



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 22 2011

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

LR-8J

Mr. David D. Kiilunen
Vice President
Cor-Met Inc.
12500 Grand River Road
Brighton, Michigan 48116

Re: Consent Agreement and Final Order
Cor-Met Inc.
MID 020 844 593
Docket No. **RCRA-05-2011-0007**

Dear Mr. Kiilunen:

Enclosed please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The original was filed on MAR 22 2011, with the Regional Hearing Clerk (RHC).

Please pay the civil penalty in the amount of \$26,005 in the manner prescribed in paragraphs 39 and 40 of the CAFO, and reference all checks with the billing document (BD) number **2751142R006** and docket number **RCRA-05-2011-0007**. Your payment is due within thirty (30) calendar days of the effective date of the CAFO. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Thank you for your cooperation in resolving this matter.

Sincerely,

Gary J. Victorine
Acting Chief, RCRA Branch
Land and Chemicals Division

Enclosures

cc: Liane Shekter Smith, MDNRE, Lansing (w/CAFO)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. RCRA-05-2011-0007
)	
Cor-Met, Inc.)	Proceeding to Commence and Conclude
12500 Grand River Rd.)	an Action to Assess a Civil Penalty
Brighton, Michigan,)	Under Section 3008(a) of the Resource
)	Conservation and Recovery Act,
Respondent.)	42 U.S.C. § 6928(a)
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RECEIVED
MAR 22 2011
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) 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 40 C.F.R. Part 22.
2. Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. U.S. EPA provided notice of commencement of this action to the State of Michigan pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
4. Respondent is Cor-Met, Inc., corporation doing business in the State of Michigan.
5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the specific factual allegations in this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901-6992k, and the regulations at 40 C.F.R. Parts 260-279.

Statutory and Regulatory Background

12. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store and dispose of hazardous waste, pursuant to Sections 3001-3007 and 3013 of RCRA, 42 U.S.C. §§ 6921-6927 and 6934.

13. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA

constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Michigan final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program, effective October 30, 1986. 51 Fed. Reg. 36804 (October 16, 1986).

15. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both. The Administrator of U.S. EPA may assess a civil penalty of up to \$25,000 per day for each violation of Subtitle C of RCRA according to Section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 (1996), required U.S. EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. Part 19, U.S. EPA may assess a civil penalty of up to \$32,500 per day for each violation of Subtitle C of RCRA that occurred after March 15, 2004 through January 12, 2009.

Factual Allegations and Alleged Violations

16. Respondent was and is a "person" as defined by the Michigan Administrative Code (MAC) R 299.9106(i) [40 C.F.R. § 260.10] and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. Respondent is the "owner" or "operator," as those terms are defined in MAC R 299.9106(f) and (g) [40 C.F.R. § 260.10], of a facility located at 12500 Grand River Road, Brighton, Michigan (facility).

18. On March 11, 2008, U.S. EPA conducted an inspection of the facility.
19. At all times relevant to this CAFO, the facility consisted of land and structures, other appurtenances, and improvements on the land used for treating, storing or disposing of hazardous waste.
20. At all times relevant to this CAFO, Respondent manufactured cored welding wire.
21. At all times relevant to this CAFO, Respondent used soap as a lubricant, resulting in the generation of a mixture of scrap soap and wastewater.
22. At all times relevant to this CAFO, Respondent characterized its mixture of scrap soap and wastewater as a toxic hazardous waste for the presence of the constituent chromium, and assigned it hazardous waste code D007.
23. At all times relevant to this CAFO, Respondent's processes at the facility produced hazardous wastes identified or listed in MAC R 299.9201-9230, or caused a hazardous waste to become subject to regulation under MAC R 299.9101-299.11107 [40 C.F.R. Parts 260-270].
24. At all times relevant to this CAFO, Respondent held its hazardous waste in "containers" as that term is defined in MAC R 299.9102(r) [40 C.F.R. § 260.10].
25. At all times relevant to this CAFO, Respondent's holding of hazardous waste at its facility in containers constituted "storage" as that term is defined in MAC R 299.9107(dd) [40 C.F.R. § 260.10].
26. Respondent is a "generator" of hazardous waste as that term is defined in MAC R 299.9104(a) [40 C.F.R. § 260.10].
27. Respondent is subject to the regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939e, or the analogous State of Michigan regulations as part of the applicable state hazardous waste management program for the State of Michigan, or both.

28. At all times relevant to this CAFO, the State of Michigan had not issued a permit to Respondent to treat, store or dispose of hazardous waste at the facility.

29. At all times relevant to this CAFO, Respondent did not have interim status for the treatment, storage or disposal of hazardous waste at the facility.

Count 1

30. Complainant incorporates paragraphs 1 through 29 of this CAFO as though set forth in this paragraph.

31. Pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a) and the regulations at MAC R 299.9 Part 5 [40 C.F.R. Part 270], the treatment, storage or disposal of hazardous waste by any person who has not applied for or received an operating license (commonly referred to as a RCRA permit) from the State of Michigan is prohibited.

32. Pursuant to MAC R 299.9306(1) [40 C.F.R. § 262.34(a)], however, and subject to certain exceptions, a generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without having a permit or interim status, provided that the generator complies with all applicable conditions set forth in MAC R 299.9306(1) [40 C.F.R. § 262.34(a)] including, but not limited to, requirements concerning the accumulation of hazardous wastes in containers set forth in 40 C.F.R. Part 265, Subpart I.

33. The failure to meet the conditions of MAC R 299.9306(1) [40 C.F.R. § 262.34(a)] subjects the generator to the requirements of the State of Michigan's standards for owners and operators who store hazardous waste in containers, MAC R 299.9 Part 5 [40 C.F.R. Part 270], including the requirement to apply for and obtain an operating license or a RCRA permit from the State of Michigan to treat, store or dispose of hazardous waste.

34. Pursuant to MAC R 299.9306(1) [40 C.F.R. § 262.34(a)], in order to accumulate hazardous wastes on-site without an operating license or a RCRA permit issued by the State of Michigan, the facility must label its containers of hazardous waste with the words “Hazardous Waste” and must mark those same containers with the “start accumulation date.”

35. Complainant alleges that, at the time of the Inspection, Respondent failed to label seven 55-gallon drums used to accumulate the hazardous waste mixture of scrap soap and wastewater that it had accumulated as a result of processing its flux cored wire, with the words “Hazardous Waste.”

36. Complainant also alleges that, at the time of the Inspection, Respondent had also failed to mark these same seven 55-gallon containers of hazardous waste with the start accumulation date after removing each of them from the satellite accumulation area.

37. As a result of Respondent’s alleged failure to meet all of the applicable conditions for the generator exemption provided by MAC R 299.9306(1) [40 C.F.R. § 262.34(a)], Respondent became an operator of a hazardous waste treatment, storage and disposal facility.

38. Respondent’s alleged storage of hazardous waste without having applied for and obtained an operating license or RCRA permit from the State of Michigan violated Section 3005 of RCRA, 42 U.S.C. § 6925(a) and the requirements of MAC R 299.9 Part 5 [40 C.F.R. Part 270].

Civil Penalty

39. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$26,005. In determining the penalty amount, Complainant took into account the seriousness of the violations and any

good faith efforts to comply with the applicable requirements. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

40. Within 30 days after the effective date of this CAFO, Respondent must pay a \$26,005 civil penalty for the RCRA violations alleged herein by sending a check, by express mail, which includes the case title, the docket number of this CAFO and the billing document number, to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

41. After payment is made, Respondent agrees to send a transmittal letter stating Respondent's name, the case title, Respondent's complete address, the case docket number and the billing document number, and include evidence as to how the payment was made (e.g. a copy of the check). Respondent must send this transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Duncan Campbell
RCRA Branch (LR-8J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Terence Stanuch
Office of Regional Counsel (C-14J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

42. This civil penalty is not deductible for federal tax purposes.

43. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action. U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

44. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

45. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

46. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

47. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws or permits.

48. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, U.S. EPA's RCRA Civil Penalty Policy, and U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

49. The terms of this CAFO bind Respondent, its successors and assigns.

50. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

51. Each party agrees to bear its own costs and attorney's fees in this action.

52. This CAFO constitutes the entire agreement between the parties.

Cor-Met, Inc., Brighton, Michigan, Respondent

3-2-11
Date

David D. Kiilunen VP
David D. Kiilunen, Vice President
Cor-Met, Inc.
Brighton, Michigan

United States Environmental Protection Agency, Complainant

3/18/11
Date

Michael D. Harris ^{for B.S.}
Bruce F. Sypniewski
Acting Director
Land and Chemicals Division
United States Environmental Protection Agency
Region 5

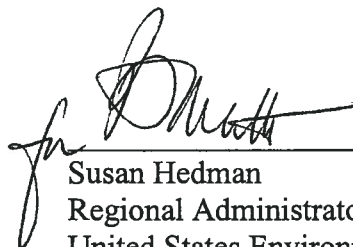
In the Matter of:
Cor-Met, Inc., Brighton, Michigan
Docket No. RCRA-05-2011-0007

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Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

3-21-11
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

CASE NAME: Cor-Met, Inc.
DOCKET NO: RCRA-05-2011-0007

CERTIFICATE OF SERVICE

I hereby certify that today I filed the original of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604-3590.

I certify a true and correct copy of the filed document to be mailed on the date below, via Certified Mail and Return Receipt Requested to:

David D. Kiilunen
Vice President
Cor-Met Inc.
12500 Grand River Road
Brighton, Michigan 48116

Certified Mail Receipt #

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MAR 22 2011

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

Dated: 3/22, 2011

Margaret Gray
Margaret Gray
Administrative Program Assistant
United States Environmental Protection Agency
Region 5
Land and Chemicals Division LR-8J
RCRA Branch
77 W. Jackson Blvd, Chicago, IL 60604-3590