

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Moog, Inc.  
1400 Rail Head Boulevard  
Naples, Florida 34110

EPA ID No.: FLR000154252  
Respondent.

Docket No. RCRA-04-2020-2109(b)

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

**CONSENT AGREEMENT**

**I. NATURE OF ACTION**

1. This is an administrative penalty assessment proceeding brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a) (RCRA or the Act) and Sections 22.13(b) and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.
3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without adjudication of any issues of law or fact herein.

**II. PARTIES**

4. Complainant is the Chief of the Chemical Safety and Land Enforcement Branch, Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA), Region 4 who has been delegated the authority on behalf of the Administrator of the EPA to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 3008(a) of the Act.
5. Respondent is Moog, Inc., a corporation doing business in the State of Florida. This proceeding pertains to Respondent's facility located at 1400 Rail Head Boulevard Naples, FL 34110 (Facility).

**III. GOVERNING LAW**

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Florida (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at Fla. Stat. § 403.702 *et seq* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939g] and to Fla. Admin. Code Ann. r. 62-730 *et seq* [40 C.F.R. Parts 260 through 270 and 273].

7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. The State has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CAFO.
11. Section 403.721 of the Florida Statutes, Fla. Stat. § 403.721 [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at Fla. Admin. Code Ann. r. 62-730.160 [40 C.F.R. Part 262].
12. Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at Fla. Admin. Code Ann. r. 62-730.180(1) (permitted) and Fla. Admin. Code Ann. r. 62-730.180(2) (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].
13. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. §262.13], a "large quantity generator (LQG)" is a facility that generates 1,000 kg or more of hazardous waste or more than 1kg of acute hazardous waste in a calendar month.
14. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a "facility" includes "all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste."
15. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a "person" includes a corporation.
16. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], an "owner" is "the person who owns a facility or part of a facility" and an "operator" is "the person responsible for the overall operation of a facility."
17. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a "container" is defined "as any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled."

18. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], “storage” means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
19. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
20. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.2], a “solid waste” is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
21. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.4(b)].
22. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous wastes and are provided with the EPA Hazardous Waste Numbers D001 through D043.
23. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.
24. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.
25. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for lead is identified with the EPA Hazardous Waste Number D008.
26. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for silver is identified with the EPA Hazardous Waste Number D011.
27. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a listed “hazardous waste” if it is listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261, Subpart D].

28. Listed hazardous wastes include the F-Listed wastes from nonspecific sources identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.31].
29. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.31], the following spent non-halogenated solvents: xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; and all spent solvent mixtures/blends containing, before use, only the above spent non-halogenated solvents are listed hazardous wastes identified with the EPA Hazardous Waste Number F003.
30. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)], a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.16(b) or §262.17(a)], except as required in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)(7) and (8)], provided that the generator complies with the satellite accumulation area (SAA) conditions listed in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)] (hereinafter referred to as the “SAA Permit Exemption”).
31. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)(4)], which is a condition of the SAA Permit Exemption, a generator is required to keep containers of hazardous waste closed at all times during accumulation, except when adding, removing, or consolidating waste; or when temporary venting of a container is necessary for the proper operation of equipment, or to prevent dangerous situations, such as build-up of extreme pressure.
32. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)(5)], which is a condition of the SAA Permit Exemption, a generator is required to mark or label its containers with the words “Hazardous Waste” and with an indication of the hazards of the contents.
33. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17], an LQG may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17] (hereinafter referred to as the “LQG Permit Exemption”).
34. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17(a)(1)(v)], which is a condition of the LQG Permit Exemption, a generator is required to, at least weekly, inspect central accumulation areas looking for leaking containers and for deterioration of containers caused by corrosion or other factors.
35. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], which incorporates Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.251], and is a condition of the LQG Permit Exemption, a generator is required to maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

36. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], which incorporates Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.252(c)], and is a condition of the LQG Permit Exemption, a generator is required to equip areas that generate or accumulate hazardous waste on site with portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment.
37. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)(8)], which incorporates Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.252(c)], and is a condition of the SAA Permit Exemption, a generator is required to equip areas that generate or accumulate hazardous waste on site with portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment.
38. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], which incorporates Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.255], and is a condition of the LQG Permit Exemption, a generator is required to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.
39. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], which incorporates Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.263 (a), (d) & (e)], and is a condition of the LQG Permit Exemption, a generator is required to review and immediately amend its contingency plan, if necessary. The contingency plan must be amended whenever: applicable regulations are revised; the list of emergency coordinators changes; or the list of emergency equipment changes.
40. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17(a)(7)], which is a condition of the LQG Permit Exemption, facility personnel must successfully complete the training program that complies with Fla. Admin. Code Ann. R. 62-730.160(1) [40 C.F.R. §262.17(a)(7)(i)] within six months after the date of their employment or assignment to the facility, or to a new position at the facility, whichever is later; facility personnel must take part in an annual review of the initial training required in Fla. Admin. Code Ann. R. 62-730.160(1) [40 C.F.R. §262(a)(7)(i)]; and training records on current personnel must be kept until closure of the facility.
41. Pursuant to Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. §273.9], a “Small Quantity Handler of Universal Waste (SQHUW)” is a universal waste handler who does not accumulate 5,000 kilograms of more of universal waste at any time.
42. Pursuant to Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.14(e)], an SQHUW must label or mark each lamp or container of lamps clearly with one of the following phrases: “Universal Waste-Lamp(s).” or “Waste Lamp(s).” or “Used Lamps.”

#### **IV. FINDINGS OF FACTS**

43. Respondent’s facility is located at 1400 Rail Head Boulevard, Naples, Florida 34110.

44. Respondent designs and manufactures motion control products like slip rings for aerospace/defense, commercial/industrial, marine, oil and wind turbine industries.
45. Respondent, through its operations, generates D001, D002, D003, D008, D011, F003, F007 and F008 hazardous waste. Respondent stores the hazardous waste in containers prior to shipping the hazardous waste offsite for disposal.
46. Respondent generates 1,000 kilograms or more of hazardous waste in a calendar month and therefore is an LQG of Hazardous Waste.
47. Respondent accumulates less than 5,000 kilograms of Universal Waste and therefore is an SQHUW.
48. On November 6, 2019, EPA and FDEP inspectors conducted a compliance evaluation inspection (CEI) at the facility. The EPA inspector's findings from the CEI were documented in a RCRA Inspection Report mailed to Respondent, dated January 10, 2020.
49. At the time of the CEI, the EPA inspector observed Respondent had three 90-day hazardous waste storage areas, HWSA #1, HWSA #2, and HWSA #3. HWSA #1 is located at the chemical storage room where the Facility stores chemical products and hazardous waste. HWSA #2 is located at the storage room within the plating room, where plating occurs. HWSA #3 is located at the warehouse where hazardous waste drums are stored prior to shipment offsite for disposal.
50. At the time of the CEI, the EPA inspector observed: a 55-gallon drum of spent sulfuric acid, a D002 hazardous waste, labeled as "Barrel E," stored in HWSA #1; an open 30-gallon container of spent gold cyanide filters, a D003/F007 hazardous waste, located in the Plating Room; and an open 55-gallon drum of spent isopropyl alcohol (IPA), a D001 hazardous waste, located in the Wind Turbine/Brush Forming Room. None of the containers were in a SAA near the point of generation of the waste.
51. At the time of the CEI, the EPA inspector noticed sixteen plastic containers collecting silver soldering debris, a D011 hazardous waste, in the Brush Block Assembly/Soldering area, an SAA. The containers were not labeled with the words "Hazardous Waste" and were not labeled with an indication of the hazards of the contents.
52. At the time of the CEI, the EPA inspector observed a 55-gallon drum of spent cyanide, a D008/F003 hazardous waste, dated September 12, 2019, stored in HWSA #2 for greater than 90 days.
53. At the time of the CEI, the EPA inspector observed that Respondent did not conduct weekly inspections at HWSA #1, #2, and #3.
54. At the time of the CEI, the EPA inspector observed white residue around the funnel spout and bung of a 30-gallon container of spent alkaline (Barrel A), a D002 hazardous waste, in HWSA #2.
55. At the time of the inspection, the EPA inspector observed the absence of certain required emergency equipment in the vicinity of HWSA#2 and HWSA#3 and at the SAAs in the Brush Forming Room/Wind Turbine areas.

56. At the time of the CEI, the EPA inspector observed several hazardous waste containers in HWSA#2 without enough aisle space between containers to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment (eyewash and shower) in the event of an emergency.
57. At the time of the CEI, the EPA inspector reviewed Respondent's contingency plan, March 2019 Emergency Procedures Plan (EPP). The EPP was not amended to reflect the changes of the emergency coordinators and emergency equipment.
58. At the time of the CEI, the EPA inspector noticed that some of the facility's personnel, including emergency coordinators and operators managing the hazardous waste containers and new hires, were not properly trained and the Respondent did not have required training records.
59. At the time of the CEI, the EPA inspector observed that Respondent was storing spent lamps in a cardboard container in HWSA#3. The container was not labeled "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamps."

## **V. ALLEGED VIOLATIONS**

60. Respondent is a "person" within the meaning of Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
61. Respondent is the "owner/operator" of a "facility," located at 1400 Rail Head Boulevard in Naples, Florida, as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], at all times relevant to this CAFO.
62. Respondent is a "generator" of "hazardous waste" as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10] and Fla. Admin. Code Ann. r. 62-730.030(1) (40 C.F.R. § 261.3).
63. Respondent failed to store SAA containers near the point of generation and under the control of the operator. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to keep its container of non-acute hazardous waste at or near the point of generation and under the control of the operator of the process generating the waste in accordance with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)], which is a condition of the SAA Permit Exemption.
64. Respondent failed to close SAA containers. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to keep its containers of hazardous waste closed at all times during accumulation in accordance with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)(4)], which is a condition of the SAA Permit Exemption.
65. Respondent failed to label SAA containers. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to comply

with the marking and labeling requirement in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)(5)], which is a condition of the SAA Permit Exemption.

66. Respondent stored a hazardous waste container in HWSA#2 for greater than 90 days without a permit or interim status. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste in excess of 90 days without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption by not complying with the storage time limits in violation of Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17)].
67. Respondent did not conduct weekly inspections for HWSA #1, #2, and #3 during 2019. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the container inspection requirement in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17(a)(1)(v)], which is a condition of the LQG Permit Exemption.
68. Respondent failed to minimize the possibility of a release of hazardous waste on a 30-gallon hazardous waste container. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], by not complying with the maintenance and operation requirements Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.251].
69. Respondent did not have the necessary emergency equipment in HWSA #2 and #3. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], by not having portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment as required by Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.252(c)].
70. Respondent did not have the necessary emergency equipment at the Brush Forming Room/Wind Turbine SAAs. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)(8)], by not having portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment as required by Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.252(c)].
71. Respondent did not keep enough aisle space and/or unobstructed areas in HWSA #2. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla.

Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], by not complying with the aisle space requirements in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.255].

72. Respondent did not update its EPP to reflect changes to the emergency coordinator or emergency equipment. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], by not amending its contingency plan as required by Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.263 (a), (d) & (e)].
73. Respondent failed to train emergency coordinators and operators managing hazardous waste containers and new hires, as well as maintain training records. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the personnel training requirement in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17(a)(7)], which is a condition of the LQG Permit Exemption.
74. Respondent failed to label or mark a container of universal waste lamps. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.14(e)], by not labeling or marking each lamp or container of lamps clearly with one of the following phrases: “Universal Waste-Lamp(s),” or “Waste Lamp(s),” or “Used Lamps.”

## **VI. STIPULATIONS**

75. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).
76. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:
  - a. admits that EPA has jurisdiction over the subject matter alleged in this CAFO;
  - b. neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;
  - c. consents to the assessment of a civil penalty as stated below;
  - d. consents to the conditions specified in this CAFO;
  - e. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and
  - f. waives its rights to appeal the Final Order accompanying this CAFO.
77. For the purpose of this proceeding, Respondent:
  - a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;

- b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
  - c. waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706;
  - d. waives any rights it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;
  - e. waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO;
  - f. agrees to comply with the terms of this CAFO.
78. By executing this CAFO, Respondent certifies to the best of its knowledge that Respondent is currently in compliance with all relevant requirements of the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected.
79. In accordance with 40 C.F.R. § 22.5, the parties consent to service of this CAFO by email at the following valid email addresses: [vasquez.maria-ximena@epa.gov](mailto:vasquez.maria-ximena@epa.gov) for the EPA and [mhecker@hodgsonruss.com](mailto:mhecker@hodgsonruss.com) for the Respondent and the individuals named in the certificate of service are authorized to receive service related to this proceeding.

## VII. TERMS OF PAYMENT

80. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **THIRTY FIVE THOUSAND FIVE HUNDRED (\$35,500.00)** which is to be paid within thirty (30) calendar days of the Effective Date of this CAFO.
81. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Facility name and docket number for this matter shall be referenced on the face of the check.
- a. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

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

- b. If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
Mail Station: SL-MO-C2-GL  
St. Louis, Missouri 63101  
Contact Number: (314) 425-1819

- c. If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
“D 68010727 Environmental Protection Agency”

- d. If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of US Treasury facility:  
5700 Rivertech Court  
Riverdale, Maryland 20737  
Contact: Craig Steffen, (513) 487-2091  
REX (Remittance Express): 1-866-234-5681

82. Respondent shall send proof of payment, within 24 hours of payment of the civil penalty, to:

Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
[bullock.patricia@epa.gov](mailto:bullock.patricia@epa.gov)

and

Héctor M. Danois  
Land, Asbestos and Lead Section

Chemical Safety and Land Enforcement Branch  
Enforcement and Compliance Assurance Division  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
[danois.hector@epa.gov](mailto:danois.hector@epa.gov)

83. “Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the Facility name and “Docket No. RCRA-04-2020-2109(b).”
84. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to remit the civil penalty as agreed to herein, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Accordingly, EPA may require the Respondent to pay the following amounts on any amount overdue:
- a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days of the Effective Date of this CAFO, Interest is waived. However, if the civil penalty is not paid in full within 30 days, Interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued Interest are paid. Interest will be assessed at the rate of the United States Treasury tax and loan rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b)(2), and 40 C.F.R. § 13.11(a).
  - b. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of not more than six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid, as provided in 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 901.9(d). This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (c) and will be assessed monthly. 40 C.F.R. § 13.11(c).
  - c. Monthly Handling Charge. Respondent must pay a late payment handling charge to cover the administrative costs of processing and handling the delinquent claim, based on either actual or average cost incurred. 31 C.F.R. § 901.9(b)(c), and 40 C.F.R. § 13.11(b). Administrative costs will be assessed monthly throughout the period the debt is overdue except as provided by 40 C.F.R. § 13.12.
85. In addition to what is stated in the prior Paragraph, if Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may:
- a. refer the debt to a credit reporting agency or a collection agency, 40 C.F.R. §§ 13.13, 13.14;
  - b. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person

owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H;

- c. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17; and/or
- d. refer the debt to the Department of Justice as provided in 40 C.F.R. § 13.33. In any such judicial action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

86. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

### **VIII. EFFECT OF CAFO**

87. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

88. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), 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. 40 C.F.R. § 22.18(c).

89. Any violation of this CAFO may result in a civil penalty for each day of continued noncompliance with the CAFO and/or the suspension or revocation of any federal or state permit issued to the violator, as provided in Section 3008(c) of the Act, 42 U.S.C § 6928(c).

90. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.

91. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.

92. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.

93. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

94. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.

95. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.
96. By signing this Consent Agreement, the Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.
97. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.
98. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.
99. EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to EPA. If such false or inaccurate material was provided, EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.
100. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
101. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

#### **IX. EFFECTIVE DATE**

102. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

**[Remainder of Page Intentionally Left Blank**

**Complainant and Respondent will Each Sign on Separate Pages.]**

The foregoing Consent Agreement In the Matter of **Moog, Inc., Docket No. RCRA-04-2020-2109(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Meni Scappatura  
Signature

8-3-2020  
Date

Printed Name: Meni SCAPPATURA

Title: Global EHS Director

Address: 400 Jamison Rd, Building 26, MOOG Inc.  
East Aurora, NY 14052

The foregoing Consent Agreement In the Matter of **Moog, Inc., Docket No. RCRA-04-2020-2109(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

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Kimberly L. Bingham  
Chief  
Chemical Safety and Land Enforcement Branch

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Moog, Inc.  
601 Crestwood Street,  
Jacksonville, Florida 32208,  
EPA ID No.: FLR000154252

Respondent.

Docket No. RCRA-04-2020-2109(b)

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

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22.

The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

**BEING AGREED, IT IS SO ORDERED.**

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Tanya Floyd  
Regional Judicial Officer

## CERTIFICATE OF SERVICE

I hereby certify that the foregoing “Consent Agreement” and “Final Order,” in the Moog, Inc., Docket No. RCRA-04-2020-2109(b), were filed and copies of the same were emailed to the parties as indicated below.

**Via email to all parties at the following email addresses:**

**To Respondent:** Mark Zak, EHS Regional Manager, Americas  
Moog, Inc. – Corporate Group  
Seneca and Jamison Roads  
East Aurora, New York 14052  
(716) 687-4416  
[mzak@moog.com](mailto:mzak@moog.com)

Michael Hecker, Attorney  
Hodgson Russ  
140 Pearl Street, Suite 100  
Buffalo, New York 14202  
(716) 848-1599  
[MHecker@hodgsonruss.com](mailto:MHecker@hodgsonruss.com)

**To EPA:** Héctor M. Danois, Environmental Engineer  
(404) 562-8556  
[danois.hector@epa.gov](mailto:danois.hector@epa.gov)

Ximena Vasquez, Assistant Regional Counsel  
(404) 562-5948  
[vasquez.maria-ximena@epa.gov](mailto:vasquez.maria-ximena@epa.gov)

U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

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Patricia Bullock, Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960