

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

In the Matter of:	:	
	:	
Bemis Company, Inc.	:	U.S. EPA Docket No. RCRA-03-2019-0093
20 Jaycee Drive	:	
West Hazleton, PA 18202	:	Proceeding under Section 3008(a) and (g) of the
	:	Resource Conservation and Recovery Act, as
Respondent.	:	amended, 42 U.S.C. § 6928(a) and (g)
	:	
Bemis Company, Inc.	:	
20 Jaycee Drive	:	
West Hazleton, PA 18202	:	
	:	
Facility.	:	
	:	

U.S. EPA-REGION 3-RHC
FILED-30MAY2019am11:19

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Bemis Company, Inc. (“Respondent”) (collectively the “Parties”), pursuant to Section 3008(a) and (g) of the Resource Conservation and Recovery Act (“RCRA” or the “Act”), as amended, 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.
2. Section 3008(a) of RCRA authorizes the Administrator of the U.S. Environmental Protection Agency (“EPA” or the “Agency”) to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant.
3. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil monetary penalty against any person who violates any requirement of RCRA Subtitle C, EPA’s regulations thereunder, or any regulation of a state hazardous waste program which has been authorized by EPA.

4. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “CAFO”) resolve Complainant’s civil penalty claims against Respondent under RCRA for the violations alleged herein.
5. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

6. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
7. Section 3008(a) of RCRA authorizes EPA to assess penalties. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
8. 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 established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g. Effective January 30, 1986, the Commonwealth of Pennsylvania Hazardous Waste Regulations were authorized by EPA pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A. The Commonwealth of Pennsylvania has revised, and EPA has re-authorized, the Commonwealth of Pennsylvania Hazardous Waste Regulations several times subsequent to this original authorization. The most recent authorized (revised) regulations became effective on June 29, 2009 (74 *Fed. Reg.* 19453). The provisions of the current authorized (revised) Commonwealth of Pennsylvania Hazardous Waste Management Regulations, codified at 25 Pa. Code Chapters 260a-266a, 266b, and 268a-270a (“PAHMWR”), have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
9. On November 14, 2017, EPA sent a communication to the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (“PADEP”), giving prior notice of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

GENERAL PROVISIONS

10. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
11. Except as provided in Paragraph 10, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.

12. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
13. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CAFO and waives its right to appeal the accompanying Final Order.
14. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
15. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

16. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
17. Respondent is, and at all times relevant to the allegations set forth against it in this Consent Agreement was, a Missouri corporation.
18. Respondent manufactures plastic bags, including bread bags, at its facility located at 20 Jaycee Drive, West Hazleton, PA 18202 ("Facility"). Respondent acquired the Facility in 1993 and has operated it since then to the present. Respondent uses printing presses and ink to print on bread bags. As part of this process, Respondent generates D001 (ignitable) hazardous waste, in the form of waste ink and spent solvent.
19. In 1980, PADEP and EPA were notified that the Facility was a RCRA Large Quantity Generator Facility of hazardous waste. The Facility is reporting as a Large Quantity Generator ("LQG") (RCRA ID No. PAD043875434). The most recent Biennial Report notifications from Respondent were on February 29, 2016 and on February 21, 2018, and in those Reports, Respondent noted that it was reporting as an LQG.
20. On April 26, 2017, two inspectors from EPA conducted a Compliance Evaluation Inspection at the Facility ("Inspection"), to examine the Facility's compliance with Subtitle C of RCRA, the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260-266, 268 and 270-273, and the authorized PAHWMR.
21. On May 9, 2017, Respondent sent a revised Notification to PADEP stating that, on June 15, 2017, it would begin managing certain waste with EPA Hazardous Waste Numbers D001 and F003 as excluded hazardous secondary material ("HSM").
22. On March 2, 2018, EPA sent an information request letter ("IRL") to Respondent (Reference #C18-008), pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), to

gather additional information about the issues raised during the Inspection, and to request documents. Respondent responded to this request in a letter dated April 24, 2018 ("IRL Response").

23. Respondent is, and at all times relevant to the allegations set forth in this Consent Agreement, was a "person," as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 25 Pa. Code § 260a.10.
23. The Respondent is, and at all times relevant to the allegations set forth in this Consent Agreement, was a "generator" of "solid waste" and "hazardous waste," as these terms are defined in 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
24. The waste ink and spent solvent were, at all times relevant to the allegations set forth in this Consent Agreement, "hazardous waste" as this term is defined in 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
25. The Respondent was, at all times relevant to the allegations set forth in this Consent Agreement, engaged in the generation of "solid waste" and "hazardous waste," as those terms are defined in 25 Pa. Code § 260a.1, which incorporates by reference the definitions of those terms as set forth in 40 C.F.R. § 260.10.
26. 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10, defines "generator" as any person whose act or process produces hazardous waste identified or listed in 40 C.F.R. Part 261 or whose act first causes a hazardous waste to become subject to regulation.
27. 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10, defines "owner" as the person who owns a facility or part of a facility.
28. 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10, define "operator" as the person responsible for the overall operation of a facility.
29. 25 Pa. Code § 260a.10, which incorporates by reference 40 C.F.R. § 260.10, defines "person" as, *inter alia*, a corporation.
30. 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10, defines "hazardous waste" as that term is defined in 40 C.F.R. § 261.3.
31. 25 Pa. Code § 260a.10, which incorporates by reference 40 C.F.R. § 260.10, defines "facility" as "the land, structures and other appurtenances or improvements where municipal or residual waste disposal or processing is permitted or takes place, or where hazardous waste is treated, stored, or disposed."
32. From approximately 1993 through the present, Respondent was the "owner" and "operator" of the Facility, as those terms are defined in 25 Pa. Code § 260a.1, which incorporates by reference the definitions of those terms as set forth in 40 C.F.R. § 260.10.

COUNT I

(Operating a Treatment, Storage, and Disposal Facility without a Permit or Interim Status)

33. The information in the preceding Paragraphs is incorporated herein by reference, as though fully set forth at length.
34. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), 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.
35. Respondent has never had a permit or interim status, pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), or 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), for the storage of hazardous waste at the Facility.

Generator Accumulation of Hazardous Waste (the "Generator Permit Exemption")

36. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a) (pertaining to "Accumulation Time"), provides in applicable and relevant part:

Except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:

(1) The waste is placed:

- (i) In containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265; and/or
- (ii) In tanks and the generator complies with the applicable requirements of subparts J, AA, BB, and CC of 40 CFR part 265

* * *

(2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste"; and

(4) The generator complies with the requirements for owners or operators in subparts C and D in 40 CFR part 265, with § 265.16, and with all applicable requirements under 40 CFR part 268.

Generator Permit Exemption: Labelling and Dating Hazardous Waste Containers

37. As a condition of meeting the 90-day accumulation permit exemption, 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(2), requires that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.
38. In addition, 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(3), requires that, while being accumulated on-site, each container and tank of hazardous waste is labeled or marked clearly with the words, 'Hazardous Waste.'
39. At the time of the Inspection, Respondent was storing at the Facility two containers of D001 hazardous waste and five tanks of D001 hazardous waste, both in the form of waste ink and spent solvent. These containers and tanks were not labeled with the words "Hazardous Waste," as required by the applicable permit exemption condition set forth at 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(3).
40. At the time of the Inspection, Respondent was storing at the Facility 17 containers of D001 hazardous waste, in the form of waste ink and spent solvent, which were not marked with the date that accumulation began, as required by the applicable permit exemption conditions set forth at 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(2).

Failure to Meet Additional Generator Permit Exemption Conditions

41. The following acts or omissions, further described in Counts II through XVII, below, prevented Respondent from meeting the regulatory permit exemption conditions set forth at 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a).
42. Respondent failed to keep a container of hazardous waste closed during storage, except when it was necessary to add or remove waste, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), which further incorporates 40 C.F.R. § 265.173(a), as set forth in further detail in Count II, below.
43. Respondent failed to maintain a configuration and adequate aisle spacing when accumulating containers of ignitable hazardous waste, which ensures safe management and access for purposes of inspection, containment and remedial action with emergency vehicles, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), which further incorporates 40 C.F.R. § 265.35, as set forth in further detail in Count III, below.
44. Respondent failed to provide annual hazardous waste refresher training to each person employed in a position related to hazardous waste management, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4), which further incorporates 40 C.F.R. § 265.16(a)(1) and (3), as set forth in further detail in Count IV, below.

45. Respondent failed to keep job titles and written job descriptions for employees in positions related to hazardous waste management on file at the Facility, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4), which further incorporates 40 C.F.R. § 265.16(d), as set forth in further detail in Count V, below.
46. Respondent failed to include the location and capabilities of the Facility's emergency equipment in the Facility's contingency plan, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4), which further incorporates 40 C.F.R. § 265.52(e), as set forth in further detail in Count VI, below.
47. Respondent failed to maintain a Manifest signed by the destination facility for hazardous waste shipped under Manifest #009094099FLE, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), which further incorporates 40 C.F.R. § 262.40(a). In the alternative, Respondent failed to timely submit to EPA an Exception Report for this shipment of hazardous waste, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), which further incorporates 40 C.F.R. § 262.42(a)(2). These allegations are described in further detail in Count VII, below.
48. Respondent failed to retain copies of two land disposal restriction ("LDR") notification forms for offsite shipments of hazardous waste on file at the Facility, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4), which further incorporates 40 C.F.R. § 268.7(a), as set forth in further detail Count VIII, below.
49. Respondent failed to provide a written assessment by a professional engineer for five hazardous waste storage tanks, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), which further incorporates 40 C.F.R. § 265.192(a), as set forth in further detail in Count IX, below.
50. Respondent failed to provide secondary containment for four hazardous waste storage tanks, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), which further incorporates 40 C.F.R. § 265.193(a), as set forth in further detail in Count X, below.
51. Respondent failed to perform and record daily inspections of five hazardous waste storage tanks, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), which further incorporates 40 C.F.R. § 265.195, as set forth in further detail in Count XI, below.
52. Respondent failed to identify equipment at the Facility which contained or was in contact with a hazardous waste with an organic concentration that equaled or exceeded 10% by weight, and was thus subject to the regulations in 40 C.F.R. Part 265, Subpart BB, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R.

- § 262.34(a), which further incorporates 40 C.F.R. § 265.1063(d), as set forth in further detail in Count XIII, below.
53. Respondent failed to record, in the Facility record, the equipment identification numbers and other specified information for all equipment at the Facility subject to Subpart BB of 40 C.F.R. Part 265, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), which further incorporates 40 C.F.R. § 265.1064(b), as set forth in further detail in Count XIV, below.
 54. Respondent failed to mark three pieces of equipment subject to of 40 C.F.R. Part 265, Subpart BB requirements in a manner such that they could be distinguished readily from other pieces of equipment, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), which further incorporates 40 C.F.R. § 265.1050(c), as set forth in further detail in Count XV, below.
 55. Respondent failed to monitor monthly one pump and two valves subject to the requirements of 40 C.F.R. Part 265, Subpart BB, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), which further incorporates 40 C.F.R. § 265.1057(a) and 40 C.F.R. § 265.1052(a)(1), as set forth in further detail in Count XVI, below.
 56. Respondent failed to provide Subpart CC air emissions controls for the Parts Washer Waste Solvent Tank, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), which further incorporates 40 C.F.R. §§ 265.1082(b) and 265.1085(b), and as result also failed to inspect, monitor and keep records for such a device, as set forth in further detail in Count XVII, below.
 57. For each of the reasons and during each of the dates and time periods identified, above, Respondent failed to comply with the permit exemption conditions set forth in 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), as identified in Paragraphs 39 through 56, above, for temporary (*i.e.*, 90 days or less) and satellite accumulation of hazardous waste by a generator at the Facility, and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such sections.
 58. From at least May 30, 2014 (five years ago) through April 26, 2017 (date of the Inspection), for each of the reasons identified in Paragraphs 39 through 56, above, Respondent engaged in the operation of a hazardous waste storage facility (*i.e.*, the Facility) without having interim status or obtaining a permit for the Facility pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), or 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b).

COUNT II
**(Failure to Keep Containers Closed During Storage, Except
When Necessary to Add or Remove Hazardous Waste)**

59. The allegations of each of the preceding paragraphs are incorporated herein by reference as though fully set forth at length.
60. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), (pertaining to “Management of Containers”), provides: “A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.”
61. During the Inspection on April 26, 2017, there was a container of D001 hazardous waste rags that was fitted with a compactor device which was open even though it was not necessary to add or remove waste.
62. On April 26, 2017 (date of the Inspection), Respondent violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), by failing to keep a container of D001 hazardous waste rags closed except when adding or removing hazardous waste.

COUNT III
(Failure to Maintain Adequate Aisle Space for Hazardous Waste Containers)

63. The allegations of each of the preceding paragraphs are incorporated herein by reference as though fully set forth at length.
64. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.35 (pertaining to “Required Aisle Space”), provides: “The owner or operator must 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 it can be demonstrated to the Regional Administrator that aisle space is not needed for any of these purposes.”
65. 25 Pa. Code § 264a.173(1), (pertaining to “Management of Containers”), requires: “For indoor storage of reactive or ignitable hazardous waste, the container height, width and depth of a group of containers shall provide a configuration and aisle spacing which insures safe management and access for purposes of inspection, containment and remedial action with emergency vehicles.”
66. During the Inspection on April 26, 2017, the EPA inspectors attempted to inspect drums that were located in the back of the Van Shed 90-Day Area. This area was used to accumulate flammable hazardous waste (EPA Hazardous Waste Numbers D001, F003) in containers, and there were 50 drums in this area during the Inspection. The inspectors were unable to inspect the drums that were located in the back of the Van Shed 90-Day

Area. They also found it difficult to observe each of the hazardous waste drums in this area.

67. Respondent did not maintain adequate aisle space between the containers to allow for the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment in case of emergencies.
68. On April 26, 2017, Respondent violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.35, by failing 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.
69. On April 26, 2017, Respondent also violated the requirements of 25 Pa. Code § 264a.173(1), by failing to maintain adequate aisle spacing which insures safe management and access for purposes of inspection, containment and remedial action with emergency vehicles.

COUNT IV
(Failure to Provide Annual Hazardous Waste Training)

70. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
71. The provisions of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(a)(1) and (c) (pertaining to “Personnel Training”), requires the owner or operator of a hazardous waste facility to provide initial hazardous waste training and annual refresher training to each person employed in a position related to hazardous waste management.
72. Specifically, 40 C.F.R. § 264.16(a) provides, in relevant and applicable part:
 - (1) Facility personnel must 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 this part. The owner or operator must ensure that this program includes all the elements described in the document required under paragraph (d)(3) of this section.
 - (2) This program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

- (3) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including, where applicable:
 - (i) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;
 - (ii) Key parameters for automatic waste feed cut-off systems;
 - (iii) Communications or alarm systems;
 - (iv) Response to fires or explosions;
 - (v) Response to ground-water contamination incidents; and
 - (vi) Shutdown of operations.
73. 40 C.F.R. § 264.16(c) provides that “[f]acility personnel must take part in an annual review of the initial training required in paragraph (a) of this section.”
74. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(e), provides that “[t]raining records on current personnel must be kept until closure of the facility; training records on former employees must be kept for at least three years from the date the employee last worked at the facility. . . .”
75. During the Inspection, upon request by the EPA inspectors, and in subsequent responses to the Information Request Letter issued by EPA, Respondent could not produce any records showing that it had provided annual hazardous waste training to certain employees responsible for the management of hazardous waste during calendar years 2015 and 2016.
76. During calendar years 2015 and 2016, Respondent violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c), by failing have its employees responsible for the management of hazardous waste at the Facility take part in an annual review of the initial hazardous waste training.

COUNT V
(Failure to Maintain Personnel Records)

77. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
78. The provisions of 25 Pa. Code § 264a.1, which incorporate by reference 40 C.F.R. § 264.16(d) (pertaining to “Personnel Training”), provide, in relevant and applicable part:

- (d) The owner or operator must 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 paragraph (d)(1) of this section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of employees assigned to each position; . . .
- 79. At the time of the Inspection on April 26, 2017, Respondent's facility personnel reported that job titles and written job descriptions for employees in positions related to hazardous waste management were not kept on file at the Facility. The Facility representative provided the inspectors with job descriptions for the positions of Press Assistant, Press Operator, and Material Handler. However, these job descriptions did not include specific hazardous waste responsibilities.
- 80. On April 26, 2017, Respondent violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d), by failing to keep job titles and written job descriptions for employees in positions related to hazardous waste management on file at the Facility.

COUNT VI
(Failure to Prepare an Adequate Contingency Plan)

- 81. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
- 82. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.51(a), (pertaining to "Contingency Plans"), provides: "Each owner or operator must have a contingency plan for his facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water."
- 83. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.52(e), provides: "The [contingency] plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities."

84. During the Inspection on April 26, 2017, the EPA inspectors reviewed the Facility's SPCC/PPC/SPRP Plan that had been updated most recently on May 8, 2015. A review of this Plan and subsequent correspondence confirmed that Respondent's contingency plan for the Facility did not include the location and capabilities of the Facility's emergency equipment.
85. From May 8, 2015 (date of the Facility's most recent SPCC/PPC/SPRP Plans) through April 26, 2017 (date of the Inspection), Respondent violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.51(a) and § 264.52(e), by failing to include the location and capabilities of the Facility's emergency equipment in the Facility's contingency plan.

COUNT VII

(Failure to Retain TSD-Signed Copies of Manifests or Submit Exception Reports)

86. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
87. 25 Pa. Code § 262a.10, incorporates by reference 40 C.F.R. Part 262, Subpart B (pertaining to "The Manifest"), and Subpart D (pertaining to "Recordkeeping and Reporting"), with exceptions not relevant herein.
88. 40 CF.R. § 262.20(a)(1) provides, in relevant and applicable part, that "[a] generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal . . . must prepare a Manifest . . . according to instructions included in the appendix to this part."
89. 40 CF.R. § 262.23(a) further provides that "[t]he generator must (1) Sign the manifest certification by hand; and (2) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and (3) Retain one copy, in accordance with § 262.40(a)."
90. 40 CF.R. § 262.40(a) provides that "[a] generator must keep a copy of each manifest signed in accordance with § 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter."
91. 40 CF.R. § 262.42(a)(1) provides that a large quantity generator "who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste."
92. 40 CF.R. § 262.42(a)(2) provides that a generator "must submit an Exception Report to the EPA Regional Administrator for the Region in which generator is located if he has

not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of date the waste was accepted by the initial transporter."

93. 40 CF.R. § 262.40(b) provides that "[a] generator must keep a copy of each Biennial Report and Exception Report for a period of at least three years from the due date of the report."
94. Respondent failed to submit an Exception Report when a copy of Manifest #009094099FLE, dated February 16, 2016, was not received with the handwritten signature of the treatment, storage or disposal facility ("TSDF") within 45 days of the date the wastes were accepted by the initial transporter.
95. From February 16, 2016 (the date the waste was accepted by the initial transporter) through April 26, 2017 (the date of the EPA Inspection), Respondent violated the requirements of 25 Pa. Code § 262a.10, which incorporates by reference 40 CF.R. § 262.40(a), by failing to maintain a Manifest signed by the destination facility for hazardous waste shipped under Manifest #009094099FLE.
96. In addition, from April 1, 2016 (45 days after February 16, 2016) to April 26, 2017 (the date of the EPA Inspection) Respondent violated the requirements of 25 Pa. Code § 262a.10, which also incorporates by reference 40 CF.R. § 262.42(a)(2), by failing to timely submit to EPA an Exception Report for this shipment of hazardous waste.

COUNT VIII
(Failure to Maintain LDR Documentation)

97. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
98. 25 Pa. Code § 268a.1, which incorporates by reference 40 C.F.R. § 268.7(a), (pertaining to "Testing, Tracking, and Recordkeeping Requirements for Generators, Treaters, and Disposal Facilities"), provides:

(a) *Requirements for generators:*

(1) A generator of hazardous waste must determine if the waste has to be treated before it can be land disposed. This can be done by determining if the hazardous waste meets the treatment standards in § 268.40, § 268.45, or § 268.49. . . .

(2) If the waste or contaminated soil does not meet the treatment standards, or if the generator chooses not to make the determination of whether his waste must be treated, with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste, and place a copy in the file. . . .

(3) If the waste or contaminated soil meets the treatment standard at the original point of generation: (i) With the initial shipment of waste to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each treatment, storage, or disposal facility receiving the waste, and place a copy in the file. . . .

* * *

(8) Generators must retain on-site a copy of all notices, certifications, waste analysis data, and other documentation produced pursuant to this section for at least three years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal. . . .

99. During the April 26, 2017 Inspection, there were no LDR forms available for two hazardous waste manifests: Manifest #006083038 FLE, dated July 25, 2014, for a waste stream with EPA Hazardous Waste No. D001, sent to Tier Environmental Services, a TSDF; and Manifest #007809719 FLE, dated May 26, 2015, for a waste stream of ethanol, n-propyl acetate flammable liquids, with EPA Hazardous Waste No. D001, sent to Veolia, a TSDF.
100. On March 14, 2018, in response to IRL Question 11, Respondent provided to EPA the LDR form for Manifest #007809719 FLE, dated May 26, 2015, that it had subsequently obtained from Veolia. However, Respondent was unable to obtain the other LDR form for Manifest #006083038 FLE, dated July 25, 2014, from Tier Environmental, because Tier Environmental is no longer operating.
101. Respondent failed to retain copies of two LDR notification forms for offsite shipments of D001 hazardous waste to two TSDFs: Tier Environmental and Veolia.
102. From July 25, 2014 (date of Manifest #006083038 FLE) to April 26, 2017 (date of the Inspection), Respondent violated the requirements of 25 Pa. Code § 268a.1, which incorporates by reference 40 C.F.R. § 268.7(a), by failing to retain copies of two LDR notification forms for offsite shipments of hazardous waste on file at the Facility.

COUNT IX

(Failure to Provide Written Assessments for Five Hazardous Waste Tanks)

103. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
104. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.192(a), (pertaining to “Design and Installation of New Tank Systems or Components”), requires: “Owners or operators of new tank systems or components must obtain and submit to the Regional Administrator, at time of submittal of part B information, a written assessment, reviewed and certified by a qualified Professional Engineer, in accordance with § 270.11(d) of this chapter, attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. The

assessment must show that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection to ensure that it will not collapse, rupture, or fail.”

105. During the Inspection on April 26, 2017, and through subsequent correspondence, the EPA inspectors learned that Respondent had not completed a written assessment by a professional engineer for the following five hazardous waste storage tanks:
- a. One 29.3-gallon tank in the Press 21 Enclosure, that stored spent solvent (EPA Hazardous Waste No. D001). This violation continued from 1990 (when Respondent began using the tank to accumulate D001 hazardous waste), to April 26, 2017 (date of the Inspection).
 - b. One 133-gallon tank in the Maintenance Area, that was used to store spent parts washing solvent (EPA Hazardous Waste No. D001). This violation continued from 1987, (when Respondent began using the tank to accumulate D001 hazardous waste), to April 26, 2017 (date of the Inspection).
 - c. One 66-gallon tank attached to Press 16, which is an 8-color printing press with an auto-wash press cleaning system. The holding tank is used to store spent solvent (EPA Hazardous Waste No. D001) generated by the Press 16 cleaning system. This violation continued from October 2010 (when the Respondent began using the tank) until April 26, 2017 (date of the Inspection).
 - d. Two 80-gallon tanks connected to Press 23, which is a 10-color printing press, which has an automatic solvent wash system. Spent solvent (EPA Hazardous Waste No. D001) from Press 23 is pumped from the press into one of the two tanks. The two tanks collecting spent solvent are located on opposite walls of the printing Press 23 enclosure. At the time of the Inspection, the tanks were labeled with the words “Dirty Wash Down.” This violation continued from January 2015 (when the Facility began using the tanks) until April 26, 2017 (date of the Inspection).
106. From at least May 30, 2014 through April 26, 2017, Respondent violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.192(a), by failing to obtain and provide a written assessment by a professional engineer for tanks used at the Facility for storing hazardous waste.

COUNT X

(Failure to Provide Secondary Containment for Four Hazardous Waste Tanks)

107. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.

108. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.193(a), (pertaining to “Containment and Detection of Releases”), with exceptions not relevant here, requires:

(a) In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this section must be provided (except as provided in paragraphs (f) and (g) of this section):

(1) For all new and existing tank systems or components, prior to their being put into service.

(2) For tank systems that store or treat materials that become hazardous wastes, within two years of the hazardous waste listing, or when the tank system has reached 15 years of age, whichever comes later.

(b) Secondary containment systems must be:

(1) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water, or surface water at any time during the use of the tank system; and

(2) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

(c) To meet the requirements of paragraph (b) of this section, secondary containment systems must be at a minimum:

(1) Constructed of or lined with materials that are compatible with the wastes(s) to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which it is exposed, climatic conditions, and the stress of daily operation (including stresses from nearby vehicular traffic).

(2) Placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression, or uplift;

(3) Provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary containment structure or the presence of any release of hazardous waste or accumulated liquid in the secondary containment system within 24 hours, or at the earliest practicable time if the owner or operator can demonstrate to the Regional Administrator that existing detection technologies or site

conditions will not allow detection of a release within 24 hours; and

(4) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within 24 hours, or in as timely a manner as is possible to prevent harm to human health and the environment, if the owner or operator can demonstrate to the Regional Administrator that removal of the released waste or accumulated precipitation cannot be accomplished within 24 hours.

109. At the time of the Inspection on April 26, 2017, Respondent had failed to provide a method of secondary containment for the following four hazardous waste storage tanks, which are also described in Count IX, above:
- a. One 29.3-gallon tank in the Press 21 Enclosure, that stored spent solvent (EPA Hazardous Waste No. D001). This violation continued from 1990 (when Respondent began using the tank to accumulate D001 hazardous waste), to April 26, 2017 (date of the Inspection).
 - b. One 133-gallon tank in the Maintenance Area, that was used to store spent parts washing solvent (EPA Hazardous Waste No. D001). This violation continued from 1987, (when Respondent began using the tank to accumulate D001 hazardous waste), to April 26, 2017.
 - c. Two 80-gallon tanks connected to Press 23, which is a 10-color printing press, which has an automatic solvent wash system. Spent solvent (EPA Hazardous Waste No. D001) from Press 23 is pumped from the press into one of the two tanks. The two tanks collecting spent solvent are located on opposite walls of the printing Press 23 enclosure. At the time of the Inspection, the tanks were labeled with the words "Dirty Wash Down." This violation continued from January 2015 (when the Facility began using the tanks) until April 26, 2017.
110. From at least May 30, 2014 through April 26, 2017, Respondent violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.193(a), by failing to provide a method of secondary containment for four hazardous waste storage tanks.

COUNT XI

(Failure to Perform and Record Daily Inspections of Hazardous Waste Tanks)

111. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
112. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.195, (pertaining to "Inspections"), with exceptions not relevant herein, requires:

- (a) The owner or operator must develop and follow a schedule and procedure for inspecting overflow controls.
 - (b) The owner or operator must inspect at least once each operating day data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design.
 - (c) In addition, except as noted under paragraph (d) of this section, the owner or operator must inspect at least once each operating day:
 - (1) Above ground portions of the tank system, if any, to detect corrosion or releases of waste.
 - (2) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).
113. Respondent has failed to perform and record daily inspections of the following hazardous waste storage tanks:
- a. One 29.3-gallon tank in the Press 21 Enclosure, that stored spent solvent (EPA Hazardous Waste No. D001). This violation continued from 1990 (when Respondent began using the tank to accumulate D001 hazardous waste), to April 26, 2017 (date of the Inspection).
 - b. One 133-gallon tank in the Maintenance Area, that was used to store spent parts washing solvent (EPA Hazardous Waste No. D001). This violation continued from 1987 (when Respondent began using the tank to accumulate D001 hazardous waste), to April 26, 2017.
 - c. One 66-gallon tank attached to Press 16, which is an 8-color printing press with an auto-wash press cleaning system. The holding tank is used to store spent solvent (EPA Hazardous Waste No. D001) generated by the Press 16 cleaning system. This violation continued from October 2010 (when the Respondent began using the tank) until April 26, 2017.
 - d. Two 80-gallon tanks connected to Press 23, which is a 10-color printing press, which has an automatic solvent wash system. Spent solvent (EPA Hazardous Waste No. D001) from Press 23 is pumped from the press into one of the two tanks. The two tanks collecting spent solvent are located on opposite walls of the printing Press 23 enclosure. At the time of the Inspection, the tanks were labeled with the words "Dirty Wash Down." This violation continued from January 2015 (when the Facility began using the tank) until April 26, 2017.

114. From at least May 30, 2014 through April 26, 2017, Respondent violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.195, by failing to perform and record daily inspections for five hazardous waste storage tanks.

COUNT XII
(Failure to Close Container of Universal Waste Lamps)

115. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
116. 25 Pa. Code § 266b.1, which incorporates by reference the federal hazardous waste requirements of 40 C.F.R. § 273.13(d)(1), (pertaining to “Waste Management” of Universal Waste) requires:
- (d) Lamps. A small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- (1) A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.
117. During the Inspection on April 26, 2017, in the Photo Utility Room at the Facility, Respondent was storing one box of universal waste lamps that was open.
118. On April 26, 2017, Respondent violated the requirements of 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.13(d)(1), by failing to keep a box of universal waste lamps closed.

COUNT XIII
**(Failure to Determine if Equipment Contains or Contacts
Hazardous Waste with 10% or More Organics)**

119. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
120. 25 Pa. Code § 264a.1, which incorporates by reference the federal hazardous waste requirements of 40 C.F.R. Part 264, Subpart BB, including the regulation at 40 C.F.R. § 264.1063(d) (pertaining to “Test Methods and Procedures”), requires owners and operators of a hazardous waste treatment, storage or disposal facility to determine, for each piece of equipment, whether the equipment contains or contacts a hazardous waste with an organic concentration that equals or exceeds 10% by weight. This determination

must be made using a methodology described in 40 C.F.R § 264.1063(d)(1) – (2), or through application of knowledge of the nature of the hazardous waste stream or the process by which it was produced, in accordance with 40 C.F.R § 264.1063(d)(3).

121. During the Inspection on April 26, 2017, the EPA inspectors observed a parts washer located in the Maintenance Area. Spent parts washer solvent was being pumped from this parts washer to a segmented spent solvent tank also located in the Maintenance Area (referred to herein “Parts Washer Waste Solvent Tank”). Facility personnel indicated that piping components on the tank are used to transfer D001 hazardous waste from the parts washer to the Parts Washer Waste Solvent Tank, and that this waste has an organic concentration of 85%.
122. Respondent used this Parts Washer Waste Solvent Tank and its associated piping and equipment in this manner from approximately January 1, 2014 to June 15, 2017 (the date that Respondent began managing certain waste with EPA Hazardous Waste Code Numbers D001 and F003 as excluded hazardous secondary material).
123. At the time of the Inspection, Respondent did not recognize that the equipment used to transfer the spent solvent to the Parts Washer Waste Solvent Tank was subject to requirements of 40 C.F.R. Part 264, Subpart BB.
124. Respondent failed to determine whether the pump and two valves contained or contacted a hazardous waste with 10% or more organic concentration.
125. From at least May 30, 2014 to April 26, 2017, Respondent violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.1063(d), by failing to identify equipment at the Facility which contained or was in contact with a hazardous waste with an organic concentration that equaled or exceeded 10% by weight, and was thus subject to the regulations in 40 C.F.R. Part 264, Subpart BB.

COUNT XIV
(Failure to Keep Records of Equipment
Subject to 40 C.F.R. Part 264, Subpart BB)

126. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
127. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.1064 (pertaining to “Recordkeeping Requirements”), provides several recordkeeping requirements for facility owners with equipment subject to 40 C.F.R. Part 264, Subpart BB.
128. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.1064(b), provides:
 - (b) Owners and operators must record the following information in the facility operating record:

- (1) for each piece of equipment to which Subpart BB of part 264 applies:
 - (i) Equipment identification number and hazardous waste management unit identification, among other information.
 - (ii) Approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan).
 - (iii) Type of equipment (e.g., a pump or pipeline valve).
 - (iv) Percent-by-weight total organics in the hazardous waste stream at the equipment.
 - (v) Hazardous waste state at the equipment (e.g., gas/vapor or liquid).
 - (vi) Method of compliance with the standard (e.g., “monthly leak detection and repair” or “equipped with dual mechanical seals”).
129. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.1064(g), provides that identification numbers for equipment subject to the requirements of Subpart BB shall be kept in the facility operating record.
130. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.1064(i), provides that a schedule of monitoring, and the percent of valves found leaking during each monitoring period, shall be recorded in the facility operating record for valves complying with § 264.1062.
131. At the time of the Inspection on April 26, 2017, Respondent had not recognized that the Parts Washer Waste Solvent Tank was regulated under 40 C.F.R. Part 264, Subpart BB. As a result, Respondent failed to maintain records in the Facility operating record for equipment (one pump and two valves) associated with this Tank. Approximately three pieces of equipment at the Facility which were subject to Subpart BB were not listed in the facility operating record.
132. From at least May 30, 2014 to April 26, 2017, Respondent violated the requirements of 40 C.F.R. § 264.1064(b) by failing to record in the Facility record the equipment identification numbers and other specified information for three pieces of equipment at the Facility subject to Subpart BB of 40 C.F.R. Part 264.

COUNT XV

(Failure to Mark Equipment Subject to 40 C.F.R. Part 264, Subpart BB)

133. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
134. 25 Pa. Code § 264a.1, which incorporates by reference the federal hazardous waste requirements of 40 C.F.R. Part 264, Subpart BB, including the regulation at 40 C.F.R. § 264.1050(d) (pertaining to “Air Emission Standards for Equipment Leaks, Applicability”), requires that: “Each piece of equipment to which [Subpart BB] applies

shall be marked in such a manner that it can be distinguished readily from other pieces of equipment.”

135. At the time of the Inspection on April 26, 2017, a pump and two valves associated with the Parts Washer Waste Solvent Tank, which were subject to the requirements of 40 C.F.R. Part 264, Subpart BB, were not marked in a manner which enabled the equipment to be distinguished readily from other pieces of equipment.
136. From at least May 30, 2014 to April 26, 2017, Respondent violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.1050(d), by failing to mark three pieces of equipment subject to of 40 C.F.R. Part 264, Subpart BB requirements in a manner such that they could be distinguished readily from other pieces of equipment.

COUNT XVI

(Failure to Inspect and Monitor One Pump and Two Valves Subject to 40 C.F.R. Part 264, Subpart BB)

137. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
138. 25 Pa. Code § 264a.1, which incorporates by reference the federal hazardous waste requirements of 40 C.F.R. Part 264, Subpart BB, including the regulation at 40 C.F.R. § 264.1057(a) (pertaining to “Standards: Valves in Gas/Vapor Service or in Light Liquid Service”), requires, with exceptions not relevant here: “Each valve in gas/vapor or light liquid service shall be monitored monthly to detect leaks by the methods specified in 40 C.F.R § 264.1063(b) and shall comply with paragraphs (b) through (e) of [40 C.F.R. § 264.1057].”
139. 25 Pa. Code § 264a.1, which incorporates by reference the federal hazardous waste requirements of 40 C.F.R. Part 264, Subpart BB, including the regulation at 40 C.F.R. § 264.1052(a)(1) (pertaining to “Standards: Pumps in Light Liquid Service”), requires, with exceptions not relevant here: “Each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in 40 C.F.R § 264.1063(b)”
140. At the time of the Inspection, Respondent had failed to test for leaks, on a monthly basis, one pump and two valves associated with the Parts Washer Waste Solvent Tank, and subject to 40 C.F.R. Part 264, Subpart BB.
141. From at least May 1, 2014 to April 26, 2017, Respondent violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.1057(a) and 40 C.F.R. § 264.1052(a)(1), by failing to monitor monthly one pump and two valves subject to the requirements of 40 C.F.R. Part 264, Subpart BB.

COUNT XVII
**(Failure to Provide Hazardous Waste Tanks Subject to
40 C.F.R. Part 264, Subpart CC, with Emission Controls, and
Perform Required Inspections and Recordkeeping)**

142. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
143. 25 Pa. Code § 264a.1, which incorporates by reference the federal hazardous waste requirements of 40 C.F.R. Part 264, Subpart CC, including the regulations at 40 C.F.R. §§ 264.1082(b) and 264.1084(c) (pertaining to “Air Emission Standards for Tanks”), with exceptions not relevant herein, contains the following requirements related to tanks.
144. 40 C.F.R. § 264.1082(b) requires, with exceptions not relevant here: “The owner or operator shall control air pollutant emissions from each hazardous waste management unit in accordance with standards specified in §§ 264.1084 through 264.1087 of this subpart, as applicable to the hazardous waste management unit, except as provided for in paragraph (c) of this section.”
145. 40 C.F.R. § 264.1084(c) requires: “Owners and operators controlling air pollutant emissions from a tank using Tank Level 1 controls shall meet the requirements specified in paragraphs (c)(1) through (c)(4) of this section.” The section then lists specific requirements.
146. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.1088, (pertaining to “Inspection and Monitoring Requirements,”) with exceptions not relevant herein, requires:
- (a) The owner or operator shall inspect and monitor air emission control equipment used to comply with this subpart in accordance with the applicable requirements specified in § 264.1084 through § 264.1087 of this subpart.
- (b) The owner or operator shall develop and implement a written plan and schedule to perform the inspections and monitoring required by paragraph (a) of this section. The owner or operator shall incorporate this plan and schedule into the facility inspection plan required under 40 CFR 264.15.
147. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.1089(b), requires the owner or operator of a tank using air emission controls, in accordance with the requirements of 40 C.F.R. § 264.1084, to prepare and maintain at the facility records for the tank that include the following information, among other things: (i) the tank identification number (or other unique identification description), and (ii) a record for each inspection required by § 264.1084, including the date that the inspection was conducted, any defect detected during the inspection, and repairs made.

148. From at least May 30, 2014 to April 26, 2017, Respondent violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. §§ 264.1082(b) and 264.1084(c), by failing to provide Subpart CC air emissions controls for the Parts Washer Waste Solvent Tank.
149. From at least May 30, 2014 to April 26, 2017, Respondent violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d), by failing to inspect and monitor air emission control equipment on the Parts Washer Waste Solvent Tank used to comply with 40 C.F.R. Part 264, Subpart CC.
150. From at least May 30, 2014 to April 26, 2017, Respondent also violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.1089(a) and (b), by failing to keep identification, inspection and monitoring records for the Parts Washer Waste Solvent Tank at the Facility.

CIVIL PENALTY

151. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **SEVENTY-EIGHT THOUSAND DOLLARS (\$78,000.00)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
152. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), including, the following: 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 reflect the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g), the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
153. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
 - a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2019-0093;
 - b. All checks shall be made payable to the "United States Treasury";
 - c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously to:

Natalie Katz
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC40)
1650 Arch Street
Philadelphia, PA 19103-2029
katz.natalie@epa.gov

154. 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 of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
155. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed CAFO. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed CAFO, with a date stamp indicating the date on which the CAFO was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
156. INTEREST: In accordance with 40 C.F.R. § 13.11(a)(1), interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of the fully executed and filed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
157. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources*

Management Directives – Case 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.

158. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that 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).
159. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this CAFO.

GENERAL SETTLEMENT CONDITIONS

160. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and represents that, to the best of Respondent's knowledge and belief, this CAFO does not contain any confidential business information or personally identifiable information from Respondent.
161. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this CAFO, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

162. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

163. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, 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 the validity of any federal, state or local permit. This CAFO

does not constitute a waiver, suspension or modification of the requirements of RCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

164. This CAFO resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this 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. 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, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this CAFO after its effective date.

EXECUTION/PARTIES BOUND

165. This CAFO shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this CAFO.

EFFECTIVE DATE

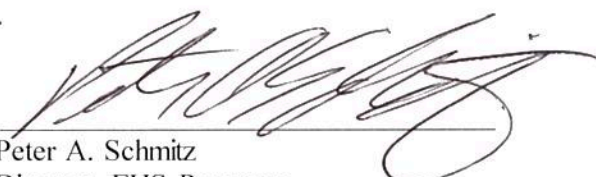
166. The effective date of this CAFO is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

167. This CAFO constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this CAFO.

For Respondent: BEMIS COMPANY, INC.


Date: 5/17/19

By: 
Peter A. Schmitz
Director, EHS Programs

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: MAY 29 2019

By: 
Karen Melvin
Director, Enforcement and Compliance
Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: 5/29/19

By: 
Natalie L. Katz
Sr. Assistant Regional Counsel
U.S. EPA – Region III

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

In the Matter of:	:	
	:	
Bemis Company, Inc.	:	U.S. EPA Docket No. RCRA-03-2019-0093
20 Jaycee Drive	:	
West Hazleton, PA 18202	:	
	:	
Respondent.	:	Proceeding under Section 3008(a) and (g) of the
	:	Resource Conservation and Recovery Act, as
	:	amended, 42 U.S.C. § 6928(a) and (g)
	:	
Bemis Company, Inc.	:	
20 Jaycee Drive	:	
West Hazleton, PA 18202	:	
	:	
Facility.	:	
	:	

U.S. EPA-REGION 3-RHC
FILED-30MAY2019am11:20

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Bemis Company, Inc. have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to [Sections 22.13(b) and 22.18(b)(2) and (3)]. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's 1990 RCRA Civil Penalty Policy, as revised in June, 2003 ("RCRA Penalty Policy"), and the statutory factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g).


NOW, THEREFORE, PURSUANT TO Section 3008(a) and (g) of the Resource Conservation and Recovery Act ("RCRA" or the "Act"), as amended, 42 U.S.C. § 6928(a) and (g), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **SEVENTY-EIGHT THOUSAND DOLLARS (\$78,000.00)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate

injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

May 30, 2019
Date



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

In the Matter of:	:
	:
Bemis Company, Inc.	:
20 Jaycee Drive	:
West Hazleton, PA 18202	:
	:
Respondent.	:
	:
Bemis Company, Inc.	:
20 Jaycee Drive	:
West Hazleton, PA 18202	:
	:
Facility.	:
	:

U.S. EPA Docket No. RCRA-03-2019-0093
Proceeding under Section 3008(a) and (g) of the
Resource Conservation and Recovery Act, as
amended, 42 U.S.C. § 6928(a) and (g)

CERTIFICATE OF SERVICE

I certify that on **MAY 30 2019** , the original and one (1) copy of the foregoing *Consent Agreement and Final Order*, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copy served via UPS Next Day Delivery, to:

Mark A. Thimke, Esquire
Foley & Lardner LLP
777 E. Wisconsin Ave
Milwaukee, WI 53202

Copies served via Hand Delivery or Inter-Office Mail to:

Natalie Katz
Senior Assistant Regional Counsel
ORC – 3RC40
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103

Andrew Ma
Inspector
ECAD – 3ED22
U.S. EPA, Region III
701 Mapes Road
Fort Meade, MD 20755

Dated: **MAY 30 2019**

Berwin Esposito

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III

TRACKING NUMBER: 1Z A43 F71 01 9225 5628