

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE FILLED OUT BY ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Joyce Howell
Name of Contact person

9/18/2009
Date

in the Office of Regional Counsel
Office

at 4-2644
Phone number

Non -SF Jud. Order/Consent
Decree. DOJ COLLECTS

Administrative Order
Consent Agreement
FMD COLLECTS PAYMENT

SF Jud. Order/Consent
Decree. FMD COLLECTS

This is an original debt This is a modification

2009 SEP 18 PM 2:03

Name of Person and/or Company/Municipality making the payment
Rust-Oleum Corporation

The Total Dollar Amount of Receivable \$147,306
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number RCRA-03-2009-0245

The Site-Specific Superfund Acct. Number N/A

The Designated Regional/HQ Program Office Region III, Office of Land Enforcement, Land and Chemicals Division

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
Name of Contact *Date*

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

- | | |
|--|------------------------------|
| 1. Rosemarie Pacheco
Environmental Enforcement Section
Lands Division, Room 130044
1425 New York Avenue, N.W.
Washington, D.C. 20005 | 2. Originating Office (ORC) |
| | 3. Designated Program Office |

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 2. Designated Program Office |
| 3. Regional Hearing Clerk | 3. Regional Counsel |



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

September 8, 2009

Lori Weidner
U.S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive
Cincinnati, OH 45268

Re: In the Matter of: Rust-Oleum Corporation
Docket No. RCRA-03-2009-0245

Dear Ms. Weidner:

Enclosed please find a stamped copy of the SCAFO filed in this matter, together with a completed EARCNF. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Joyce A. Howell".

Joyce A. Howell
Senior Assistant Regional Counsel



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

In the Matter of:

**Rust-Oleum Corporation
11 Hawthorn Parkway
Vernon Hills, IL 60061**

Respondent,

**16410 Industrial Lane
Williamsport, Maryland 21795
EPA Facility ID # MDD069390839**

Facility.

U.S. EPA Docket # RCRA-03-2009-0245

**Proceeding under Section 3008(a) and
(g) of the Resource Conservation and
Recovery Act, as amended, 42 U.S.C.
Section 6928(a) and (g)**

CONSENT AGREEMENT

This Consent Agreement is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("EPA", "Agency" or "Complainant") and Rust-Oleum Corporation ("Rust-Oleum" or "Respondent") pursuant to Section 3008(a) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act ("RCRA") of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments ("HSWA") of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. § 6928(a), 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, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

This Consent Agreement ("CA") and the accompanying Final Order ("FO") address alleged violations by Respondent of Subtitle C of RCRA and the State of Maryland Hazardous Waste Management Regulations ("MdHWMR"), set forth at the Code of Maryland Regulations ("COMAR"), Title 26, Subtitle 13 *et seq.* in connection with Respondent's facility located at 16410 Industrial Lane, Williamsport, Maryland 21795 (the "Facility"). The MdHWMR were originally authorized by EPA on February 11, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b). Revisions to the MdHWMR set forth at COMAR, Title 26, Subtitle 13 were authorized by EPA effective July 31, 2001 and September 24, 2004. The provisions of the revised authorized program are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

GENERAL PROVISIONS

1. Pursuant to § 22.13(b) of the Consolidated Rules of Practice, this CA and the attached FO (hereinafter jointly referred to as this "CAFO") simultaneously commence and conclude an administrative proceeding against Respondent, brought under Sections 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), to resolve alleged violations of RCRA at Respondent's Facility.
2. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
3. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CA, except as provided in Paragraph 2, above.
4. For the purposes of this proceeding only, Respondent agrees not to contest EPA's jurisdiction with respect to the execution and issuance of this CAFO, or the enforcement of the CAFO.
5. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CA and any right to appeal the accompanying FO.
6. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
7. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

Notice of Action to the State of Maryland

8. EPA has given the State of Maryland, through the Maryland Department of the Environment ("MDE"), prior notice of the initiation of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

II. Findings of Facts and Conclusions of Law

9. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant alleges the following findings of fact and conclusions of law:
10. The United States Environmental Protection Agency's Office of Administrative Law Judges has jurisdiction over this matter pursuant to RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g), and 40 C.F.R. § 22.1(a)(4) and .4(c).

11. Respondent, Rust-Oleum, is an Illinois corporation and is a “person” as defined by RCRA Section 1004(15), 42 U.S.C. § 6903(15), and COMAR 26.13.01.03B.
12. Respondent is and has been, since November 17, 1980 through the period of the violations alleged herein, the “owner” and “operator” of a “facility” located at 16410 Industrial Lane, Williamsport, Maryland as these terms are defined by COMAR 26.13.01.03B. Such facility is hereinafter referred to as the “Facility”.
13. Respondent is and has been, since November 17, 1980 through the period of the violations alleged herein, a “generator” of, and has engaged in the “storage” of, materials that are “solid wastes” and “hazardous waste” at the Facility as those terms are defined by COMAR 26.13.01.03B, as described below.
14. Respondent is and, at all times relevant to the violations in this CAFO, has been a large quantity generator who generates hazardous waste in an amount greater than 1,000 kilograms per month as a result of its paint and resin manufacturing at the Facility.
15. Respondent is and has been, at all times relevant to this Consent Agreement, been operating two “new tank systems” used to store hazardous waste at the Facility, as that term is defined by COMAR 26.13.01.03B, as described below.
16. On May 15, 2008, EPA representatives conducted a Compliance Evaluation Inspection (“CEI”) of the Facility.
17. On August 27, 2008, EPA sent Respondent an information request letter (“IRL”) pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), regarding generation and management of hazardous wastes observed during EPA’s May 15, 2008 CEI of the Facility.

COUNT I

(Operating a hazardous waste storage facility without a permit or interim status)

18. The allegations of Paragraphs 1 through 17 of the CAFO are incorporated herein by reference as though fully set forth at length.
19. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and COMAR 26.13.07.01A, provide, with certain exceptions not relevant to the violations alleged herein, that a person may not operate a hazardous waste storage, treatment or disposal facility unless such person has first obtained a permit for the facility.
20. RCRA § 3005(e), 42 U.S.C. § 6925(e), provides, in pertinent part, that any person who owns or operates a facility required to have a permit under RCRA § 3005, which facility

was in existence on November 19, 1980, or is in existence on the effective date of statutory or regulatory provisions that render the facility subject to the requirement to have a permit, has complied with the notification requirements of RCRA § 3010(a), 42 U.S.C. § 6930(a), and has applied for a permit under RCRA § 3005, shall be treated as having been issued such permit (*i.e.*, “interim status”) until such time as final administrative disposition of such application is made.

21. Respondent has never had “interim status” pursuant to RCRA Section 3005(e) or a permit issued pursuant to RCRA Section 3005(a) for the treatment, storage, or disposal of hazardous waste.
22. Pursuant to COMAR 26.13.03.05E, generators of hazardous waste who accumulate hazardous waste on-site for less than 90 days are exempt from the requirement to obtain a permit for such accumulation, so long as the hazardous waste is stored in accordance with a number of conditions set forth in that section, including, *inter alia*:
 - a. Pursuant to COMAR 26.13.03.05E(1)(b)(i), the generator must accumulate the waste in containers, tanks, or certain drip pads.
 - b. Pursuant to COMAR 26.13.03.05E(1)(c), the generator must properly label and mark each container of hazardous waste in accordance with 49 C.F.R. Part 172.
 - c. Pursuant to COMAR 26.13.03.05E(1)(e), the date upon which each period of accumulation begins must be clearly marked and visible for inspection on each container of hazardous waste.
 - d. Pursuant to COMAR 26.13.03.05E(1)(d), the generator must accumulate the hazardous waste in containers that are in accordance with COMAR 26.13.05.09, specifically, the containers must be closed during storage of hazardous waste except when it is necessary to add or remove waste.
 - e. Pursuant to COMAR 26.13.03.05E(g), the generator must comply with the requirements of owners or operators in COMAR 26.13.05.03F, specifically, the generator must maintain aisle space to allow unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, with an exception not relevant to this matter.
 - f. Pursuant to COMAR 26.13.03.05E(h)(i), the generator, in accumulating waste in new tanks must comply with the requirements of COMAR 26.13.05.10-3B(1), specifically, the generator must demonstrate, through a written assessment

reviewed and certified by an independent, qualified, registered, professional engineer that the tank system has sufficient structural integrity and is acceptable for the management of hazardous waste.

23. At the time of the violations alleged in this CA, Respondent was not eligible for an exemption under COMAR 26.13.03.05E with respect to the on-site storage of the hazardous waste described below because it did not meet the following conditions of that exemption:
- a. Respondent failed to accumulate certain waste in containers pursuant to COMAR 26.13.03.05E(1)(b)(i). Specifically, used florescent lamps containing mercury and other hazardous waste materials were not stored in containers and were leaning against the wall of the maintenance shop in the Facility.
 - b. Respondent failed to properly label and mark each container of hazardous waste in accordance with 49 C.F.R. Part 172 as required by COMAR 26.13.03.05E(1)(c). Specifically, during the May 15, 2008 inspection, Respondent stored at the Facility an improperly labeled bucket of hazardous waste paint in the "Test lab" area of the Facility and an unlabeled drum of hazardous waste at "Aerosol Line #1" at the Facility.
 - c. Respondent failed to date each container of hazardous waste in accordance with COMAR 26.13.03.05E(1)(e). During the May 15, 2008 inspection, Respondent stored four undated drums of hazardous used paint filters in the "Filling lines", three undated drums containing hazardous waste at the "Quart Filling Line", two undated drums of hazardous waste in the "Drum Accumulation Area" and an undated drum containing hazardous waste in "Aerosol Line #1" at the Facility.
 - d. Respondent failed to accumulate the hazardous waste in containers in accordance with COMAR 26.13.05.09 as required by COMAR 26.13.03.05E(1)(d). Specifically, Respondent failed to keep containers of hazardous waste closed. During the May 15, 2008 inspection, Respondent stored an open bucket of waste paint in the "Test Lab" at the Facility and a five-gallon bucket used for satellite accumulation of hazardous paint waste with approximately twelve holes punched in the top at the Facility. At the time, hazardous waste was not being added to or removed from such containers.
 - e. Respondent failed to comply with the requirements of owners or operators in COMAR 26.13.05.03F as required by COMAR 26.13.03.05E(g). Specifically, Respondent did not maintain aisle space to allow unobstructed movement of personnel, fire protection equipment, spill control equipment, and

decontamination equipment to any area of facility operation in an emergency. During the May 15, 2008 inspection, full totes of aerosol cans were being stored in such a way that made it impossible for the EPA inspectors to inspect the totes beyond the front row in the "90-day Accumulation Area" because of a lack of aisle space between the totes. In addition, hazardous waste containers were stored behind pallets of drums and boxes in such a manner that the EPA inspectors were unable to inspect them and stacks of drums of hazardous waste in the "Drum Accumulation Area" were not accessible for inspection because of inadequate aisle space.

- f. Respondent, in accumulating waste in new tanks, failed to comply with the requirements of COMAR 26.13.05.10-3B(1) as required by COMAR 26.13.03.05E(h)(i). Specifically, Respondent failed to demonstrate, through a written assessment reviewed and certified by an independent, qualified, registered, professional engineer, that two new tank systems at the Facility had sufficient structural integrity and were acceptable for the management of hazardous waste.

24. On May 15, 2008, Respondent did not meet the requirements for an exemption under COMAR 26.13.03.05E and therefore violated COMAR 26.13.07.01A. and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by operating a hazardous waste storage facility without a permit or interim status.

COUNT II

(Failure to keep containers closed during storage)

25. The allegations of Paragraphs 1 through 24 of the CAFO are incorporated herein by reference as though fully set forth at length.
26. COMAR 26.13.05.09D provides that a container holding hazardous waste shall always be closed during storage, except when it is necessary to add or remove waste.
27. On May 15, 2008, Respondent was storing several containers of hazardous waste at the Facility that were not closed as described in Paragraph 23(d), above.
28. Respondent's acts and/or omissions as alleged in Paragraph 27, above, constitute violations of COMAR 26.13.05.09E.

COUNT III

(Failure to perform weekly inspections)

29. The allegations of Paragraphs 1 through 28 of the CAFO are incorporated herein by

reference as though fully set forth at length.

30. COMAR 26.13.05.09E provide that the owner or operator shall inspect areas where hazardous waste containers are stored, at least weekly, looking for leaks and for deterioration of containers and the containment system caused by corrosion or other factors.
31. During the May 15, 2008 inspection, EPA found several containers storing hazardous waste, which were stored in a manner that prevented effective weekly inspections, as described in Paragraph 23(e) above.
32. From May 11, 2008 through May 17, 2008, Respondent failed to conduct weekly inspections of containers of hazardous waste looking for leaks and for deterioration of such containers caused by corrosion and other factors.
33. Respondent's act and/or omission as alleged in Paragraph 32, above, constitutes a violation of COMAR 26.13.05.09E.

COUNT IV

(Failure to obtain a written assessment for new tank systems)

34. The allegations of Paragraphs 1 through 33 of the CAFO are incorporated herein by reference as though fully set forth at length.
35. COMAR 26.13.05.10-3B(1) requires owners or operators of new tank systems or components to demonstrate, through a written assessment reviewed and certified by an independent, qualified, registered professional engineer, in accordance with COMAR 26.13.07.03D, that the tank system has sufficient structural integrity and is acceptable for the management of hazardous waste.
36. From September 30, 2004 to the date of this CAFO, Respondent has used two tank systems to store hazardous waste at the Facility.
37. From September 30, 2004 to February 5, 2009, Respondent did not demonstrate, through written assessments reviewed and certified by an independent, qualified, registered professional engineer, in accordance with COMAR 26.13.07.03D, that the tank systems referred to in Paragraph 36, above, have sufficient structural integrity and are acceptable for the management of hazardous waste.
38. Respondent's acts and/or omissions as alleged in Paragraph 37, above, constitute a violation by COMAR 26.13.05.10 - 3B(1).

COUNT V

(Failure to inspect the secondary containment system for the tank system)

39. The allegations of Paragraphs 1 through 38 of the CAFO are incorporated herein by reference as though fully set forth at length.
40. COMAR 26.13.05.10D(2)(d) provides that the owner or operator of a tank system shall inspect, at least once each operating day, the construction materials of and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system, to detect erosion or signs of releases of hazardous wastes, such as wet spots or dead vegetation.
41. From November 22, 2007 until July 2, 2008, Respondent failed to inspect, at least once each operating day, the secondary containment system associated with one of the hazardous waste tank systems at the facility, to detect erosion or signs of releases of hazardous wastes, such as wet spots or dead vegetation.
42. Respondent's acts and/or omissions as alleged in Paragraph 41, above, constitute violations of COMAR 26.13.05.10D(2)(d).

COUNT VI

(Failure to mark equipment)

43. The allegations of Paragraphs 1 through 42 of the CAFO are incorporated herein by reference as though fully set forth at length.
44. Pursuant to 40 C.F.R. § 264.1050(a), the requirements of 40 C.F.R. Part 264, Subpart BB [entitled "Air Emissions Standards for Equipment Leaks"] are applicable to owners and operators of facilities that treat, store or dispose of hazardous waste. 40 C.F.R. Part 264, Subpart BB is applicable to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that is managed in a unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions 40 C.F.R. § 262.34(a) (i.e., a hazardous waste recycling unit that is not a "90-day" tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of 40 C.F.R. Part 270 or a unit that is exempt from permitting under the provisions of 40 C.F.R. § 262.34(a) (i.e., a "90-day" tank or container) and is not a recycling unit under the provisions of 40 C.F.R. § 261.1.
45. Pursuant to 40 C.F.R. § 264.1050(d), each piece of equipment to which 40 C.F.R. Part 264, Subpart BB is applicable shall be marked in such a manner that it can be

distinguished readily from other pieces of equipment.

46. From September 30, 2004 to the date of this CAFO, Respondent has operated two tank systems at the Facility with equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are or have been subject to the requirements of Subpart BB of 40 C.F.R. Part 264 with regards to these tank systems.
47. The ancillary equipment associated with each of the Facility tank systems has not been in vacuum service and routinely has contained and contacted hazardous wastes with organic concentrations that equal or exceed ten percent by weight for periods in excess of 300 hours per calendar year. Such ancillary equipment includes, but is not limited to, pumps in light liquid service, open-ended valves or lines, valves in light liquid service, pressure relief devices in light liquid service, flanges and/or other connectors.
48. From September 30, 2004 until December 12, 2008, and with respect to the ancillary equipment associated with each of the above-referenced tank systems, Respondent failed to mark each piece of equipment in such a manner that it could be distinguished readily from other pieces of equipment.
49. Respondent's acts and/or omissions as alleged in Paragraph 48, above, constitute violations of 40 C.F.R. § 264.1050(d).

COUNT VII

(Failure to monitor pumps in light liquid service)

50. The allegations of Paragraphs 1 through 49 of the CAFO are incorporated herein by reference as though fully set forth at length.
51. 40 C.F.R. § 264.1052(a)(1) requires that 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), with exceptions not relevant to this matter.
52. 40 C.F.R. 264.1052(a)(2) requires that each pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal.
53. From September 30, 2004 until the date of this CAFO, there have been pumps in light liquid service associated with the hazardous waste tank systems at the Facility.
54. From September 30, 2004 until December 12, 2008, Respondent failed to (1) conduct monthly monitoring of the pumps identified Paragraph 53, above, to detect leaks by the

methods specified in 40 C.F.R. 264.1063(b), and (2) check these pumps by visual inspection each calendar week for indications of liquids dripping from the pump seal.

55. Respondent's acts and/or omissions as alleged in Paragraph 54, above, constitute violations of 40 C.F.R. §§ 264.1052(a)(1) and (a)(2).

COUNT VIII

(Failure to monitor valves in light liquid service)

56. The allegations of Paragraphs 1 through 55 of the CAFO are incorporated herein by reference as though fully set forth at length.
57. 40 C.F.R. § 264.1057(a) requires that 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), with exceptions not relevant to this matter.
58. From September 30, 2004 until the date of this CAFO, there have been valves in light liquid service associated with the hazardous waste tank systems at the Facility.
59. From September 30, 2004 until December 12, 2008, Respondent failed to conduct monthly monitoring of the valves identified Paragraph 58, above, to detect leaks by the methods specified in 40 C.F.R. 264.1063(b).
60. Respondent's acts and/or omissions as alleged in Paragraph 59, above, constitute violations of 40 C.F.R. § 264.1057(a).

COUNT IX

(Failure to keep records)

61. The allegations of Paragraphs 1 through 60 of the CAFO are incorporated herein by reference as though fully set forth at length.
62. 40 C.F.R. § 264.1064(a)(1) requires that an owner or operator subject to the provisions of Subpart BB shall comply with the record keeping requirements of 40 C.F.R. § 264.1064. 40 C.F.R. § 264.1064(b)(1) requires that owners and operators must record information for each piece of equipment to which Subpart BB of 40 C.F. R. Part 264 applies, in the facility operating record, including:
- (1) Equipment identification number and hazardous waste management unit identification;
 - (2) Approximate locations within the facility (e.g., identify the hazardous waste

- management unit on a facility plot plan);
 - (3) Type of equipment (e.g., a pump or pipeline valve);
 - (4) Percent-by-weight total organics in the hazardous waste stream at the equipment;
 - (5) Hazardous waste state at the equipment (e.g., gas/vapor or liquid); and
 - (6) Method of compliance with the standard (e.g., "monthly leak detection and repair" or "equipped with dual mechanical seals").
63. From September 30, 2004 until December 12, 2008, Respondent failed to maintain in the facility operating record the information described in 40 C.F.R. § 264.1064(b)(1) for each piece of equipment at the Facility which is subject to Subpart BB of 40 C.F.R. Part 264.
64. Respondent's acts and/or omissions as alleged in Paragraph 63, above, constitute violations of 40 C.F.R. § 264.1064(a)(1).

COUNT X

(Failure to inspect Solvent Waste Tank System annually)

65. The allegations of Paragraphs 1 through 64 of the CAFO are incorporated herein by reference as though fully set forth at length.
66. 40 C.F.R. § 264.1084(c)(4)(ii) requires owners and operators of hazardous waste tank systems subject to Subpart CC of 40 C.F.R. Part 264 to inspect air equipment, including the fixed roof and its closure devices, on or before the date that the tank becomes subject to Subpart CC of 40 C.F.R. Part 264 and at least once every year, with exceptions not relevant to this matter.
67. The hazardous waste tank system at the Facility which is used to store solvent waste ("Solvent Waste Tank System") is subject to the requirements of Subpart CC of 40 C.F.R. Part 264.
68. From September 30, 2004 until February 5, 2009, Respondent failed to inspect the air equipment, including the fixed roof and its closure devices, associated with the Solvent Waste Tank System on or before the date that the tank became subject to Subpart CC of 40 C.F.R. Part 264 and at least once every year.
69. Respondent's acts and/or omissions as alleged in Paragraph 68, above, constitute violations of 40 C.F.R. § 264.1084(c)(4)(ii).

CIVIL PENALTY

70. In settlement of EPA's claims for civil monetary penalties assessable for the violations

alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty of **One Hundred and Forty-Seven Thousand Three Hundred and Six Dollars (\$147,306.00)**, which Respondent agrees to pay in accordance with the terms set forth below.

71. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors set forth in RCRA § 3008(a)(3) and (g), 42 U.S.C. § 6928(a)(3) and (g), and EPA's RCRA Civil Penalty Policy (June 2003) ("Penalty Policy").
72. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs 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.
73. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a Consent Agreement and Final Order begins to accrue on the date that a copy of the Consent Agreement and Final Order is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty 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).
74. The costs of the Agency'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 - Cash 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.
75. A late payment penalty of six percent per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
76. If Respondent pays the entire civil penalty of **One Hundred and Forty-Seven Thousand Three Hundred and Six Dollars (\$147,306.00)** within thirty (30) calendar days of the date on which this CAFO is mailed or hand-delivered to Respondent, no interest will be assessed against Respondent pursuant to 40 C.F.R. § 13.11(a)(1).

77. Payment of the civil penalty amount described in Paragraph 70, above, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall reference its name and address, and the Docket Number of this action, i.e., RCRA-03-2009-0245;
- b. All checks shall be made payable to "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
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Contact: Eric Volck 513-487-2105

- d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

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

Contact: 314-418-1028

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

- g. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

- h. On-Line Payment Option:

WWW.PAY.GOV

Enter sfo 1.1 in the search field. Open and complete the form.

- i. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment_cin.htm

- j. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Joyce A. Howell
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street

Philadelphia, PA 19103-2029

and

Ms. Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

78. Respondent shall not deduct for civil taxation purposes the civil penalty specified in this CAFO.

FULL AND FINAL SATISFACTION

79. This CAFO constitutes a settlement by EPA of its claims for civil penalties pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. §6928(a) and (g), for the violations alleged in this CAFO. Nothing in this Consent Agreement requires Respondent to perform any compliance tasks.

CERTIFICATION OF COMPLIANCE

80. Respondent certifies to EPA, upon investigation, to the best of its knowledge and belief, that it currently is complying with the provisions of Subtitle C of RCRA and the State of Maryland Hazardous Waste Management Regulations (“MdHWMR”), set forth at the Code of Maryland Regulations (“COMAR”), Title 26, Subtitle 13 et seq, that are referenced in this Consent Agreement.

RESERVATION OF RIGHTS

81. 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. In addition, 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. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

OTHER APPLICABLE LAWS

82. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed on it by applicable federal, state or local law and/or regulations.

AUTHORITY TO BIND THE PARTIES

83. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and bind Respondent hereto. By his/her signature hereto, Respondent certifies that he/she is fully authorized to enter into the terms and conditions set forth in this CA and to bind the Respondent hereto.

ENTIRE AGREEMENT

84. This Consent Agreement and the attached Final Order constitute the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Agreement and the attached Final Order.

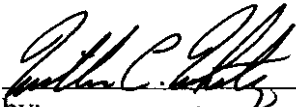
EFFECTIVE DATE

85. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

For Respondent:

Rust-Oleum Corporation

August 28, 2009
Date


by: William C. Whiting
Exec. V.P., Operations/Europe

For Complainant:

U.S. Environmental Protection Agency,
Region III

Sept. 9, 2009
Date

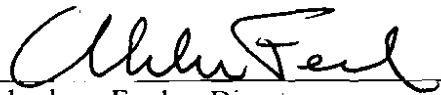

by: Greg A. Farrell

In the Matter of:
Rust-Oleum Corporation

Consent Agreement
Docket No. RCRA-03-2009-0245

After reviewing the foregoing Consent Agreement and other pertinent information, the Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

9/14/09
Date


Abraham Ferdas, Director,
Land and Chemicals Division
EPA Region III

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

In the Matter of:

Rust-Oleum Corporation
11 Hawthorn Parkway
Vernon Hills, IL 60061

Respondent,

16410 Industrial Lane
Williamsport, Maryland 21795
EPA Facility ID # MDD069390839

Facility.

U.S. EPA Docket # RCRA-03-2009-0245

Proceeding under Section 3008(a) and
(g) of the Resource Conservation and
Recovery Act, as amended, 42 U.S.C.
Section 6928(a) and (g)

APR 19 19 11 21:02

FINAL ORDER

Complainant, the Director, Land and Chemical Division, U.S. Environmental Protection Agency - Region III, and Respondent, Rust-Oleum Corporation, 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. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the Consolidated Rules of Practice and Section 3008(a) and (g) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a) and (g) ("RCRA"), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section § 3008(a)(3) and (g), 42 U.S.C.


*In the Matter of:
Rust-Oleum Corporation*

*Consent Agreement
Docket No. RCRA-03-2009-0245*

§ 6928(a)(3) and (g), IT IS HEREBY ORDERED that Respondent pay a civil penalty of One Hundred and Forty-Seven Thousand Three Hundred and Six Dollars (\$147,306.00), and comply with each of the additional terms and conditions as specified in the attached Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

9/18/09
Date:



Renee Sarajian
Regional Judicial Officer
U.S. EPA, Region III

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

In the Matter of:

**Rust-Oleum Corporation
11 Hawthorn Parkway
Vernon Hills, IL 60061**

Respondent,

**16410 Industrial Lane
Williamsport, Maryland 21795
EPA Facility ID # MDD069390839**

Facility.

U.S. EPA Docket # RCRA-03-2009-0245

Proceeding under Section 3008(a) and
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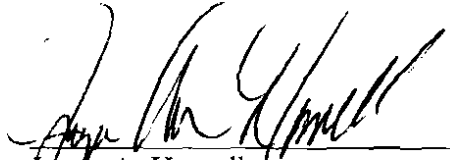
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CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent by Federal Express, a copy of the CONSENT AGREEMENT AND FINAL ORDER to the addressee listed below. The original and two copies of the same were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Michael S. McMahon
McMahon DeGulis LLP
The Caxton Building, Suite 650
812 Huron Road
Cleveland, OH 44115

Dated: September 17, 2009


Joyce A. Howell