility personnel hazardous waste management procedures . . . relevant to the positions in which they are employed.

- (c) At a minimum the training shall be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems

(2) Facility personnel shall successfully complete the program required in [COMAR 26.13.05.02] § G(1), above, within 6 months after the effective date of these regulations or 6 months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later

(3) Facility personnel shall take part in an annual review of the initial training required in [COMAR 26.13.05.02] § G(1), above.

(4) The owner or operator shall maintain the following documents and records at the facility:

(a) The job title for each position at the facility related to hazardous waste management, and the name of each employee filling each job.

(b) A written job description for each position listed under [COMAR 26.13.05.02] § G(4)(a), above

(c) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under [COMAR 26.13.05.02] § G(4)(a), above.

(d) Records that document that the training or job experience required under [COMAR 26.13.05.02] § G(1), (2), and (3) has been given to, and completed by, facility personnel.

(5) Training records on current personnel shall be kept until closure of the facility....

40. At the time of the June 25, 2015 Inspection, Respondent failed to provide requested records or other evidence to indicate or establish that it had provided initial or annual refresher hazardous waste management training of the type required pursuant to COMAR 26.13.05.02G(1), to employees with hazardous waste management responsibilities at the Facility.
41. Training records subsequently provided to EPA by Respondent in its IRL Response do not show that it had provided any hazardous waste management training of the type required pursuant to COMAR 26.13.05.02G(1), to Facility employees between October 9, 2013 and June 26, 2015.
42. Respondent violated the requirements of COMAR 26.13.05.02G(2) and (3) by failing to provide certain Facility personnel engaged in hazardous waste management activities at the Facility with: (a) the required initial hazardous waste training, described in COMAR 26.13.05.02G(1); and (b) the required annual review of such hazardous waste training, during the calendar year 2014.

COUNT III
(Failure to Maintain Training Records)

43. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
44. On June 25, 2015, in response to a request by the EPA Inspector, Respondent failed to provide written job descriptions for each position at the Facility related to hazardous waste management, and associated written descriptions of the type and amount of both introductory and continuing training requirements for each person filling a position with hazardous waste management responsibilities at the Facility.
45. The written job descriptions subsequently provided to EPA by Respondent in its IRL Response failed to identify or to indicate that any hazardous waste training requirements had been established for, or provided to, Facility employees engaged in hazardous waste management positions at the Facility during calendar year 2014, or to identify the requisite skill, education, qualifications and duties of the employees assigned to each such position.
46. Respondent violated the requirements of COMAR 26.13.05.02G(4)(c) by failing to maintain a written description of the type and amount of both introductory and continuing training to be given to each person holding a hazardous waste management position at the Facility during calendar year 2014.
47. Respondent violated the requirements of COMAR 26.13.05.02G(4)(d), by failing to have and maintain records to document that the training or job experience required under COMAR 26.13.05.02G(1), (2), and (3) had been given to, and completed by, Facility personnel engaged in hazardous waste management activities during calendar year 2014.

COUNT IV
(Failure to Maintain Adequate Contingency Plan)

48. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
49. The provisions of COMAR 26.13.05.04, pertaining to the “Contingency and Emergency Procedures,” provide 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.

(2) 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[;]

* * *

(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

50. At the time of the June 25, 2015 Inspection, in response to a request by the EPA Inspector, Respondent’s Facility Environmental Manager failed to provide to the EPA Inspector a contingency plan for the Facility.

51. In its IRL Response, Respondent further stated that it did not have a contingency plan for, or at, the Facility.

52. In May 2016, Respondent nevertheless provided to EPA a contingency plan for the Facility that was dated 2009, which did not include an up-to-date list of names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator.

53. Respondent violated the requirements of COMAR 26.13.05.04D(1) by failing to maintain a copy of its contingency plan at the Facility.

54. Respondent also violated the requirements of COMAR 26.13.05.04C(4) by failing to keep up to date, in the Facility's contingency plan, the names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator at the Facility.

COUNT V

**(Failure to Keep Hazardous Containers Closed
Except as Needed to Add or Remove Waste)**

55. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
56. The provisions of COMAR 26.13.05.09D, pertaining to the "Management of Containers," require that "[a] container holding hazardous waste shall always be kept closed during storage, except when it is necessary to add or remove waste, and the container may not be opened, handled, or stored in any manner which may rupture the container or cause it to leak."
57. At the time of the June 25, 2015 Inspection, five of the nine 55-gallon drums of D001 hazardous waste acetone that were being stored at the southern end of the Facility's Acetone Shed either had open bungs or had open funnels at a time when it was not necessary to add or remove waste.
58. On June 25, 2015, Respondent violated the requirements of COMAR 26.13.05.09D by failing to keep containers holding hazardous waste closed except when it is necessary to add or remove waste.

COUNT VI

**(Failure to Conduct Inspections of Less Than 90-Day
Hazardous Waste Container Storage Area)**

59. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
60. The provisions of COMAR 26.13.05.09E, pertaining to "Inspections," require that: "[t]he owner or operator shall inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration of containers and the containment system caused by corrosion or other factors."
61. At the time of the June 25, 2015 Inspection, and in its September 29, 2015 IRL, EPA requested that Respondent provide copies of all of its 90-day hazardous waste container storage area inspection logs for the period from September 29, 2012 through September 29, 2015.
62. At the time of the June 25, 2015 Inspection, Respondent had an Acetone Storage Shed at the Facility. This Shed served as the Facility's less than 90-day hazardous waste

container storage area, where Respondent regularly and routinely stored D001 hazardous waste acetone in containers.

63. A review of the records that Respondent provided to EPA at the time of the Facility Inspection fail to show that required weekly inspections of the Facility's less than 90-day Acetone Storage Shed container storage area were performed during the following time periods:
- a. the four weeks in July 2012;
 - b. the first two weeks of August 2012;
 - c. the last week of October 2012;
 - d. twenty-three weeks in May through September 2013;
 - e. the first three weeks of October 2013;
 - f. five weeks in January 2014;
 - g. four weeks in November 2014; and
 - h. four weeks in December 2014.
64. Respondent violated the requirements of COMAR 26.13.05.09E by failing to conduct weekly inspections of its less than 90-day hazardous waste container storage area during each of the weekly time periods identified in Paragraphs 63, above.

COUNT VII
(Failure to Maintain Hazardous Waste Manifests)

65. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
66. The provisions of COMAR 26.13.03.06A(1) require that a hazardous waste generator shall keep a copy of each manifest, and the manifest shall be signed by the receiving facility.
67. COMAR 26.13.03.06A(1) further provides that the signed copy of the manifest shall be retained as a record for at least 3 years from the date that the waste was accepted by the initial transporter.
68. At the time of the June 25, 2015 Inspection, Respondent was missing the signed, return copy of a hazardous waste manifest (Manifest number 012273450JJK) for one shipment of hazardous waste shipped offsite from the Facility on November 19, 2013.

69. Respondent violated the requirements of COMAR 26.13.03.06A(1) on June 25, 2015 by then failing to have a signed, return copy of hazardous waste Manifest number 012273450JJK.

COUNT VIII
**(Failure to Provide Air Emission Control for Hazardous
Waste Containers Subject to 40 C.F.R. Part 264, Subpart CC)**

70. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
71. The provisions of 40 C.F.R. § 264.1082(b) require that “the owner or operator shall control air pollutant emissions from each hazardous waste management unit in accordance with standards specified in [40 C.F.R.] §§ 264.1084 through 264.1087 of this [40 C.F.R. Part 264] subpart [CC], as applicable to the hazardous waste management unit,” with exceptions not herein applicable.
72. The provisions of 40 C.F.R. § 264.1086 apply to the control of air emissions from containers, as referenced in 40 C.F.R. § 264.1086(b). 40 C.F.R. § 264.1086(b)(1)(i) provides that, for a container having a design capacity greater than 0.1 m³ and less than or equal to 0.46 m³, the owner or operator shall control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in 40 C.F.R. § 264.1086(b)(1)(c), which require that the container have a cover and closure devices so that there are no visible holes, gaps or other open spaces into the interior of the container.
73. At the time of the June 25, 2015 Inspection, Respondent was storing five 55-gallon drum containers of D001 hazardous waste acetone in the Facility’s Acetone Shed. Each of the 55-gallon drums had a design capacity greater than 0.1 m³ and less than or equal to 0.46 m³. The D001 hazardous waste contents of each drum had an average volatile organic (“VO”) concentration at the point of waste origination greater than 500 ppm by weight (“ppmw”). As a result of the design capacity of these containers and the VO concentration of the hazardous waste therein, at the point of waste origination, each of these five 55-gallon drums was subject to the 40 C.F.R Part 264, Subpart CC, air emission standards applicable to containers. Each of these five 55-gallon drum containers also failed to qualify for the 40 C.F.R. § 264.1082(c)(1) air emission control exemption applicable only to containers for which all hazardous waste entering the unit has an average of less than 500 ppmw as determined using the procedures specified in 40 C.F.R. § 264.1083(a).
74. At the time of the June 25, 2015 Inspection, each of the five 55-gallon drums described in the preceding Paragraph had either an open bung, or an open funnel in the bung, leading into the interior of the container.
75. On June 25, 2015, Respondent violated the requirements of 40 C.F.R. § 264.1086(b)(1) by failing to control air pollutant emissions from each of the five 55-gallon drum containers of hazardous waste described in Paragraph 73, above, which were subject to

40 C.F.R. Part 264, Subpart CC requirements, by failing to control air pollutant emissions from each container in accordance with the Container Level 1 standards specified in 40 C.F.R. § 264.1086(b)(1)(c).

IV. CIVIL PENALTIES

76. Respondent agrees to pay a civil penalty in the amount of **\$74,000.00 (SEVENTY FOUR THOUSAND DOLLARS)** 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 Consent Agreement. 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.
77. The civil penalty settlement amount set forth in Paragraph 76, immediately above, 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.
78. The civil penalty of **SEVENTY FOUR THOUSAND DOLLARS (\$74,000.00)** set forth in Paragraph 76, above, may be paid in five (5) installments with interest at the rate of one per cent (1%) per annum on the outstanding principal balance in accordance with the following schedule:

Payment	Timing - Within this number of days of the date on which this CAFO is mailed to Respondent	Principal	Interest	Payment Amount
1	30	\$14,747.97	\$63.72	\$14,811.69
2	90	\$14,775.00	\$100.40	\$14,875.40
3	150	\$14,800.04	\$75.36	\$14,875.40
4	210	\$14,826.76	\$48.64	\$14,875.40
5	270	\$14,850.23	\$25.17	\$14,875.40
Total		\$74,000.00	\$313.29	\$74,313.29

79. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in Paragraph 78, above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall *immediately* pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described in Paragraphs 84 through 86 below, in the event of any such failure or default.
80. Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.
81. Payment of the civil penalty set forth in Paragraph 76, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 84 through 86, 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 Consent Agreement, i.e., **RCRA-03-2016-0419**;
 - 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 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

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.

86. 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).
87. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

V. CERTIFICATIONS

88. 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 Consent Agreement.

VI. OTHER APPLICABLE LAWS

89. 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

90. This CAFO resolves only EPA's claims for civil penalties for the specific violations and facts which are alleged in this Consent Agreement. 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

91. 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 Consent Agreement.

IX. PARTIES BOUND

92. 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 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 CAFO.

X. EFFECTIVE DATE

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

XI. ENTIRE AGREEMENT

94. 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: August 18, 2016

By: Daniel Naugle
Name: Daniel Naugle
Title: General Manager

For the Complainant:

U.S. Environmental Protection Agency, Region III

Date: 8/22/2016

By: Natalie L. Katz
Natalie L. Katz
Sr. Assistant 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: 8.23.16

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

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

In the matter of: :
 :
Composite & Metal Products USA, Inc. : U.S. EPA Docket RCRA-03-2016-0419
1 Peninsula Drive :
North East, MD 24501 :
 :
Respondent, : Proceeding under Section 3008(a) and (g)
 : of the Resource Conservation and
Composite & Metal Products USA, Inc. : Recovery Act, as amended,
1 Peninsula Drive : 42 U.S.C. § 6928(a) and (g)
North East, MD 24501 :
 :
Facility. :
 :

2016 AUG 24 PM 12:17
RECEIVED
REGION III
PHILADELPHIA, PA

RECEIVED

FINAL ORDER

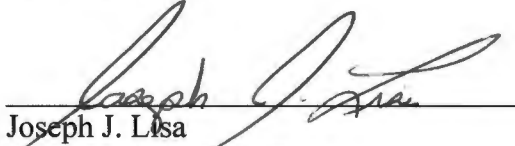
Complainant, the Director, Land and Chemical Division, U.S. Environmental Protection Agency, Region III, and Composite & Metal Products USA, Inc. (“Respondent”), have executed a document entitled “Consent Agreement,” which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules 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. § 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 (“RCRA Penalty Policy”), and the statutory factors set forth in Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

NOW, THEREFORE, PURSUANT TO Section 3008(a) and (g) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a) and (g) (“RCRA”), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondents pay a civil penalty payment of **\$74,000.00 (SEVENTY FOUR THOUSAND DOLLARS)**, in accordance with the payment provisions set forth in of the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

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

Aug. 24, 2016
Date



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

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the matter of:)	
)	
Composite & Metal Products USA, Inc.)	Docket No. RCRA-03-2016-0419
1 Peninsula Drive)	
North East, MD 24501)	
)	
RESPONDENT.)	Proceeding Under Section
)	3008(a) and (g) of the
Composite & Metal Products USA, Inc.)	Resource Conservation and
1 Peninsula Drive)	Recovery Act, as amended,
North East, MD 24501)	42 U.S.C. § 6928(a) and (g)
)	
)	
FACILITY.)	

CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent by UPS Next Day Delivery, a copy of the Consent Agreement and Final Order to the addressee(s) listed below:

Timothy J. Bergère, Esq.
Montgomery McCracken
123 South Broad Street
Philadelphia, PA 19109

Dan Naugle
General Manager
Composite & Metal Products USA, Inc.
One Peninsula Drive
North East, MD 21901

2016 AUG 24 PM 12:17
REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA.

RECEIVED

The original and one copy of were hand-delivered to, and filed with, the Regional Hearing Clerk, U.S. EPA Region III.

Dated: 8/24/16



Natalie Katz (3RC30)
Senior Assistant Regional Counsel
EPA Region III
1650 Arch Street
Philadelphia, PA 19103