

USEPA – Region II
Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

In the Matter of:
Coast to Coast Circuits, Inc.
Respondent.
Proceeding under Section 3008 of the Solid Waste Disposal Act, as amended

CONSENT AGREEMENT AND
FINAL ORDER

Docket No. RCRA-02-2019-7111

This is a civil administrative proceeding instituted for injunctive relief and the assessment of civil penalties pursuant to Section 3008 of the Solid Waste Disposal Act as amended by various laws including the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments (HSWA) of 1984, 42 U.S.C. §§6901, *et seq.* (referred to collectively as “RCRA” or the “Act”) and the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits,” 40 Code of Federal Regulations (“C.F.R.”) Part 22.

Section 3006(b) of the Act, 42 U.S.C. §6926(b), provides that EPA’s Administrator may, if certain criteria are met, authorize a state to operate a hazardous waste program (within the meaning of Section 3006 of the Act, 42 U.S.C. §6926) in lieu of the regulations comprising the federal hazardous waste program (the Federal Program). The State of New York received final authorization to administer its base hazardous waste program on May 29, 1986. Since 1986, New York State has been authorized for many other hazardous waste requirements promulgated by EPA pursuant to RCRA. See 67 Fed. Reg. 49864 (August 1, 2002), 70 Fed. Reg. 1825 (January 11, 2005) 74 Fed. Reg. 31380 (July 1, 2009) and 78 Fed. Reg. 15299 (March 11, 2013).

Section 3008(a) of the Act, 42 U.S.C. §6928(a), authorizes EPA to enforce the regulations constituting the authorized state program, and EPA retains primary responsibility for the enforcement of certain requirements promulgated pursuant to HSWA.

The Complainant and Coast to Coast Circuits, Inc. (“Respondent”) agree, by entering into this Consent Agreement and Final Order (“CA/FO”), that settlement of this matter upon the terms set forth in this CA/FO is an appropriate means of resolving the claims specified in the Complaint, Compliance Order and Notice of Opportunity for Hearing (Complaint) issued to Respondent on or about September 27, 2019 without litigation. The Findings of Fact and Conclusions of Law set forth below, which pertain to times relevant to the violations alleged in this proceeding, are not intended, nor are they to be construed, as Respondent either admitting or

denying such findings and conclusions (except for those in paragraphs 22 and 23). No adjudicated findings of fact or conclusions of law have been made.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. This administrative Tribunal has jurisdiction over the subject matter of this action pursuant to Section 3008(a) of RCRA, 42 U.S.C. §6928(a), and 40 C.F.R. §22.1(a)(4).
2. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C §6928(a)(2), EPA has given notice of this action to the State of New York.
3. Respondent is Coast to Coast Circuits, Inc. (hereinafter "Coast to Coast" and/or "Respondent").
4. Respondent is a manufacturing company.
5. Respondent's Facility was located at 205 LaGrange Avenue, Rochester, New York ("the Facility")
6. Respondent maintained one 180-day hazardous waste storage area and generated the majority of its hazardous waste from its laboratory at the Facility.
7. Respondent is a for-profit corporation organized pursuant to the laws of the State of New York.
8. Respondent is a "person," as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. §6903(15), and 6 NYCRR §370.2(b).
9. Respondent was the "owner" of the Facility as that term is defined in 6 NYCRR §370.2(b).
10. Respondent was the "operator" of the Facility as that term is defined in 6 NYCRR §370.2(b).
11. Coast to Coast, in carrying out its operations, generated "solid waste" (within the meaning of 6 NYCRR §371.1(c)) at its Facility.
12. In carrying out its operations, Coast to Coast generated "hazardous waste" as defined in 6 NYCRR §371.1(d), at its Facility.
13. During EPA's August 6, 2018 inspection (see below), Respondent at its Facility had generated more than 1000 kilograms ("kg") of hazardous waste in a calendar month and was considered a "large quantity generator" ("LQG")

14. Hazardous waste was stored in the Facility's Hazardous Waste Storage area(s) located within the Coast to Coast Facility.
15. Pursuant to Section 3010 of RCRA, 42 U.S.C. §6930, Coast to Coast informed EPA through a notification dated February 14, 1984, that it generated hazardous waste.
16. In response to the Notification, EPA provided Coast to Coast with the following EPA Identification Number: NYD067902551.
17. On or about August 6, 2018, a duly designated representative of EPA, pursuant to Section 3007 of RCRA, 42 U.S.C. §6927, conducted a Compliance Evaluation Inspection of the Facility (the "Inspection").
18. Pursuant to Sections 3007 and 3008 of RCRA, 42 U.S.C. §§6927 and 6928, on or about November 7, 2018 EPA issued Respondent a combined Notice of Violation ("NOV") and Information Request Letter ("IRL").
19. On or about December 4, 2018, a duly authorized representative of Coast to Coast submitted its certified Response ("Response") to the combined NOV and IRL.
20. Based on the Inspection and Respondent's Response to EPA's IRL, EPA issued the Complaint alleging that at the time of the Inspection, Respondent had failed to obtain a permit to store hazardous waste which it was obligated to have when it failed to satisfy required conditions for storing such waste without a permit.
21. Subsequent to the issuance of the Complaint, Respondent's Facility was extensively damaged by fire and later sold to a third party.
22. Since the issuance of the Complaint, EPA and Respondent have had a series of discussions concerning the financial and business status of Respondent. Respondent has repeatedly represented that it cannot afford to pay a penalty in the amount EPA originally proposed in the Complaint and has recently informed EPA that it is planning to close a significant part of its business by the end of 2020 in light of the present adverse economic circumstances. Based on the fire and the cessation of the company's business operations at the Facility, the sale of the Facility, and Respondent's representations as to its financial situation, EPA has agreed with the Respondent to settle this matter by entering into this Consent Agreement.

CONSENT AGREEMENT

Pursuant to Section 3008 of RCRA, 42 U.S.C. §6928, and 40 C.F.R. §22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, it is hereby agreed by and between the parties hereto,

and voluntarily and knowingly accepted by Respondent that, for purposes of this Consent Agreement and in the interest of settling this matter expeditiously without the time, expense or uncertainty of a formal adjudicatory hearing on the merits, Respondent: (a) admits the jurisdictional basis for EPA prosecuting this case; (b) neither admits nor denies the allegations in the Complaint issued by EPA in this matter, nor the above Findings of Fact and Conclusions of Law (except for those in paragraphs 22 and 23); (c) consents to the assessment of the civil penalty as set forth below; (d) consents to the issuance of the Final Order incorporating all the provisions of this Consent Agreement; and (e) waives its right to contest or appeal that Final Order.

Pursuant to 40 C.F.R. §22.31(b), the executed Consent Agreement and accompanying Final Order (“CA/FO”) shall become effective and binding when filed with the Regional Hearing Clerk of the Agency, Region 2 (such date henceforth referred to as the “effective date”).

It is further hereby agreed by and between Complainant and Respondent, and voluntarily accepted by Respondent, that it shall comply with the following terms and conditions:

1. Respondent shall pay a civil penalty to EPA in the amount of **Twenty Thousand Dollars (\$20,000)**. Such payment shall be made by cashier’s check, certified check or by electronic fund transfer (EFT). If the payment is made by check, then the check shall be made payable to the **“Treasurer, United States of America,”** and shall be mailed to:

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

The check shall be identified with a notation thereon listing the following: **In re Coast to Coast Circuits, Inc., Docket Number RCRA-02-2019-7111**

Alternatively, if Respondent chooses to make the payment by EFT, Respondent shall then provide the following information to its remitter bank:

- a. Amount of Payment: **\$20,000**
- b. SWIFT address: **FRNYUS33, 33 Liberty Street, New York, New York 10045**
- c. Account Code for Federal Reserve Bank of New York receiving payment: **68010727**
- d. Federal Reserve Bank of New York ABA routing number: **021030004**
- e. Field Tag 4200 of the Fedwire message should read: **D 68010727 Environmental Protection Agency**
- f. Name of Respondent: **Coast to Coast Circuits, Inc.**

- g. Case docket number: **RCRA-02-2019-7111**
2. The payment must be received at the above address (or account of EPA) on or before thirty (30) calendar days after the date of the signature of the Final Order, which is located at the end of this CA/FO.
3. Payment instructions:
- a. Payment shall be in accordance with the instructions set forth in this paragraph. Respondent's payment, whether by cashier's check, certified check, or by the EFT method, such payment shall be *received* at the above-listed address on or before the time period specified in Paragraph 2.
- b. Whether Respondent makes payment by cashier's check, certified check or by the EFT method, Respondent shall, promptly when payment has been made, furnish reasonable proof that the required payment has been made, and such proof shall be furnished to the EPA individuals identified below in Paragraph 6.
- c. Failure to pay the specified amount in full within the time period set forth above may result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
- d. Furthermore, if the required payment is not received on or before the date when such payment is due under the terms of this document, interest therefore shall be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. §3717, on the overdue amount from the date such payment was to have been made through the date such payment has been received. In addition, a late payment handling charge of \$15.00 will be assessed for each thirty (30) day period or any portion thereof, following the date any such payment was to have been received, in which payment of the amount(s) remains in arrears. In addition, a 6% per annum penalty will be applied to any principal amount that has not been received by the EPA within ninety (90) days of the date for which such payment was required hereto to have been made.
4. The civil penalty provided for in this section constitutes a penalty within the meaning of 26 U.S.C. §162(f).
5. Respondent consents to service of the CA/FO by e-mail and consents to service upon it by an employee other than the Regional Hearing Clerk. Promptly upon filing with the Regional Hearing Clerk, Complainant agrees to e-mail to Respondent (to the representatives designated in Paragraph 6 below), a copy of the fully executed CA/FO.

6. Except as the parties may otherwise in writing agree, all documentation and information related to or required to be submitted in accordance with the terms and conditions of this Consent Agreement shall be sent both by e-mail and in hardcopy to:

Sam Kerns, Enforcement Officer
RCRA Compliance Branch
Enforcement & Compliance Assurance Division
US Environmental Protection Agency, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Kerns.Sam@epa.gov

And

Stuart Keith, Assistant Regional Counsel
Office of Regional Counsel
US Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, New York 10007-1866
Keith.Stuart@epa.gov

Unless the above-named EPA contacts are later advised otherwise in writing, EPA shall address any future written communications related to this matter (including any correspondence related to the payment of the penalty) to Respondent either by e-mail or to the following addresses:

Mr. Ed Porter, President and Chief Executive Officer
Coast to Coast Circuits, Inc.
5331 McFadden Avenue
Huntington Beach, CA 92649
EPorter@c3circuits.com

With a copy to Respondent's legal counsel:

Adam Troutwine, Esq.
Polsinelli PC
900 W. 48th Place, Suite 900
Kansas City, MO 64112
atroutwine@polsinelli.com

7. Respondent has read this Consent Agreement, understands its terms, and consents to the issuance of the Final Order accompanying this Consent Agreement. Respondent further consents to making payment of the entire amount of the civil penalty in accordance with the terms and schedule set forth above.

8. This CA/FO does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and the regulations promulgated thereto including New York's authorized hazardous waste program, nor is it intended or to be construed to be a ruling on or determination of any issue related to any federal, state or local permit.
9. Nothing in this document is intended or construed to waive, prejudice or otherwise affect the right of EPA, or the United States, from pursuing any appropriate remedy, sanction or penalty prescribed by law against Respondent, if Respondent has made any material misrepresentations or has provided materially false information in connection with this proceeding.
10. Full payment of the penalty described in paragraph 1 of this CA/FO resolves Respondent's liability under RCRA for federal civil penalties for the violation(s) and facts alleged in the Complaint issued in this matter. Full payment of this penalty only resolves Respondent's liability for Federal civil penalties for the violations and facts alleged in the Complaint issued in this matter, and shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
11. Respondent waives its right to request a hearing on this Consent Agreement, or the Final Order included herein, including any right to contest any allegations in the Complaint or the Findings of Fact and Conclusions of Law contained within this document.
12. Respondent agrees not to contest the validity or any term of this Consent Agreement and Final Order in any action, suit or proceeding brought by the United States on behalf of EPA to: (a) enforce this Consent Agreement and Final Order; or b) enforce a judgment relating to this Consent Agreement and Final Order. Any failure by Respondent to perform fully any requirement herein will be considered a violation of this Consent Agreement and Final Order and may subject Respondent to a civil judicial action by the United States to enforce the provisions of this Consent Agreement and Final Order.
13. Respondent waives any right it might possess to seek or obtain judicial review of the Final Order incorporating this Consent Agreement pursuant to Section 10(c) of the Administrative Procedure Act, 5 U.S.C. §704, and/or under any other applicable law.
14. This Consent Agreement and any provision herein shall not be construed as an admission of liability in any adjudicatory or administrative proceeding, except in an action, suit or proceeding to enforce this Consent Agreement or any of its terms and conditions.

15. Each party shall bear its own costs and fees in connection with this proceeding.
16. EPA and Respondent agree that the parties may use electronic signatures for this matter.
17. The signatory for the Respondent certifies that: a) he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all the terms, conditions and requirements set forth in this Consent Agreement; and b) he or she is duly and fully authorized to bind the party on behalf of which he or she is entering this Consent Agreement to comply with and abide by all the terms, conditions and requirements of this Consent Agreement.

RESPONDENT:

BY: _____

(Signature)

NAME: Ed Porter

TITLE: President and Chief Executive Officer, Coast to Coast Circuits, Inc.

DATE: 10/5/20

COMPLAINANT:

for Dore F. LaPosta, Director
Enforcement and Compliance Assurance Division
Environmental Protection Agency, Region 2
290 Broadway, 21st Floor
New York, NY 10007-1866

DATE: _____

In the Matter of Coast to Coast Circuits, Inc.
Docket Number RCRA-02-2019-7111

FINAL ORDER

The Regional Judicial Officer of EPA, Region 2 concurs in the foregoing Consent Agreement in the case of *In the Matter of Coast to Coast Circuits, Inc.*, bearing Docket Number RCRA-02-2019-7111. Said Consent Agreement, having been duly accepted and entered into by the parties, is hereby ratified and incorporated into this Final Order, which is hereby issued and shall take effect when filed with the Regional Hearing Clerk of EPA, Region 2. 40 C.F.R. §22.31(b). This Final Order is being entered pursuant to the authority of Section 3008 of RCRA and 40 C.F.R. §22.18.

Helen Ferrara, Regional Judicial Officer
U.S. Environmental Protection Agency
Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

DATE: _____

In the Matter of Coast to Coast Circuits, Inc.
Docket Number RCRA-02-2019-7111

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced docket number, in the following manner to the respective addressees below:

By e-mail:

Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency- Region 2
290 Broadway, 16th floor
New York, New York 10007-1866
Maples.Karen@epa.gov

Copy by e-mail:

Ed Porter, President and Chief Executive Officer
Coast to Coast Circuits, Inc.
5331 McFadden Avenue
Huntington Beach, CA 92649
eport@cc3circuits.com

Adam Troutwine, Counsel
Polsinelli PC
900 W. 48th Place, Suite 900
Kansas City, MO 64112
atroutwine@polsinelli.com

Dated: _____