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

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| **In the Matter of:** | : | |
| | : | |
| **Galvco Maryland LLC, d/b/a/** | : | |
| **Baltimore Galvanizing Co., Inc.** | : | |
| **7110 Quad Avenue** | : | **U.S. EPA Docket RCRA-03-2016-0113** |
| **Baltimore, Maryland 21226** | : | |
| | : | |
| **Respondent,** | : | |
| | : | |
| | : | |
| | : | |
| **Galvco Maryland, LLC, d/b/a** | : | **Proceeding under Section 3008(a) and** |
| **Baltimore Galvanizing Co., Inc.** | : | **(g) of the Resource Conservation and** |
| **7110 Quad Avenue** | : | **Recovery Act, as amended, 42 U.S.C.** |
| **Baltimore, Maryland 21226** | : | **Section 6928(a) and (g)** |
| | : | |
| **Facility.** | : | |

## CONSENT AGREEMENT

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 Galvco Maryland, LLC, d/b/a Baltimore Galvanizing Co., Inc. ("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).

This Consent Agreement and the accompanying Final Order ("CAFO") address alleged violations, by Respondent, of Subtitle C of RCRA, 42 U.S.C. §§ 6921 – 6939g, and the current authorized State of Maryland Hazardous Waste Management Regulations ("MdHWMR"), set forth at the Code of Maryland Regulations ("COMAR"), Title 26, Subtitle 13 et seq. in connection with Respondent's facility located at 7110 Quad Avenue, Baltimore, Maryland, 21226 (the "Facility").

The MdHWMR were originally 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 authorized program are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

## I. GENERAL PROVISIONS

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement.

2. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this Consent Agreement, except as provided in Paragraph 1, above.

3. 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 this CAFO.

4. 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.

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

6. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

### Notice of Action to the State of Maryland

7. By letter to Brian Coblentz, Chief, Solid Waste Program, Maryland Department of the Environment ("MDE"), dated February 11, 2015, EPA has given the State of Maryland, through MDE, prior notice of the initiation of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

8. 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.

9. Pursuant to § 22.13(b) of the Consolidated Rules of Practice, this Consent Agreement and the attached Final Order (hereinafter jointly referred to as this "CAFO"), issued pursuant to 40 C.F.R. § 22.18(b)(2) and (3), simultaneously commence and conclude an administrative proceeding against Respondent, brought under Sections 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), to resolve alleged violations of RCRA at Respondent's Facility.

## II. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW

10. 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:

11. Respondent, Galvco Maryland LLC, d/b/a Baltimore Galvanizing, Co., Inc., is a Maryland corporation and is a "person" as defined by RCRA Section 1004(15), 42 U.S.C. § 6903(15), and COMAR 26.13.01.03B.

12. Respondent is and has been, through the period of the violations alleged herein, the "owner" and "operator" of a "facility" located at 7110 Quad Avenue, Baltimore, Maryland as these terms are defined by COMAR 26.13.01.03B(59), (58) and (23). Such facility is hereinafter referred to as the "Facility".

13. Respondent is and has been, through the period of the violations alleged herein, a "generator" of, and has engaged in the "storage" of, materials that are "solid wastes" and "hazardous waste" at the Facility as those terms are defined by COMAR 26.13.01.03B(29), (76), (73), and (31) as described below.

14. Respondent is and, at all times relevant to the violations in this CAFO has been, a large quantity generator who generates hazardous waste in an amount equal to or greater than 1,000 kilograms per month. Respondent is assigned EPA ID No. MDD049918659. fRespondent is a "small quantity handler of universal waste" as that term is used in

15. Respondent is a "small quantity handler of universal waste" as that term is used in COMAR 26.13.01.03B(72-2) and as "universal waste" is defined at COMAR 26.13.01.03B(89-1).

16. On March 18, 2014, EPA representatives conducted a Compliance Evaluation Inspection ("2014 CEI") of the Facility.

17. On April 8, 2015, EPA representatives conducted a Compliance Evaluation Inspection ("2015 CEI") of the Facility.

18. On September 17, 2014, EPA sent Respondent an information request letter ("IRL") pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), regarding generation and management of hazardous wastes at the Facility.

19. On December 19, 2014, Respondent sent EPA a response to the IRL.

20. At the time of the 2014 CEI and 2015 CEI, Respondent generated waste hydrochloric acid at the Facility. Waste hydrochloric acid is a hazardous waste within the meaning of COMAR 26.13.02.12 because it exhibits the characteristic of corrosivity.

## COUNT I

(Operating a hazardous waste storage facility without a permit or interim status)

21. The preceding paragraphs are incorporated by reference.

22. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and COMAR 26.13.07.01A, provide, with certain exceptions not relevant here, that a person may not operate a hazardous waste storage, treatment or disposal facility unless such person has first obtained a permit for the facility.

23. RCRA § 3005(e), 42 U.S.C. § 6925(e), provides, in pertinent part, that any person who owns or operates a facility required to have a permit under RCRA § 3005, which facility was in existence on November 19, 1980, or is in existence on the effective date of statutory or regulatory provisions that render the facility subject to the requirement to have a permit, has complied with the notification requirements of RCRA § 3010(a), 42 U.S.C. § 6930(a), and has applied for a permit under RCRA § 3005, shall be treated as having been issued such permit (*i.e.* "interim status") until such time as final administrative disposition of such application is made.

24. Respondent has never had "interim status" pursuant to RCRA Section 3005(e) or a permit issued pursuant to RCRA Section 3005(a) for the treatment, storage, or disposal of hazardous waste at the Facility.

25. Pursuant to COMAR 26.13.03.05E, generators of hazardous waste who accumulate hazardous waste on-site for less than 90 days are exempt from the requirement to obtain a permit for such accumulation, so long as the hazardous waste is stored in accordance with a number of conditions set forth in that section, including, *inter alia*:

a. Pursuant to COMAR 26.13.03.05E(1)(h)(i), the generator must comply with the requirements of COMAR 26.13.05.10 – 10.3, including the requirement to:

(i) Conduct daily inspections of each hazardous waste storage tank system in accordance with COMAR 26.13.05.10.D(2)(a), (c) and (d); and,

(ii) Have a written assessment that is certified by a professional engineer in accordance with COMAR 26.13.07.03D for each existing hazardous waste storage tank system at the Facility that does not have secondary containment meeting the requirements of COMAR 26.13.05.10-4, as required by COMAR 26.13.05.10-2B(2); and

b. Pursuant to COMAR 26.13.03.05E(b)(ii), the generator must comply with the requirements of COMAR 26.13.05.10-4, including the requirements to:

(i) Construct or line a hazardous waste storage tank secondary containment system with materials that are compatible with the hazardous waste stored in the tanks in accordance with COMAR 26.13.05.10-4B(3); and,

(ii) Maintain a leak detection system for each hazardous waste storage tank system that is designed and operated to detect failure of either the primary or secondary containment structure or the presence of any release of hazardous waste or accumulated liquid in the secondary containment within 24 hours in accordance with COMAR 26.13.05.10-4B(6).

c. Pursuant to COMAR 26.13.03.05E(1)(h)(iv), the generator must clearly label each hazardous waste storage tank with the words "Hazardous Waste" while waste is being accumulated in the tank.

26. Pursuant to COMAR 26.13.03.05E(3)(b), the generator may accumulate as much as 55 gallons of hazardous waste or 1 quart of acutely hazardous waste listed in COMAR 26.13.02.19E in containers in a satellite accumulation area at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit and without complying with COMAR 26.13.03.05E(1), provided, *inter alia*, the satellite containers are marked with the words "Hazardous Waste" or other words to identify the contents of the containers.

27. Respondent did not qualify for the permit exemptions specified under COMAR 26.13.03.05E(1) and (3) with respect to the on-site storage of the hazardous waste at the Facility because it failed to meet applicable permit exemption conditions for each of the following reasons:

a. From at least January 1, 2012 until March 18, 2014, Respondent did not have a written assessment certified by a professional engineer in accordance with COMAR 26.13.07.03D for an existing hazardous waste storage tank system at the Facility, that did not have secondary containment meeting the requirements of COMAR 26.13.05.10-4, as required by COMAR 26.13.03.05E(1)(h)(i), which references the requirements set forth at COMAR 26.13.05.10-2B(2).

b. From at least January 1, 2012 until March 18, 2014, Respondent did not conduct daily inspections of a hazardous waste storage tank system at the Facility as required by

COMAR 26.13.03.05E(1)(h)(i), which references the requirements set forth at COMAR 26.13.05.10D(2)(a), (c) and (d).

c. From at least January 1, 2012 until March 18, 2014, Respondent stored hazardous waste in a tank that did not have a hazardous waste storage tank secondary containment system constructed with materials that were compatible with the hazardous waste stored in the hazardous waste storage tank system at the Facility as required by COMAR 26.13.03.05E(1)(h)(ii), which references the requirements set forth at COMAR 26.13.05.10-4B(3).

d. From at least January 1, 2012 until March 18, 2014, Respondent stored hazardous waste in a tank at the Facility that did not have a leak detection system designed and operated to detect failure of either the primary or secondary containment structure or the presence of any release of hazardous waste or accumulated liquid in the secondary containment within 24 hours as required by COMAR 26.13.03.05E(1)(h)(ii), which references the requirements set forth at COMAR 26.13.05.10-4B(6).

e. From at least January 1, 2012 until March 18, 2014, Respondent failed to properly label and mark a hazardous waste storage tank at the Facility with the words "Hazardous Waste" as required by COMAR 26.13.03.05E(1)(h)(iv).

f. On March 18, 2014, Respondent accumulated hazardous waste in a 55-gallon drum located in the Facility "galvanizing area" in a satellite accumulation area without marking such container with the words: "Hazardous Waste" or with other words that identified the contents of that container as required by COMAR 26.13.03.05E(3)(b) or as otherwise required by COMAR 26.13.03.05E(1)(f)(ii).

28. For each of the reasons and on each of the dates set forth in Paragraph 27(a) – (f), above, Respondent did not meet the requirements for a permit exemption under COMAR 26.13.03.05E and therefore 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 or interim status.

## COUNT II

(Failure to Make Hazardous Waste Determinations)

29. The preceding paragraphs are incorporated by reference.

30. COMAR 26.13.03.02 requires that a person who generates a solid waste shall determine if that waste is a hazardous waste using the method set forth in COMAR 26.13.02.02A(1) – (3).

31. On or about March 18, 2014, Respondent discarded aerosol cans at the Facility, which therefore became solid wastes within the meaning and definition of COMAR

26.13.01.03B(73) and COMAR 26.13.02.02, without first determining if the aerosol cans or their contents were hazardous waste, as required by COMAR 26.13.03.02.

32. Respondent's acts and/or omissions as alleged in Paragraph 31, above, constitute violations of COMAR 26.13.03.02.

**COUNT III**

(Written Assessment for Hazardous Waste Storage Tank)

33. The preceding paragraphs are incorporated by reference.

34. COMAR 26.13.05.10-2B. requires the owner or operator of an existing hazardous waste storage tank system that does not have secondary containment meeting the requirements of COMAR 26.13.05.10-4 to obtain and to have a written assessment for such tank system that, pursuant to COMAR 26.13.05.10-2B(2), is certified by a professional engineer in accordance with COMAR 26.13.07.03D and that provides the assessment required under COMAR 26.13.05.10-2B(1) and considers those factors identified in COMAR 26.13.05.10.B(3).

35. From at least January 1, 2012 until March 18, 2014, Respondent owned and operated an existing hazardous waste storage tank system at the Facility that did not have secondary containment meeting the requirements of COMAR 26.13.05.10-4 without obtaining or having the required written assessment, certified in accordance with COMAR 26.13.07.03D, from a professional engineer.

36. Respondent's acts and/or omissions, as alleged in Paragraph 35 above, constitute violations of COMAR 26.13.05.10-2B.

**COUNT IV**

(Daily hazardous waste tank system inspections)

37. The preceding paragraphs are incorporated by reference.

38. COMAR 26.13.05.10D(2) requires the owner or operator of a hazardous waste storage tank system to inspect at least once each operating day:

> (a) Data gathered from monitoring and leak detection equipment, such as pressure and temperature gauges and monitoring wells, to ensure that the tank system is being operated according to design,
>
> * * *
>
> (c) Above-ground portions of the tank system to detect corrosion or releases of waste,

(d) The construction materials of, and the area immediately surrounding the externally accessible portion of the tank system, to detect erosion or signs of releases of hazardous wastes, such as wet spots and dead vegetation.

39. From at least January 1, 2012 until March 18, 2014, Respondent did not conduct daily inspections of a hazardous waste storage tank system at the Facility as required by COMAR 26.13.05.10D(2)(a), (c) and (d).

40. Respondent's acts and/or omissions, as alleged in Paragraph 39 above, constitute violations of COMAR 26.13.05.10D(2).

**COUNT V**

(Secondary containment for hazardous waste tank)

41. The preceding paragraphs are incorporated by reference.

42. COMAR 26.13.05.10.10-4B(3) requires the owner or operator of a hazardous waste storage tank system to construct and line the required secondary containment system for that hazardous waste storage tank system with materials that are compatible with the hazardous waste being stored in the tanks.

43. From at least January 1, 2012 until March 18, 2014, Respondent stored hazardous waste acid in a tank system with secondary containment that was not constructed and lined with materials compatible to the hazardous waste acid being stored in that tank system at the Facility, as required by COMAR 26.13.05.10-4B.

44. Respondent's acts and/or omissions, as alleged in Paragraph 43 above, constitute violations of COMAR 26.13.05.10-4B.

**COUNT VI**

(Leak detection system for hazardous waste tank)

45. The preceding paragraphs are incorporated by reference.

46. COMAR 26.13.05.10-4B(6) requires the owner or operator of a hazardous waste storage tank system to ensure that the required secondary containment systems are provided with a leak detection system designed and operated to detect failure of either the primary or secondary containment structure or the presence of any release of hazardous waste or accumulated liquid in the secondary containment within 24 hours.

47. From at least January 1, 2012 until March 18, 2014, Respondent stored hazardous waste acid in a tank system with secondary containment that did not include a leak detection

system designed and operated to detect failure of either the primary or secondary containment structure or the presence of any release of hazardous waste or accumulated liquid in the secondary containment within 24 hours, as required by COMAR 26.13.05.10-4B(6).

48. Respondent's acts and/or omissions, as alleged in Paragraph 47 above, constitute violations of COMAR 26.13.05.10-4B(6).

**COUNTS VII - IX**

(Failure to properly Label, Date and Store Universal Waste Lamps)

49. The preceding paragraphs are incorporated by reference.

50. COMAR 26.13.10.15B(1)(d) requires small quantity handlers of universal waste lamps to keep containers or packages of universal waste lamps closed except when necessary to add or remove waste.

51. COMAR 26.13.10.17A(2) requires small quantity handlers of universal waste lamps to label each container or package in which universal waste lamps are being held with the one of the following phrases: "Universal Waste-Lamps," "Waste Lamp(s) or "Used Lamps."

52. COMAR 26.13.10.17B(3) requires small quantity handlers of universal waste lamps to: (a) be able to demonstrate the length of time universal waste has been accumulated from the date it became a waste or is received; and (b) to make such demonstration made 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;

(ii) marking or labeling each individual item of universal waste with the date the individual item became a waste;

(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;

(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

(vi) any other method that clearly demonstrates the universal waste has been accumulated.

53. On June 19, 2013, Respondent stored universal waste lamps in a container marked with the word "bad" and no other label or marking.

54. On June 19, 2013, Respondent stored universal waste lamps in two containers that were not closed at a time when no universal waste lamps were being added to or removed from the containers.

55. On June 19, 2013, Respondent stored universal waste lamps in a container that was undated, and the Facility did not have any other means to demonstrate the earliest date such universal waste lamps became a waste.

56. Respondent's acts and/or omissions as alleged in Paragraphs 53, 54 and 55, above, constitute violations of COMAR 26.13.10.15B(1)(d), COMAR 26.13.10.17A(2)(e), and COMAR 26.13.10.17B.

## III. CIVIL PENALTIES

57. Respondent agrees to pay a civil penalty in the amount of **$60,000** in settlement of the alleged violations set forth in this CAFO, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of the fully executed and filed CAFO.

58. The civil penalty of **SIXTY THOUSAND DOLLARS ($60, 000.00)**, set forth in Paragraph 57, above, may be paid in six (6) installments in accordance with the following schedule:

a. **1st Payment**: The first payment in the amount of **TEN THOUSAND DOLLARS *($10,000.00)***, shall be paid within thirty (30) days of the date on which this CAFO is mailed or hand-delivered to Respondent;

b. **2nd Payment**: The second payment in the amount of **TEN THOUSAND DOLLARS *($10,00.00)***, shall be paid within sixty (60) days of the date on which this CAFO is mailed or hand-delivered to Respondent;

c. **3rd Payment**: The third payment in the amount **TEN THOUSAND DOLLARS *($10,000.00),*** shall be paid within ninety (90) days of the date on which this CAFO is mailed or hand-delivered to Respondent;

d. **4th Payment**: The fourth payment in the amount of **TEN THOUSAND DOLLARS *($10,000.00)*,** shall be paid within one hundred and twenty (120) days of the date on which this CAFO is mailed or hand-delivered to Respondent;

e. **5th Payment**: The fifth payment in the amount of **TEN THOUSAND FIVE DOLLARS *($10,000.00)***, shall be paid within one hundred and fifty (150) days of the date on which this CAFO is mailed or hand-delivered to Respondent; and

f. **6th Payment**: The sixth payment in the amount of **TEN THOUSAND DOLLARS *($10,000.00)*** shall be paid within one hundred and eighty (180) days of the date on which this CAFO is mailed or hand-delivered to Respondent.

Pursuant to the above schedule, Respondent will remit total payments for the civil penalty in the amount of **SIXTY THOUSAND DOLLARS *($60,000.00)***.

59. If Respondent fails to make timely payment of any one of the installment payments in accordance with the schedule set forth in Paragraph 58, immediately above, the entire unpaid balance of the penalty and all accrued interest at the rate of one percent per annum (1%) 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 interest and penalty charges as described in Paragraphs 65, 66 and 67 below, in the event of any such failure or default.

60. 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.

61. 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).*

62. Respondent shall remit the full penalty pursuant to paragraph 57, above, and/or any administrative fees and late payment penalties, by cashier's check, certified check or electronic wire transfer, in the following manner:

A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2016-0113;

B. All checks shall be made payable to "**United States Treasury**";

C. All payments made by check and sent by regular mail shall be addressed to:

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

Contact: Craig Steffen 513-487-2091

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

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

Contact: 314-418-1818

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

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

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

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

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

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

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

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

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

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

Additional payment guidance is available at:

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

63. At the time of each 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

64. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this CAFO.

65. 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.

66. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of the executed and filed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid timely, in accordance with the installment payment provisions of Paragraph 58, above. 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).

67. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a $15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional $15.00 for each subsequent thirty (30) days the penalty remains unpaid. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

## IV. EFFECT OF SETTLEMENT

68. Payment of the penalty specified in Paragraph 57 above, shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under RCRA, including but not limited to Sections 3008(a) and (g), for the violations alleged in this CAFO or that could have been alleged as of the date of this CAFO as a result of Complainant's CEIs or IRL. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

## V. RESERVATION OF RIGHTS

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

## VI. OTHER APPLICABLE LAWS

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

## VII. CERTIFICATION OF COMPLIANCE

71. Respondent certifies to Complainant by its representative's signature hereto, to the best of its knowledge and belief, that Respondent and the Facility are in compliance with all relevant provisions of the federally authorized MdHWMR, and of the RCRA Subtitle C, 42 U.S.C. §§ 6921 – 6939g, for which violations are alleged in this Consent Agreement.

## VIII. PARTIES BOUND

72. 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 Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

## IX. EFFECTIVE DATE

73. 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.

## X. ENTIRE AGREEMENT

74. 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:

6/23/16
Date

Galvco Maryland LLC

Neal Mercer
by: Neal Mercer
President

For Complainant:

June 15, 2016
Date

by: Joyce A. Howell
Sr. Assistant Regional Counsel

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

6.13.16
Date

John Armstead, Director,
Land and Chemicals Division
EPA Region III

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

| | | |
|---|---|---|
| **In the Matter of:** | : | |
| | : | |
| | : | |
| **Galvco Maryland LLC, d/b/a/** | : | |
| **Baltimore Galvanizing Co., Inc.** | : | |
| **7110 Quad Avenue** | : | **U.S. EPA Docket RCRA-03-2016-0113** |
| **Baltimore, Maryland 37** | : | |
| | : | |
| **Respondent,** | : | |
| | : | |
| | : | |
| | : | |
| **Galvco Maryland, LLC, d/b/a** | : | **Proceeding under Section 3008(a) and** |
| **Baltimore Galvanizing Co., Inc.** | : | **(g) of the Resource Conservation and** |
| **7110 Quad Avenue** | : | **Recovery Act, as amended, 42 U.S.C.** |
| **Baltimore, Maryland 21226** | : | **Section 6928(a) and (g)** |
| | : | |
| **Facility.** | : | |

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## FINAL ORDER

Complainant, the Director, Land and Chemical Division, U.S. Environmental Protection Agency - Region III, and Respondent, Galvco Maryland, LLC., d/b/a Baltimore Galvanizing Co., 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. 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 **$60,000.00**, 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.

07-05-16
Date:

Heather Gray
Heather Gray
Regional Judicial Officer
U.S. EPA, Region III

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

| | | |
|---|---|---|
| **In the Matter of:** | : | |
| | : | |
| | : | |
| **Galvco Maryland LLC** | : | |
| **7110 Quad Avenue** | : | **U.S. EPA Docket RCRA-03-2016-0113** |
| **Baltimore, Maryland 37** | : | |
| | : | |
| **Respondent,** | : | |
| | : | |
| | : | |
| | : | |
| **Galvco Maryland, LLC** | : | **Proceeding under Section 3008(a) and** |
| **7110 Quad Avenue** | : | **(g) of the Resource Conservation and** |
| **Baltimore, Maryland 21226** | : | **Recovery Act, as amended, 42 U.S.C.** |
| | : | **Section 6928(a) and (g)** |
| **Facility.** | | |

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EPA REGION III, PHILA. PA

## CERTIFICATE OF SERVICE

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

Via UPS, next day delivery to:

Timothy R. Henderson, Esq.
Rich and Henderson
51 Franklin Street
Suite 300
Annapolis, Maryland 21401

Dated: July 6, 2016

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