

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

MEMORANDUM

SUBJECT: Consent Agreement and Final Order
IMO Brenner Aerostructures, LLC
Docket No. RCRA-03-2018-0044

FROM: John Armstead, Director
Land and Chemicals Division

for Mary B. Coe *clj* 3/29/18
Regional Counsel

TO: Joseph J. Lisa *JJL* 4/10/18
Regional Judicial Officer

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GENERAL COUNSEL
EPA REGION III PHILA, PA

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The attached Consent Agreement and Final Order both commences and concludes a matter negotiated in settlement of alleged violations of the authorized Pennsylvania Hazardous Waste Management Regulations, enforceable by EPA under Section 3008(a) of Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a), pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. § 22.13(b).

The attached Final Order directs Respondent to pay a civil penalty in the amount of \$32, 232.00. The settlement amount is an appropriate penalty for the identified violations upon consideration of the statutory penalty factors set forth in Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), which include the seriousness of the violations and any good faith efforts by the Respondent to comply with the applicable requirements, with appropriate inflation adjustments pursuant to 40 C.F.R. Part 19 and applicable EPA implementing guidance. These and other relevant and appropriate 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, and further support the civil penalty settlement amount.

We recommend that you sign the attached Final Order. After you execute the Final Order, please return the documents to Joyce Howell, x2644, for further processing.

Attachments

cc: Joyce Howell, Esq.
Robert Baltzer, Esq.

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REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

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

| | | |
|--------------------------------|---|--|
| In the Matter of: | : | |
| | : | |
| Brenner Aerostructures, LLC | : | |
| | : | |
| Respondent. | : | |
| | : | EPA Docket No. RCRA-03-2018-0044 |
| Brenner Aerostructures, LLC | : | |
| 450 Winks Lane, Suite 3 | : | |
| Bensalem, Pennsylvania, 19020, | : | |
| | : | |
| Facility. | : | Proceeding under Section 3008(a) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6928(a) |
| | : | |
| | : | |

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 Brenner Aerostructures, LLC (“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”) 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 450 Winks Lane, Suite 3, Bensalem, Pennsylvania, 19020.
5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
6. 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 shall bear its 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 February 8, 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 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 450 Winks Lane, Suite 3, Bensalem, Pennsylvania, 19020.
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. PAR000519751.
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, which with the exception of the term

storage” and which is defined in 25 Pa. Code § 260a.10.

19. On September 21, 2016, representatives of EPA conducted a RCRA Compliance Evaluation Inspection (“RCRA CEI”) at the Facility.
20. On September 21, 2016, “hazardous wastes” generated by Respondent, identified below in Paragraphs 21 - 23 were in “storage” in containers at the Facility.
21. Respondent generates waste etchant at the Facility which is a hazardous waste (EPA Hazardous Waste Nos. D002 and D007) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. §§ 261.22 and 261.24 because it exhibits the characteristics of corrosivity and toxicity.
22. Respondent generates waste rags at the Facility containing waste methyl ethyl ketone, which is a hazardous waste (EPA Hazardous Waste Nos. D001, D035 and F005) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.21 and 40 C.F.R. § 261.24, because it exhibits the characteristics of ignitability and toxicity.
23. Respondent generates waste Alodine at the Facility, which is a hazardous waste (EPA Hazardous Waste Nos. D002 and D007) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. §§ 261.22 and 261.24, because it exhibits the characteristics of corrosivity and toxicity.

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, which 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 does not store hazardous waste on-site for greater than 90 days.

27. 25 Pa. Code § 262a.10, which 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 for owners and operators in 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, which incorporates by reference 40 C.F.R. § 262.34(c)(1) provides in pertinent part, that a generator may accumulate as much as 55 gallons of hazardous waste or 1 quart of acutely hazardous waste listed in 40 C.F.R. § 261.31 or 40 C.F.R. § 261.33(e) 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 40 C.F.R. § 262.34(a) or (d).
29. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(c)(2) requires that a generator who accumulates hazardous waste or acutely hazardous waste listed in 40 C.F.R. § 261.31 or 40 C.F.R. § 261.33(e) in containers in a satellite accumulation area in excess of 55 gallons of hazardous waste or 1 quart of acutely hazardous waste listed in 40 C.F.R. § 261.31 or 40 C.F.R. § 261.33(e) must, with respect to the excess waste, comply with within three days with 40 C.F.R. § 262.34(a).
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 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 for owners and operators in 40 C.F.R. § 265.16(d)(1-3), which requires the generator to maintain the following documents and records at the facility: (1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; (2) A written job description for each position listed under 40 C.F.R. § 265.16(d)(1), and, (3) 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 40 C.F.R. § 265.16(d)(1).
31. 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 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 for owners and operators in 40 C.F.R. § 265.16(c) which requires facility personnel to take part in an annual review of initial training required under 40 C.F.R. § 265.16(a).
32. Respondent stored hazardous waste etchant, D002/D007, in containers at the Facility from July 13, 2016 to October 19, 2016, (99 days) which is a time period greater than 90 days in violation of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a).

33. On September 21, 2016, Respondent had accumulated for storage over 55 gallons of hazardous waste rags at the Facility containing waste methyl ethyl ketone, (D001, D035 and F005) and over 55 gallons of hazardous waste Alodine (D002 and D007) in a satellite accumulation area for a period of greater than three days without complying with 40 C.F.R. § 262.34(a), in violation of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(c)(2).
34. On September 21, 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 to the container:
 - a. Two 55-gallon drums labeled as hazardous waste “MEK -Rags Waste” and “MEK Paint Rags Waste”;
 - b. One 55-gallon drum labeled as hazardous waste “MEK + Paint Waste”;
 - c. One 55-gallon drum labelled as hazardous waste “Alodine + Waste + Water Base Paint Waste”; and,
 - d. One 5-gallon bucket labeled as hazardous waste and connected to an open drain.
35. On September 21, 2016, Respondent violated 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4), with reference to 40 C.F.R. § 265.16(d)(1-3), by failing to maintain documents at the Facility for: (1) the job title for each position at the Facility related to hazardous waste management, and the name of the employee filling each such job; (2) a written job description for each such position; and, (3) a written description of the type and amount of training required.
36. In calendar year 2013 and 2015, Respondent violated 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4), with reference to 40 C.F.R. § 265.16(c), by failing to conduct an annual review of RCRA training for four Facility personnel required to have such training in calendar years 2013 and 2015.
37. 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 26 - 31, above, and as described in Paragraphs 32 - 36, above.
38. Respondent’s Facility is a hazardous waste treatment, storage or disposal “facility” as that term is defined in 25 Pa. Code Section 260a.10 with respect to the storage of hazardous waste as described above.
39. 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.

40. 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.
41. From at least May 8, 2013 until October 19, 2016, Respondent violated 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), by operating a hazardous waste storage facility without a permit, interim status or a valid exemption to the permit requirement.

COUNT II
(Hazardous Waste Determination)

42. The preceding paragraphs are incorporated by reference.
43. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11 with exceptions not relevant herein, provides that a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste using the following methods:
 - (a) He should first determine if the waste is excluded from regulation under 40 C.F.R. § 261.4.
 - (b) He must then determine if the waste is listed as a hazardous waste in subpart D of 40 C.F.R. Part 261.
 - (c) For purposes of compliance with 40 C.F.R. Part 268, or if the waste is not listed in subpart D of 40 C.F.R. Part 261, the generator must then determine whether the waste is identified in subpart C of 40 C.F.R. Part 261 by either:
 - (1) Testing the waste according to the methods set forth in subpart C of 40 CFR part 261, or according to an equivalent method approved by the Administrator under 40 CFR 260.21; or
 - (2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.
44. On January 19, 2015, Respondent did not conduct adequate hazardous waste determinations on three 55-gallon drums of lab buffer, that were generated at the Facility, which are “solid wastes” as defined at 25 Pa. Code § 261a.2, which incorporates by reference 40 C.F.R. § 261.2.

45. On September 21, 2016, Respondent had not conducted hazardous waste determinations on at least three containers of waste material that were generated at the Facility with EPA Hazardous Waste Codes D001 and D002, which are “solid wastes” as defined at 25 Pa. Code § 261a.2, which incorporates by reference 40 C.F.R. § 261.2.
46. The wastes referred to in Paragraphs 44 and 45 above, are and were at the time of the alleged violations “solid wastes” as this term is defined in 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.2, with exceptions not relevant here.
47. On January 19, 2015 and September 21, 2016, Respondent violated 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11, by failing to conduct hazardous waste determinations on solid waste generated at the Facility.

COUNT III
(Biennial Reports)

48. The preceding paragraphs are incorporated by reference.
49. Pursuant to 25 Pa. Code § 262a.41, a generator who ships any hazardous waste offsite to a treatment, storage or disposal facility within the United States must prepare and submit a single copy of a biennial report to the Director of PaDEP by March 1 of each even numbered year.
50. From March 1, 2014 to December 16, 2016, Brenner Aerostructures violated 25 Pa. Code § 262a.41 by failing to prepare and submit a copy of a Biennial Report to the Director of PaDEP for reporting year 2013.

COUNT IV
(Container Management)

51. The preceding paragraphs are incorporated by reference.
52. 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.
53. On September 21, 2016, Respondent failed to keep the following hazardous waste containers closed when hazardous waste was not being added or removed:
 - a. Two 55-gallon drums labeled as hazardous waste “MEK -Rags Waste” and “MEK Paint Rags Waste”;
 - b. One 55-gallon drum labeled as hazardous waste “MEK + Paint Waste”;
 - c. One 55-gallon drum labelled as hazardous waste “Alodine + Waste + Water Base Paint

Waste”; and,

d. One 5-gallon bucket labeled as hazardous waste and connected to an open drain.

54. On September 21, 2016, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 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 V

(RCRA Training Documents)

55. The preceding paragraphs are incorporated by reference.
56. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d)(1-3), requires the owner or operator of a hazardous waste facility to maintain the following documents and records at the facility: (1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; (2) A written job description for each position listed under 40 C.F.R. § 264.16(d)(1), and, (3) 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 40 C.F.R. § 264.16(d)(1).
57. On September 21, 2016, Respondent did not maintain documents at the Facility for: (1) the job title for each position at the Facility related to hazardous waste management, and the name of the employee filling each such job; (2) a written job description for each such position; and, (3) a written description of the type and amount of training required.
58. Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d)(1-3), by failing to maintain documents at the Facility for: (1) the job title for each position at the Facility related to hazardous waste management, and the name of the employee filling each such job; (2) a written job description for each such position; and, (3) a written description of the type and amount of training required.

COUNT VI

(Training)

59. The preceding paragraphs are incorporated by reference.
60. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(a)(1), requires facility personnel to 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 40 C.F.R. Part 264. The owner or operator must ensure that this program includes all the elements described in the document required under 40 C.F.R. § 264.16(d)(3).

61. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c), requires that facility personnel take part in an annual review of the initial RCRA training referred to above.
62. In calendar years 2013 and 2015, Respondent failed to have four Facility personnel take part in an annual review of their initial RCRA training.
63. From at least January 1, 2014 Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c) by failing to provide annual RCRA refresher training to Facility personnel.

III. CIVIL PENALTIES

64. Respondent agrees to pay a civil penalty in the amount of THIRTY-TWO THOUSAND TWO HUNDRED THIRTY -TWO DOLLARS (\$32,232.00) 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.
65. 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)*.
66. Payment of the civil penalty as required by Paragraph 64, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 69-71, 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-03-2018-0044;
 - 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>.

67. 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:

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

68. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.
69. 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.
70. 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.

71. 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

72. 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. OTHER APPLICABLE LAWS

73. 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

74. 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

75. 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

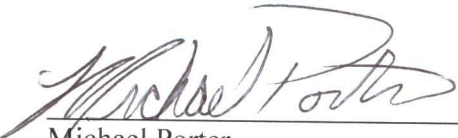
capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind the Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

VIII. EFFECTIVE DATE

76. 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, Brenner Aerostructures, LLC:

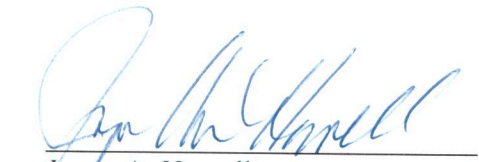
Date: 14 March 2018

By: 

Michael Porter
President

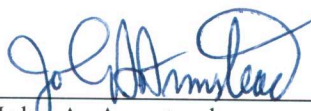
For Complainant, United States Environmental Protection Agency, Region III:

Date: 3/22/2018

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.

4.2.18
Date

By: 
John A. Armstead
Director
Land and Chemicals Division

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

In the Matter of:

Brenner Aerostructures, LLC

Respondent.

Brenner Aerostructures, LLC
450 Winks Lane, Suite 3
Bensalem Pennsylvania, 19020,

Facility.

EPA Docket No. RCRA-03-2018-0044

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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FINAL ORDER


Complainant, the Director, Land and Chemical Division, U.S. Environmental Protection Agency - Region III, and Respondent, Brenner Aerostructures, LLC, 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 **THIRTY-TWO THOUSAND TWO HUNDRED THIRTY -TWO DOLLARS (\$32,232.00)**, 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.

April 10, 2018
Date:



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

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

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2018 APR 10 PM 2: 17

REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

In the Matter of: :
: :
Brenner Aerostructures, LLC :
: :
Respondent. :
: :
Brenner Aerostructures, LLC :
450 Winks Lane, Suite 3 :
Bensalem Pennsylvania, 19020, :
: :
Facility. :
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EPA Docket No. RCRA-03-2018-0044

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

CERTIFICATE OF SERVICE

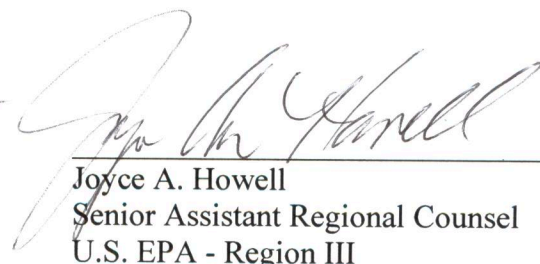
I certify that I sent a copy of the Consent Agreement and Final Order to the addressee listed below. The original and one copy of the Complaint were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Via UPS, next day delivery to:

Mr. Robert Baltzer
Quality Manager
Brenner Aeostrucures
450 Winks Lane, Suite 3
Bensalem, PA 19020

Dated:

Apr. 11, 2018



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