

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103



In the Matter of: :
: :
AALBERTS SURFACE : U.S. EPA Docket No. RCRA-03-2024-0002
TREATMENT CORP. : :
2915 WILMARCO AVENUE : Proceeding under Section 3008(a) and (g)
BALTIMORE, MD 21223, : of the Resource Conservation and Recovery Act, as
Respondent. : amended, 42 U.S.C. § 6928(a) and (g)
: :
2915 WILMARCO AVENUE : :
BALTIMORE, MD 21223, : :
Facility. : :
: :

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 3 (“Complainant”) and Aalberts Surface Treatment Corp. (“Respondent”) (collectively the “Parties”), pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act of 1976, (collectively referred to hereinafter as “RCRA”), 42 U.S.C. § 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes the Administrator of the U.S. Environmental Protection 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 the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under Resource Conservation and Recovery Act (“RCRA” or the “Act”) for the violations alleged herein.
2. 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

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter sent on November 28, 2022, the EPA notified the Maryland Department of the Environment (“MDE”) of the EPA’s intent to commence this administrative action against Respondent in response to the violations of RCRA Subtitle C that are alleged herein.

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of the EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
10. 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.
11. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. 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.

13. On February 11, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, the EPA granted the State of Maryland final authorization to administer its hazardous waste management program, set forth at the Code of Maryland Regulations (“COMAR”), Title 10, Subtitle 51 et seq., in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. Through this final authorization, the Maryland Hazardous Waste Management Regulations (“MdHWMR”) became requirements of RCRA Subtitle C and are, accordingly, enforceable by the EPA on and after that date pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). The EPA authorized a revised Maryland hazardous waste management program set forth the at COMAR, Title 26, Subtitle 13, effective on July 21, 2001, September 24, 2004 and on October 31, 2016, and, accordingly, the provisions of the authorized, revised MdHWMR are enforceable by the EPA on and after those dates pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
14. Respondent is a corporation incorporated in the State of Georgia. Respondent is now, and was at the time of the violations alleged herein, a “person” as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and COMAR 26.13.01.03B(61).
15. Respondent’s facility is located at 2915 Wilmarco Avenue, Baltimore, Maryland 21223 (“Facility”), and is further described below.
16. Respondent’s Facility is a job-shop coater of metal parts. Coatings may be applied by spray, dip, or powder, and include primer, paint, clear coats, silicone, Teflon™, Line-X®, FIREX®, and chromate conversion (“Iriditing”), with much of the client base composed of military and/or military contractors.
17. Respondent reports as a Large Quantity Generator (“LQG”) of hazardous waste at the Facility, with RCRA ID Number MDD044142123.
18. At all times relevant to the allegations set forth in this Consent Agreement (“CA”), Respondent is, and has been, the “operator” and the “owner” of the Facility, as those terms are defined in COMAR 26.13.01.03.B(58) and (59), during the period of the violations alleged in this Consent Agreement and Final Order.
19. As described below, at all times relevant to the allegations set forth in this CA, Respondent is, and has been, a “generator” of “solid waste” and “hazardous waste” at the Facility, as these terms are defined in COMAR 26.13.01.03.B(29), (73) and (31).
20. At all times relevant to the allegations set forth in this CA, and as described below, Respondent is, and has been, engaged in the “storage” of “solid waste” and “hazardous waste” in “containers” at the Facility, as those terms are defined in COMAR 26.13.01.03.B(76), (73), (31) and (9).

21. Respondent generates hazardous waste at the Facility, in the form of spent solvents, spent rags, spray booth air filters, chromate conversion tank pump outs, etch tank pump outs and spent aerosol cans with EPA Hazardous Waste Nos. D001, D002, D003, D007, D035, F003 and F005.
22. At all times relevant to the allegations set forth in this CA, Respondent's Facility is, and has been, a hazardous waste storage "facility" as that term is defined in COMAR 26.13.01.03.B(23).
23. On July 19, 2022, inspectors from the U.S. Environmental Protection Agency, Region 3 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 MdHWMR at COMAR, Title 26, Subtitle 13.
24. On the basis of the EPA's findings during the Inspection and other information provided by Respondent to EPA, the EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and certain federally-authorized MdHMWR requirements.

Count 1
(Operating a Treatment, Storage, and Disposal
Facility without a Permit or Interim Status)

25. The information in the preceding paragraphs is incorporated herein by reference, as though fully set forth at length.
26. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and COMAR 26.13.07.01A, with exceptions not relevant to this matter, no person may operate a facility for the treatment, storage or disposal of hazardous waste without first obtaining a permit or interim status for such facility.
27. Respondent has never had a permit or interim status, pursuant to COMAR 26.13.07.01 or Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), for the storage of hazardous waste at the Facility.

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

28. COMAR 26.13.03.05E(1) provides:

E. Accumulation Time.

- (1) A generator may accumulate hazardous waste on-site without a permit for 90 days or less if:
 - (a) The waste is shipped off-site within 90 days to a permitted facility or placed in an on-site permitted facility;
 - (b) The generator accumulates the waste:
 - (i) In containers,
 - (ii) In tanks, or
 - (iii) On drip pads, if the waste is drippage from a wood-preserving process, precipitation, or surface water run-on;

* * *

- (g) The generator complies with the requirements for owners or operators in COMAR 26.13.05.02G [personnel training], .03 [preparedness and prevention], and .04 [contingency plan and emergency procedures];

- 29. Pursuant to COMAR 26.13.03.05E, an LQG of hazardous waste may accumulate hazardous waste on site without a permit and without complying with the requirements of COMAR 26.13.07.01, for 90 days or less, provided the generator complies with the requirements of the exemptions found in COMAR 26.13.03.05E. (See federal equivalent, conditions for exemption for LQGs, at 40 C.F.R. § 262.17).
- 30. Although the provisions of COMAR 26.13.03.05E(1) provide hazardous waste generators with an exemption from the permitting requirements for the temporary accumulation (90 days or less) of hazardous waste generated by a facility (referred to here as the “Generator Permit Exemption”), Respondent failed to meet the conditions necessary to qualify for the exemption set forth in COMAR 26.13.03.05E(1).
- 31. At the time of the Inspection on July 19, 2022, in the Hazardous Waste Storage Room, Respondent was storing three 55-gallon drums of hazardous waste, dated May 17, 2019. This waste had been stored at the Facility for 1159 days. Furthermore, the most recent shipment of hazardous waste offsite, which took place prior to the date of the Inspection (on July 19, 2022), had occurred on September 1, 2021. As a result, there was no offsite shipment of hazardous waste from the Facility for 320 days.
- 32. At the time of the RCRA Inspection on July 19, 2022, Respondent was storing hazardous wastes at the Facility, in excess of the 90-day limit set forth in COMAR 26.13.03.05E(1)(a).

Generator Permit Exemption: Failure to Mark Each Container with the Date that Accumulation Began or with the Required Words

33. COMAR 26.13.03.05E(1)(e) (see also 40 C.F.R. § 262.17(a)(5)(i)(C)) provides that an LQG may accumulate hazardous waste onsite without a permit if the “date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.”
34. COMAR 26.13.03.05E(1)(f) (see also 40 C.F.R. § 262.17(a)(5)(i)(A)) provides that each container must be “[l]abeled or marked clearly with the words ‘Hazardous Waste’, while being accumulated on site.”
35. At the time of the Inspection on July 19, 2022, Respondent was storing the following containers without hazardous waste labels, and without clearly marked and visible dates upon which accumulation began for each container:
 - a. Near Spray Booth E, there was a 55-gallon drum of aerosol cans with no label or date.
 - b. In the Hazardous Waste Storage Room, there were several containers of hazardous waste that were unlabeled and undated, including three 55-gallon drums and over 20 smaller containers.
 - c. Near the Chromate Conversion Room, there were nine containers ranging from 1- to 5-gallons identified as hazardous waste by Facility, but with no labels or dates, only original product labels.
 - d. In Spray Booth P, there were three 5-gallon containers and one 2-gallon container with no hazardous waste labels or description of contents and no dates.
 - e. In Spray Booth K, there were two 5-gallon containers with no or unreadable labels and no dates.
36. Therefore, Respondent failed to meet the requirements of COMAR 26.13.03.05E(1)(e) and (f) (see also 40 C.F.R. § 262.17(a)(5)(i)(A) and (C)).

Generator Permit Exemption: Failure to Meet Other Requirements of the Hazardous Waste Regulations

37. At the time of the Inspection on July 19, 2022, the following acts or omissions prevented Respondent from meeting the regulatory permit exemption requirements in COMAR 26.13.03.05(E)(1)(g):
 - a. Respondent failed to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous

- waste constituents at the Facility, as further described in Count 3, below, as required by COMAR 26.13.05.03, and the applicable permit exemption condition set forth at COMAR 26.13.03.05E(1)(g).
- b. Respondent failed to keep seven containers closed during storage, except when it is necessary to add or remove waste, as further described in Count 4, below, as required by COMAR 26.13.05.09D, and the applicable permit exemption condition set forth at COMAR 26.13.03.05E(1)(d).
 - c. Respondent failed to conduct and document weekly inspections of its Hazardous Waste Accumulation Area (“HWAA”), as further described in Count 5, below, as required by COMAR 26.13.05.09E, and the applicable permit exemption conditions set forth at COMAR 26.13.03.05E(1)(d) and COMAR 26.13.03.05E(1)(k).
 - d. Respondent failed to provide initial and refresher RCRA training to employees with responsibility for the management of hazardous waste, and failed to document provision of this training, as further described in Count 6, below, as required by COMAR 26.13.05.02G(2)&(3), and the applicable permit exemption condition set forth at COMAR 26.13.03.05E(1)(g).
 - e. Respondent failed to maintain certain personnel records for employees with responsibility for the management of hazardous waste, as further described in Count 7, below, as required by COMAR 26.13.05.02G(4), and the applicable permit exemption condition set forth at COMAR 26.13.03.05E(1)(g).
 - f. Respondent failed to maintain an adequate contingency plan at the Facility and failed to share it with local emergency response teams, as further described in Count 8, below, as required by COMAR 26.13.05.04C(4)-(6) & D(2), and the applicable permit exemption condition set forth at COMAR 26.13.03.05E(1)(g).
38. From August 17, 2019 (date Respondent began storing waste in excess of 90 days) to July 19, 2022 (the date of the Inspection), Respondent’s failure to satisfy the conditions above resulted in the company operating a hazardous waste treatment, storage, or disposal facility without first applying for a permit, in violation of COMAR 26.13.07.01.
39. By operating a hazardous waste treatment, storage, or disposal facility without first applying for a permit, Respondent was in violation of COMAR 26.13.07.01, and is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 2
Failure to Conduct Waste Determinations

40. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
41. COMAR 26.13.03.02A (see also 40 C.F.R. § 262.11) requires that a “person who generates solid waste . . . shall determine if that waste is a hazardous waste” prior to disposal.
42. At the time of the Inspection on July 19, 2022, Respondent had failed to make a waste determination on the following containers of solid waste:
 - a. In Spray Booth E, used for Teflon coating application, the main ingredient of the coating was xylene, yet equipment was cleaned with water into a Wash Pit with no determination as to whether the material might be hazardous waste.
 - b. In a hazardous waste accumulation area, referred to as the Facility’s Hazardous Waste Storage Room, there were over a dozen containers of material with no hazardous waste determination.
 - c. Near the Chromate Conversion Room, there were two 55-gallon drums with open bung holes, containing material not used since 2018 and not planned to be used again, with no determination as to whether the material might be hazardous waste.
 - d. In the Chromate Conversion Room, there was a small fiberglass tank containing “Oxalon” that had been used for a specific client’s parts, but had not been used since 2020, and there was no determination as to whether the material might be hazardous waste.
 - e. In some of the solvent-based coating spray booths, there were open, unlabeled 40-gallon “trash” containers observed containing waste paint or other possible hazardous waste materials (including an aerosol can in one), with no determination as to whether the materials might be hazardous waste.
 - f. In Spray Booth J, there was an open, approximately 3-gallon container holding several inches of beige liquid and some smaller containers. It was labeled only with its original product information: “Carbothane 8845 Part A,” and manufactured by Carboline, with no determination as to whether the materials might be hazardous waste.
 - g. In Spray Booth K, there were two 1-gallon containers of unidentified material, both open and unlabeled, with no determination as to whether the materials might be hazardous waste.
43. On the date of the Inspection, July 19, 2022, Respondent was in violation of COMAR 26.13.03.02A, by failing to make hazardous waste determinations on the solid wastes listed above.

44. In failing to make hazardous waste determinations on the solid wastes stored at the Facility, Respondent was in violation of COMAR 26.13.03.02A, and is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 3

Failure to Maintain and Operate the Facility to Prevent Release

45. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
46. COMAR 26.13.05.03B (*see also* 40 C.F.R. § 264.31), requires that facilities must be:

designed, constructed, maintained, and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.
47. At the time of the Inspection on July 19, 2022, Respondent failed to address the following maintenance and operational failures:
- a. In the Hazardous Waste Storage Room, there were several chunks of hazardous waste and unknown spills on the floor.
 - b. In the Chromate Conversion Room, there was a Chromium conversion tank suspended above the floor with an open sump nearby, described as directly leading to the sewer. Residue was observed below the tanks.
 - c. Near Spray Booth P and the paint mixer, there was a recent spill of paint on the floor.
48. On the date of the Inspection, July 19, 2022, Respondent was in violation of COMAR 26.13.05.03B, by failing to maintain and operate the Facility to minimize the possibility of a risk of release.
49. In failing to maintain and operate the Facility to minimize the possibility of a risk of release, Respondent was in violation of COMAR 26.13.05.03B, and is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 4

Failure to Keep Containers of Hazardous Waste Closed

50. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

51. COMAR 26.13.05.09D (*see also* 40 C.F.R. § 264.173(a)) requires:

A container holding hazardous waste shall always be closed during storage, except when it is necessary to add or remove waste, and the container may not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

52. At the time of the Inspection on July 19, 2022, Respondent failed to keep the following containers closed, at a time when it was not necessary to add or remove waste:

- a. Five 55-gallon drums and several smaller containers in a hazardous waste accumulation area – open and containing used solvent and paint waste.
- b. A 5-gallon container in Spray Booth P, open and containing used rags, solvent and paint waste.
- c. A 5-gallon container in Spray Booth K, open and containing used solvent and paint waste.

53. On the date of the Inspection, July 19, 2022, Respondent was in violation of COMAR 26.13.05.09D, by failing to keep containers closed at a time when it was not necessary to add or remove waste.

54. In failing to keep containers closed at a time when it was not necessary to add or remove waste, Respondent was in violation of COMAR 26.13.05.09D, and is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 5

Failure to Conduct or Document Weekly Inspections of Hazardous Waste Accumulation Areas

55. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

56. COMAR 26.13.05.09E (*see also* 40 C.F.R. § 264.174) requires:

The owner or operator shall inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration of containers and the containment system caused by corrosion or other factors.

57. At the time of the Inspection on July 19, 2022, in response to a request for the last three years of weekly inspection records for the HWAAs, Respondent failed to provide a complete set of records for this period.

58. Respondent's Facility personnel stated that weekly inspections likely had not been conducted since June 2021, when the previous environmental manager had left. Information submitted to the EPA by Respondent also showed that inspections had not been documented during a 5-week gap between May 24, 2019 and August 6, 2019.
59. From June 2021 through July 19, 2022, Respondent violated COMAR 26.13.05.09E by failing to inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration of containers.
60. In addition, between May 24, 2019 and August 6, 2019, and from June 2021 through July 19, 2022, Respondent violated COMAR 26.13.03.05E(1)(k) by failing to maintain an inspection log or summary which documents inspections performed.
61. In failing to inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration of containers, Respondent was in violation of COMAR 26.13.05.09.E, and is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
62. In failing to maintain an inspection log or summary which documents inspections performed, Respondent was in violation of COMAR 26.13.03.05E(1)(k), and is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 6

Failure to Conduct Initial or Annual Refresher RCRA Training

63. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
64. COMAR 26.13.05.02G(2)&(3) (see also 40 C.F.R. § 264.16(a) – (c)) requires:
 - (2) Facility personnel shall successfully complete the program required in §G(1), of this regulation, within 6 months after the effective date of these regulations or 6 months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later. Employees hired after the effective date of these regulations may not work in unsupervised positions until they have completed the training requirements of §G(1), of this regulation.
 - (3) Facility personnel shall take part in an annual review of the initial training required in §G(1), of this regulation.
65. At the time of the Inspection on July 19, 2022, Respondent failed to provide evidence that it had conducted any RCRA-specific training for any employees responsible for hazardous waste management during the previous three years.

66. From July 2020 through the date of the Inspection, on July 19, 2022, Respondent violated COMAR 26.13.05.02G(2)&(3), by failing to provide RCRA-specific training for any employees responsible for hazardous waste management.
67. In failing to provide RCRA-specific training for any employees responsible for hazardous waste management, Respondent was in violation of COMAR 26.13.05.02G(2)&(3), and is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 7

Failure to Maintain Personnel Records

68. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
69. COMAR 26.13.05.02G(4) (see also 40 C.F.R. § 264.16(d)) requires:
 - (4) The owner or operator shall maintain the following documents and records at the facility:
 - (a) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job.
 - (b) A written job description for each position listed under §G(4)(a), of this regulation. 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 shall include the requisite skill, education, or other qualifications, and duties of employees assigned to each position.
 - (c) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under §G(4)(a), of this regulation.
 - (d) Records that document that the training or job experience required under §G(1), (2), and (3) of this regulation, has been given to, and completed by, facility personnel.
70. At the time of the Inspection on July 19, 2022, Respondent failed to provide job titles or job descriptions for individuals responsible for hazardous waste management.

71. On the date of the Inspection, July 19, 2022, Respondent violated COMAR 26.13.05.02G(4), by failing to maintain documents at the Facility containing the job titles or job descriptions for individuals responsible for hazardous waste management.
72. In failing to maintain documents at the Facility containing the job titles or job descriptions for individuals responsible for hazardous waste management, Respondent was in violation of COMAR 26.13.05.02G(4), and is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 8
Failure to Maintain Adequate Contingency Plan

73. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
74. COMAR 26.13.05.04C(1) and (4)-(6) & D(2) (see also 40 C.F.R. § 264.52) requires:

C. Content of Contingency Plan.

(1) The contingency plan shall describe the actions facility personnel shall take to comply with §§B and G of this regulation, in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

* * *

(4) The plan shall list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see §F), and this list shall be kept up to date. When more than one person is listed, one shall be named as primary emergency coordinator and others shall be listed in the order in which they will assume responsibility as alternates. For new facilities, this information shall be supplied to the Secretary at the time of certification, rather than at the time of permit application.

(5) The plan shall 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 shall be kept up to date. In addition, the plan shall include the location and a physical description of each item on the list, and a brief outline of its capabilities.

(6) The plan shall include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan shall describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation

routes (when the primary routes could be blocked by releases of hazardous waste or fires).

D. Copies of Contingency Plan. A copy of the contingency plan and all revisions to the plan shall be:

(1) Maintained at the facility; and

(2) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

75. At the time of the Inspection on July 19, 2022, Respondent failed to provide evidence that the Facility's Contingency Plan had been shared with local authorities and the Facility's Contingency Plan failed to contain the following information:

- a. Contact information for Emergency Coordinators,
- b. The list of emergency response equipment did not include their locations or capabilities, and
- c. Evacuation plan (just included aerial photo with arrow showing meeting location).

76. On the date of the Inspection, July 19, 2022, Respondent violated COMAR 26.13.05.04C(1) and (4)-(6) & D(2), by failing to provide evidence that the Facility's Contingency Plan had been shared with local authorities, and failing to have an adequate Contingency Plan for the Facility with all required information.

77. In failing to provide evidence that the Facility's Contingency Plan had been shared with local authorities, and failing to have an adequate Contingency Plan for the Facility, Respondent was in violation of COMAR 26.13.05.04C(1) and (4)-(6) & D(2), and is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Count 9

Failure to Provide or Maintain Land Disposal Restriction Forms

78. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

79. 40 C.F.R. § 268.7(a)(1) requires:

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

268.49. This determination can be made concurrently with the hazardous waste determination required in § 262.11 of this chapter, in either of two ways: testing the waste or using knowledge of the waste. . . .

80. 40 C.F.R. § 268.7(a)(2), requires:

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. . . .

81. 40 C.F.R. § 268.7(a)(8), requires:

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. The three year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator. . . .

82. At the time of the Inspection on July 19, 2022, some hazardous wastes generated at the Facility, such as “Waste Paint Related Material” and “Waste Oxidizing Liquid,” which were listed on hazardous waste manifests, did not appear to have related Land Disposal Restriction Forms on file.

83. On the date of the Inspection, July 19, 2022, Respondent violated 40 C.F.R. § 268.7(a)(8), by failing to retain Land Disposal Restriction Forms at the Facility for hazardous wastes generated at the Facility, such as “Waste Paint Related Material” and “Waste Oxidizing Liquid,” which were sent for off-site treatment, storage, or disposal, and listed on hazardous waste manifests.

84. In failing to retain Land Disposal Restriction Forms at the Facility for hazardous wastes generated at the Facility, which were sent for off-site treatment, storage, or disposal, Respondent was in violation of 40 C.F.R. § 268.7(a)(8), and is subject to the assessment of penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

CIVIL PENALTY

85. In settlement of the 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 **TWO HUNDRED SIXTY THOUSAND DOLLARS (\$260,000.00)**, which Respondent shall be liable to pay in accordance with the terms set forth below.

86. The civil penalty is based upon the 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 and May, 2020 (“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 the EPA’s civil penalty policies to account for inflation.
87. Respondent agrees to pay a civil penalty in the amount of **\$260,000.00** (“Assessed Penalty”) within thirty (30) days of the Effective Date of this Consent Agreement and Final Order.
88. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
89. When making a payment, Respondent shall:
- a. Identify every payment with Respondent’s name and the docket number of this Consent Agreement, RCRA-03-2024-0002;
 - b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve Proof of Payment simultaneously **by email** to the following person(s):

Natalie Katz
Sr. Assistant Regional Counsel
katz.natalie@epa.gov,

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov,

and

U.S. EPA Region 3 Regional Hearing Clerk

[R3 Hearing Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov).

“Proof of Payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

90. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Consent Agreement, the EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.
- a. Interest. Interest begins to accrue from the Effective Date of this Consent Agreement. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States, the rate of interest is set at the IRS large corporate underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.
 - b. Handling Charges. Respondent will be assessed monthly a charge to cover the EPA’s costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Consent Agreement, the EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Effective Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.
 - c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Effective Date.
91. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, the EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
 - b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
 - c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
 - d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.
92. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
93. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.
94. Payment of the civil penalty is due and payable immediately upon Respondent's receipt of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order 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).
95. The Parties consent to service of the Final Order by e-mail at the following valid email addresses: katz.natalie@epa.gov (for Complainant), and sgreen@gmlawyers.org (for Respondent).
96. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, the EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that the EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, **including** amounts paid for "restitution or

remediation of property” or to come “into compliance with a law.” The EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide the EPA with sufficient information to enable it to fulfill these obligations, the EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at henderson.jessica@epa.gov, within 30 days after the Final Order ratifying this Consent Agreement is filed, and the EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the effective date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
 - i. notify EPA’s Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the Effective Date of the Final Order per Paragraph 103; and
 - ii. provide EPA’s Cincinnati Finance Center with Respondent’s TIN, via email, within five (5) days of Respondent’s issuance and receipt of the TIN.

GENERAL SETTLEMENT CONDITIONS

97. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent’s knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
98. Respondent certifies that any information or representation it has supplied or made to the 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. The EPA shall have the right to institute further actions to recover appropriate relief if the EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, **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 the 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

99. Respondent certifies to the 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

100. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict the 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 Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements RCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

101. This Consent Agreement and Final Order resolves only the EPA's claims for civil penalties for the specific violation[s] alleged against Respondent in this Consent Agreement and Final Order. The EPA reserves the right to commence action against any person, including Respondent, in response to any condition which the 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). The 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 Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

102. This Consent Agreement and Final Order 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 Consent Agreement and Final Order.

EFFECTIVE DATE

103. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region 3, 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

104. This Consent Agreement and Final Order 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 Consent Agreement and Final Order.

For Respondent: **AALBERTS SURFACE TREATMENT CORP.**

Date: 6/20/2024

By: 

Timothy Justice
President

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, 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.

By: _____
[Digital Signature and Date]
Karen Melvin, Director
Enforcement and Compliance Assurance Division
U.S. EPA – Region 3
Complainant

Attorney for Complainant:

By: _____
[Digital Signature and Date]
Natalie Katz
Sr. Assistant Regional Counsel
U.S. EPA – Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103



In the Matter of: :
: :
AALBERTS SURFACE : U.S. EPA Docket No. RCRA-03-2024-0002
TREATMENT CORP. : :
2915 WILMARCO AVENUE : Proceeding under Section 3008(a) and (g)
BALTIMORE, MD 21223, : of the Resource Conservation and Recovery Act, as
Respondent. : amended, 42 U.S.C. § 6928(a) and (g)
: :
2915 WILMARCO AVENUE :
BALTIMORE, MD 21223, :
Facility. :
: :
:

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3, and Respondent, Aalberts Surface Treatment Corp. 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 and May, 2020 ("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 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 **TWO HUNDRED SIXTY THOUSAND DOLLARS (\$260,000.00)**, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), 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.

Date: _____

By: _____

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region 3

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103**

In the Matter of:	:
	:
AALBERTS SURFACE	:
TREATMENT CORP.	:
2915 WILMARCO AVENUE	:
BALTIMORE, MD 21223,	:
	:
Respondent.	:
	:
2915 WILMARCO AVENUE	:
BALTIMORE, MD 21223,	:
Facility.	:
	:

: U.S. EPA Docket No. RCRA-03-2024-0002
: 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 the foregoing ***Consent Agreement and Final Order*** was filed with the EPA Region III Regional Hearing Clerk on the date that has been electronically stamped on the ***Consent Agreement and Final Order***. 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:

Copies served via email to:

Timothy Justice, President
Aalberts Surface Treatment Corp.
220 Fairburn Industrial Blvd
Fairburn, GA 30213
Timothy.Justice@aalberts-st.us

Stan Green
Green Mistretta Law, PLLC
1752 Heritage Center Drive, Ste. 101
Wake Forest, NC 27587
sgreen@gmlawyers.org

Natalie Katz
Senior Assistant Regional Counsel
U.S. EPA, Region 3
katz.natalie@epa.gov

Martin Matlin
RCRA Inspector
U.S. EPA, Region 3
matlin.martin@epa.gov

[Digital Signature and Date]
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 3