

hazards of waste disposal, conserve energy and natural resources, reduce the amount of waste generated, and ensure that wastes are managed in an environmentally sound manner.

5. RCRA provides guidelines for a waste management program and provides EPA with the authorities found in Sections 2002, 3001, 3002, 3003, 3004, 3005, 3007 and 3010 of RCRA, 42 U.S.C. §§ 6912, 6921, 6922, 6923, 6924, 6925, 6927, and 6930, to develop and promulgate specific requirements in order to implement the waste management program. Pursuant to these authorities, EPA promulgated the waste management regulations found at 40 C.F.R. Part 239 through Part 282.

6. Section 3002 of RCRA, 42 U.S.C. § 6922, requires the Administrator to promulgate regulations establishing such standards applicable to generators of hazardous waste identified or listed under this subchapter, as may be necessary to protect human health and the environment.

7. Section 3005 of RCRA, 42 U.S.C. § 6925, requires the Administrator of EPA to promulgate regulations requiring each person owning or operating an existing facility or planning to construct a new facility for the treatment, storage, or disposal of hazardous waste identified or listed under this subchapter to have a permit.

8. Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), defines “person” as an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body and shall include each department, agency, and instrumentality of the United States.

9. The regulation at 40 C.F.R. § 260.10 defines “facility” to include all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage or disposal operational units (e.g. one or more landfills, surface impoundments, or combinations of them).

10. The regulation at 40 C.F.R. § 260.10 defines “storage” as the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

11. “Solid waste” is defined at 40 C.F.R § 261.2.

12. “Hazardous waste” is defined at 40 C.F.R. § 261.3.

13. The regulation at 40 C.F.R. § 260.10 defines “generator” as any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation.

14. The regulation at 40 C.F.R. § 260.10 defines “large quantity generator” as a generator who generates greater than or equal to 1,000 kilograms (2,200 pounds) of non-acute

hazardous waste or greater than 1 kilogram (2.2 pounds) of acute hazardous waste listed in 40 C.F.R. §§ 261.31 or 261.33(e).

15. The State of Kansas has been granted authorization to administer and enforce a hazardous waste program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, and the State of Kansas has adopted by reference the federal regulations cited herein at pertinent parts of Title 28, Article 31 of the Kansas Administrative Regulations (hereinafter “K.A.R.”). Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes EPA to enforce the provisions of the authorized state program and the regulations promulgated thereunder. When EPA determines that any person has violated or is in violation of any RCRA requirement, EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928. In the case of a violation of a hazardous waste program pursuant to Section 3006 of RCRA, EPA shall give notice to the state in which such violation has occurred or is occurring prior to issuing an order. The State of Kansas has been notified of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

16. Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), authorizes a civil penalty of not more than \$25,000 per day for each violation. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred before November 2, 2015, and to \$117,468 for violations that occur after November 2, 2015, and for which penalties are assessed on or after January 6, 2023. In assessing any such penalty, EPA must take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. Based upon the facts alleged in this Consent Agreement and Final Order, and upon those factors which Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant and Respondent agree to the payment of a civil penalty pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and to take the actions required by this Consent Agreement and Final Order, for the violations of RCRA alleged in this Consent Agreement and Final Order.

General Factual Allegations

17. Respondent is a company authorized to conduct business within the State of Kansas. Respondent is a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

18. Respondent operates a facility located at 1705 N. 9th Street in Neodesha, Kansas (“facility”), in which it manufactures boats.

19. On or about February 15-16, 2022, EPA inspectors conducted a RCRA Compliance Evaluation Inspection (hereinafter “the inspection”) of the hazardous waste management practices at Respondent’s facility. Based on a review of the inspection report and the information provided during the inspection by facility personnel, it was determined that Respondent was operating, at the time of the inspection, as a Large Quantity Generator of hazardous waste, a Small Quantity Handler of universal waste, and a used oil generator.

20. On or about December 6, 2021, Respondent notified EPA of its regulated waste activity as a Large Quantity Generator (LQG). Respondent's facility has the following RCRA ID number: KS0000205856.

21. At the time of the inspection, among others, waste acetone with organic concentrations of at least 10 percent by weight, solvent contaminated wipes, waste resin, and other wastes were present. Waste acetone, solvent contaminated wipes, and waste resin are solid and hazardous wastes as defined at 40 C.F.R. § 261.2 and 261.3.

22. At the time of the inspection, containers of used oil containers were present.

23. At the time of the inspection, waste batteries and waste lamps were present.

Alleged Violations

24. Complainant hereby alleges that Respondent has violated RCRA and the federal regulations promulgated thereunder, as follows:

Count 1

Operating as a Treatment, Storage or Disposal Facility Without a RCRA Permit or RCRA Interim Status

25. Complainant hereby incorporates the allegations contained above, as if fully set forth herein.

26. Section 3005 of RCRA, 42 U.S.C. § 6925, Kansas Statute Annotated 65-3431, and the regulations at 40 C.F.R. Part 270 and K.A.R. 28-31-270 require each person owning or operating a facility for the treatment, storage, or disposal of hazardous wastes identified or listed under Subchapter C of RCRA to have a permit or interim status for such activities.

27. At the time of the inspection, Respondent did not have a permit or interim status.

Generator Requirements

28. The regulations at 40 C.F.R. § 262.34(a), incorporated by K.A.R. 28-31-262(a), state that a generator may accumulate hazardous waste on-site for ninety (90) days or less without a permit or without interim status, provided the conditions listed in 40 C.F.R. § 262.34(a)(1)-(4) are met. If a generator fails to comply with any of these conditions, the generator is not allowed to accumulate hazardous waste at their facility for any length of time. Complainant alleges that Respondent failed to comply with the following conditions:

Failure to mark each piece of equipment to which 40 C.F.R. Part 265, Subpart BB applies

29. The regulations at 40 C.F.R. § 262.34(a)(1)(i), incorporated by K.A.R. 28-31-262(a), require a generator to comply with the applicable requirements of Subpart BB of

40 C.F.R. Part 265. The regulations at 40 C.F.R. § 265.1050(c), as found in 40 C.F.R. Part 265, Subpart BB, incorporated by K.A.R. 28-31-265(a), require that each piece of equipment that contains or contacts hazardous waste with organic concentrations of at least 10 percent by weight be marked in such a manner that it can be readily distinguished from other equipment.

30. At the time of the inspection, in the acetone still shed, one or more pumps, connections, or other equipment are used to pump waste acetone from 55-gallon drums into a feed drum and then into a still in order to reclaim some of the acetone. None of the pumps, connections, or other equipment that contain or contact the waste acetone before it enters the still were marked in a manner that could distinguish them from other equipment.

31. Failure to mark each piece of equipment that contains or contacts waste acetone in a manner that could distinguish it from other equipment is a violation of 40 C.F.R. § 262.34(a)(1)(i), incorporated by K.A.R. 28-31-262(a) and 40 C.F.R. § 265.1050(c), incorporated by K.A.R. 28-31-265(a).

Failure to monitor each pump in light liquid service

32. The regulations at 40 C.F.R. § 262.34(a)(1)(i), incorporated by K.A.R. 28-31-262(a), require a generator to comply with the applicable requirements of Subpart BB of 40 C.F.R. Part 265. The regulations at 40 C.F.R. § 265.1052(a)(1), as found in 40 C.F.R. Part 265, Subpart BB, incorporated by K.A.R. 28-31-265(a), require that each pump that contains or contacts hazardous waste with organic concentrations of at least 10 percent by weight in light liquid service be monitored to detect leaks in accordance with the methods specified in 40 C.F.R. § 265.1063(b).

33. At the time of the inspection, in the acetone still shed, one or more pumps, valves, connections, or other equipment are used to pump waste acetone from 55-gallon drums into a feed drum and then into a still in order to reclaim some of the acetone. None of the pumps were being monitored to detect leaks in accordance with the methods specified in 40 C.F.R. § 265.1063(b).

34. Failure to monitor pumps in light liquid service is a violation of 40 C.F.R. § 262.34(a)(1)(i), incorporated by K.A.R. 28-31-262(a), and 40 C.F.R. § 265.1052(a)(1) incorporated by K.A.R. 28-31-265(a).

Failure to visually inspect each pump in light liquid service

35. The regulations at 40 C.F.R. § 262.34(a)(1)(i), incorporated by K.A.R. 28-31-262(a), require a generator to comply with the applicable requirements of Subpart BB of 40 C.F.R. Part 265. The regulations at 40 C.F.R. § 265.1052(a)(2), as found in 40 C.F.R. Part 265, Subpart BB, incorporated by K.A.R. 28-31-265(a), require that each pump that contains or contacts hazardous waste with organic concentrations of at least 10 percent by weight in light liquid service be visually inspected each calendar week for indications of liquids dripping from the pump seal.

36. At the time of the inspection, in the acetone still shed, one or more pumps, valves, connections, or other equipment are used to pump waste acetone from 55-gallon drums into a feed drum and then into a still in order to reclaim some of the acetone. None of the pumps were being visually inspected each calendar week for indications of liquids dripping from the pump seal.

37. Failure to visually inspect pumps in light liquid service is a violation of 40 C.F.R. § 262.34(a)(1)(i), incorporated by K.A.R. 28-31-262(a), and 40 C.F.R. § 265.1052(a)(2) incorporated by K.A.R. 28-31-265(a).

Failure to monitor each valve in light liquid service

38. The regulations at 40 C.F.R. § 262.34(a)(1)(i), incorporated by K.A.R. 28-31-262(a), require a generator to comply with the applicable requirements of Subpart BB of 40 C.F.R. Part 265. The regulations at 40 C.F.R. § 265.1057(a), as found in 40 C.F.R. Part 265, Subpart BB, incorporated by K.A.R. 28-31-265(a), require that each valve that contains or contacts hazardous waste with organic concentrations of at least 10 percent by weight in light liquid service be monitored to detect leaks in accordance with the methods specified in 40 C.F.R. § 265.1063(b).

39. At the time of the inspection, in the acetone still shed, one or more pumps, valves, connections, or other equipment are used to pump waste acetone from 55-gallon drums into a feed drum and then into a still in order to reclaim some of the acetone. None of the valves were being monitored to detect leaks in accordance with the methods specified in 40 C.F.R. § 265.1063(b).

40. Failure to monitor valves in light liquid service is a violation of 40 C.F.R. § 262.34(a)(1)(i), incorporated by K.A.R. 28-31-262(a), and 40 C.F.R. § 265.1057(a) incorporated by K.A.R. 28-31-265(a).

Failure to maintain Subpart BB records

41. The regulations at 40 C.F.R. § 262.34(a)(1)(i), incorporated by K.A.R. 28-31-262(a), require a generator to comply with the applicable requirements of Subpart BB of 40 C.F.R. Part 265. The regulations at 40 C.F.R. § 265.1064(b), as found in 40 C.F.R. Part 265, Subpart BB, incorporated by K.A.R. 28-31-265(a), require that a generator record the following information for each piece of equipment to which Subpart BB of Part 265 applies: (i) Equipment identification number and hazardous waste management unit identification; (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); and (vi) Method of compliance with the standard.

42. At the time of the inspection, in the acetone still shed, one or more pumps, valves, connections, or other equipment are used to pump waste acetone from 55-gallon drums into a

feed drum and then into a still in order to reclaim some of the acetone. The aforementioned records have not been kept for each piece of equipment to which Subpart BB of Part 265 applies.

43. Failure to keep such records is a violation of 40 C.F.R. § 262.34(a)(1)(i), incorporated by K.A.R. 28-31-262(a), and 40 C.F.R. § 265.1064(b) incorporated by K.A.R. 28-31-265(a).

Failure to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to the air, soil, or surface water which could threaten human health or the environment.

44. The regulations at 40 C.F.R. § 262.34(a)(4), incorporated by K.A.R. 28-31-262(a), state that a generator must comply with the requirements for owners and operators in Subparts C and D in 40 C.F.R. Part 265. The regulations at 40 C.F.R. § 265.31, as found in 40 C.F.R. Part 265, Subpart C, require facilities to be 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 the air, soil, or surface water which could threaten human health or the environment.

45. At the time of the inspection, in the resin warehouse, there was uncontained flammable waste resin on the top of a waste resin drum lid and on the table next to it, and hardened waste resin on a small tray nearby.

46. At the time of the inspection, in the less than 90-day hazardous waste shed, there was a non-fireproof electrical box located approximately eight feet from a 55-gallon drum of flammable waste resin.

47. The presence of uncontained waste resin in the resin warehouse accompanied by a non-fireproof electrical box is a violation of 40 C.F.R. § 262.34(a)(4), incorporated by K.A.R. 28-31-262(a), and 40 C.F.R. § 265.31.

Failure to have an adequate contingency plan

48. The regulations at 40 C.F.R. § 262.34(a)(4), incorporated by K.A.R. 28-31-262(a), state that a generator must comply with the requirements for owners and operators in Subparts C and D in 40 C.F.R. Part 265. The regulations at 40 C.F.R. §§ 265.52, as found in 40 C.F.R. Part 265, Subpart D, require a facility contingency plan to include, among other things: a description of the actions facility personnel must take in response to an emergency, updated emergency response coordinators, clear evacuation signals, and a description of the emergency response capabilities.

49. Complainant alleges that at the time of the inspection, Respondent's contingency plan lacked a description of the actions facility personnel must take in response to an emergency, updated emergency response coordinators, clear evacuation signals, and a description of the emergency response capabilities.

50. Failure to have an adequate contingency plan is a violation of 40 C.F.R. § 262.34(a)(4), incorporated by K.A.R. 28-31-262(a), and 40 C.F.R. § 265.52.

Storage of incompatible materials

51. The regulations at 40 C.F.R. § 262.34(a)(1)(i), incorporated by K.A.R. 28-31-262(a), require a generator to comply with the applicable requirements of Subpart I of 40 C.F.R. Part 265. The regulations at 40 C.F.R. § 265.77(c), as found in 40 C.F.R. Part 265, Subpart I, require that a storage container holding a hazardous waste that is incompatible with any waste or other materials stored nearby in other containers must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

52. Complainant alleges that at the time of the inspection, in the less than 90-day hazardous waste shed, Respondent was storing hazardous waste (waste resin, used oil, and acetone still bottoms) nearby incompatible materials, including catalyst and heat transfer oil.

53. Storage of hazardous waste nearby incompatible materials is a violation of 40 C.F.R. § 262.34(a)(1)(i), incorporated by K.A.R. 28-31-262(a), and 40 C.F.R. § 265.77(c).

Failure to locate a hazardous waste satellite accumulation container at or near the point of generation

54. The regulations at 40 C.F.R. § 262.34(c)(1), incorporated by K.A.R. 28-31-262(a) and (c)(6), state that a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation where wastes initially accumulate, without a permit or interim status.

55. Complainant alleges that at the time of the inspection, Respondent had accumulated approximately 40 gallons of waste acetone in a 55-gallon drum located in the lamination area. Further investigation revealed that some of the waste acetone in the drum was generated in an adjacent room, the gelcoat area.

56. Failure to locate the hazardous waste container at or near the point of generation is a violation of 40 C.F.R. § 262.34(c)(1), incorporated by K.A.R. 28-31-262(a) and (c)(6).

57. If Respondent failed to comply with the generator requirements set forth above, Respondent was not authorized to store hazardous waste at the Facility for any length of time, and Complainant therefore alleges that Respondent operated a hazardous waste storage facility without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

Count 2

Failure to Comply with Universal Waste Management Requirements

58. Complainant hereby incorporates the allegations contained above, as if fully set forth herein.

Failure to label universal waste batteries

59. The regulations at 40 C.F.R. § 273.14(a), incorporated by K.A.R. 28-31-273, require small quantity handlers of universal waste batteries to label each battery, or a container in which the batteries are contained, with any one of the following phrases: “Universal Waste—Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).”

60. At the time of the inspection, within the less than 90-day hazardous waste shed, there were approximately 6 loose, unlabeled waste batteries.

61. Failure to properly label waste batteries is a violation of 40 C.F.R. § 273.14(a), incorporated by K.A.R. 28-31-273.

Failure to contain universal waste lamps

62. The regulations at 40 C.F.R. § 273.13(d)(1), incorporated by K.A.R. 28-31-273, require small quantity handlers of universal waste lamps to 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.

63. At the time of the inspection, within the less than 90-day hazardous waste shed, there were approximately 10 loose, 4-foot universal waste fluorescent lamps and 2 loose waste metal halide lamps.

64. Failure to properly contain waste lamps is a violation of 40 C.F.R. § 273.13(d)(1), incorporated by K.A.R. 28-31-273.

Failure to label universal waste lamps

65. The regulations at 40 C.F.R. § 273.14(e), incorporated by K.A.R. 28-31-273, require small quantity handlers of universal waste lamps to label each lamp, or a container in which such lamps are contained, with any one of the following phrases: “Universal Waste - Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).”

66. At the time of the inspection, within the less than 90-day hazardous waste shed, there were approximately 10 loose, 4-foot universal waste fluorescent lamps and 2 loose waste metal halide lamps, none of which were labelled.

67. Failure to properly label waste lamps is a violation of 40 C.F.R. § 273.14(e), incorporated by K.A.R. 28-31-273.

Failure to demonstrate the length of time that universal waste lamps had been accumulated

68. The regulations at 40 C.F.R. § 273.15(c), incorporated by K.A.R. 28-31-273, require small quantity handlers of universal waste lamps to be able to demonstrate the length of time the universal waste lamps have been accumulated from the date the lamps became waste or were received.

69. At the time of the inspection, within the less than 90-day hazardous waste shed, there were approximately 10 loose, 4-foot universal waste fluorescent lamps and 2 loose waste metal halide lamps. Respondent did not demonstrate the length of time these lamps had been accumulated.

70. Failure to demonstrate the length of time waste lamps have been accumulated is a violation of 40 C.F.R. § 273.15(c), incorporated by K.A.R. 28-31-273.

Count 3

Failure to Comply with Used Oil Regulations

71. Complainant hereby incorporates the allegations contained above, as if fully set forth herein.

Failure to properly label used oil container

72. The regulations at 40 C.F.R. § 279.22(c)(1), incorporated by K.A.R. 28-31-279, require used oil generators to label or clearly mark containers and above ground tanks used to store used oil at generator facilities with the words “Used Oil.”

73. At the time of the inspection, in the less than 90-day hazardous waste shed, there was a 5-gallon container of used oil not labeled with the words “used oil.”

74. Failure to properly label a used oil container is a violation of 40 C.F.R. § 279.22(c)(1).

CONSENT AGREEMENT

75. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- (a) admits the jurisdictional allegations set forth herein;
- (b) neither admits nor denies the specific factual allegations and alleged violations stated herein;

- (c) consents to the assessment of a civil penalty, as stated herein;
- (d) consents to the issuance of any specified compliance or corrective action order;
- (e) consents to any conditions specified herein;
- (f) consents to any stated Permit Action;
- (g) waives any right to contest the allegations set forth herein; and
- (h) waives its rights to appeal the Final Order accompanying this Consent Agreement.

76. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein.

77. Respondent and EPA agree to the terms of this Consent Agreement and Final Order and Respondent agrees to comply with the terms specified herein.

78. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

79. Respondent consents to receiving an electronic copy of the filed Consent Agreement and Final Order at the following email address: jdawson@bassberry.com.

Penalty Payment

80. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of one hundred thirty-three thousand seven hundred eighty dollars (\$133,780).

81. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979078
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

82. A copy of the check or other information confirming payment shall simultaneously be emailed to the following:

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov; and

Britt Bieri, Attorney
bieri.britt@epa.gov

83. Respondent understands that its failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9. Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

Effect of Settlement and Reservation of Rights

84. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

85. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in paragraph directly below.

86. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of its knowledge, it is presently in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.*, its implementing regulations, and any permit issued pursuant to RCRA.

87. Full payment of the penalty proposed in this Consent Agreement 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 law. This Consent Agreement and Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and regulations promulgated thereunder.

88. Notwithstanding any other provision of this Consent Agreement and Final Order, EPA reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed Seventy Thousand Seven Hundred Fifty-Two Dollars (\$70,752) per day, per violation, pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of this Consent Agreement and Final Order, or to seek any other remedy allowed by law.

89. Except as expressly provided herein, nothing in this Consent Agreement and Final Order shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

90. Notwithstanding any other provisions of the Consent Agreement and Final Order, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health and the environment.

91. Nothing contained in the Final Order portion of this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

General Provisions

92. By signing this Consent Agreement, the undersigned representative of Respondent certifies that they are fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party they represent to this Consent Agreement.

93. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

94. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.

95. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

96. The headings in this Consent Agreement and Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement and Final Order.

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

David Cozad
Director
Enforcement and Compliance Assurance Division

Date

Britt Bieri
Office of Regional Counsel

Date

RESPONDENT:

COBALT BOATS, INC.



Signature

10/24/23

Date

JASON TURNER

Printed Name

PRESIDENT

Title

FINAL ORDER

Pursuant to Sections 3008(a) of 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, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

Karina Borromeo
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE
(For EPA use only.)

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order in the matter of Cobalt Boats, LLC, EPA Docket No. RCRA-07-2023-0149, was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

Britt Bieri
Office of Regional Counsel
bieri.britt@epa.gov

Tiffany DeLong
Enforcement and Compliance Assurance Division
delong.tiffany@epa.gov

Milady Peters
Office of Regional Counsel
peters.milady@epa.gov

Copy via Email to Respondent:

John W. Dawson – Attorney
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Copy via Email to the State of Kansas:

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Dated this _____ day of _____, _____.

Signed