

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

In the Matter of:

Lord Corporation
111 Lord Drive
Cary, NC 27511

Docket No. RCRA-03-2009-0223

RESPONDENT,

Lord Corporation
601 South Street
Saegertown, PA 16433

CONSENT AGREEMENT

FACILITY.

I. PRELIMINARY STATEMENT

1. 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 Lord Corporation ("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 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).
2. This Consent Agreement ("CA") and the accompanying Final Order ("FO") address alleged violations by Respondent of RCRA and the Pennsylvania Hazardous Waste Management Regulations ("PaHWMR"), 25 Pa. Code, Chapters 260a - 270a, which were authorized by EPA on January 30, 1986 and reauthorized by EPA, effective November 27, 2000 (65 Fed. Reg. 57734 (September 26, 2000)), effective March 22, 2004 (69 Fed.

Reg. 2674 (January 20, 2004)) and effective June 29, 2009 (74 Fed. Reg. 19453 (April 29, 2009)). The PaHWMR incorporate, with certain exceptions, specific provisions of Title 40 of the 1999 Code of Federal Regulations by reference. *See* 25 Pa. Code § 260a.3(e).

3. 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 Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g) to resolve alleged violations of RCRA at Respondent's facility at 601 South Street, Saegertown, Pennsylvania, 16433 (the "Facility").
4. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
5. For purposes of this proceeding, Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CA, except as provided in Paragraph 4, above.
6. 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.
7. 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.
8. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
9. Each party shall bear its own costs and attorneys fees in connection with this proceeding.

Notice of Action to the Commonwealth of Pennsylvania

10. EPA has given the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection ("PADEP"), 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 FACT AND CONCLUSIONS OF LAW

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:

11. Respondent is, and was at the time of the violations alleged herein, a corporation of the Commonwealth of Pennsylvania, and is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903 (15), and as defined in 25 Pa. Code § 260a.10.

12. Respondent is, and has been at all times relevant to this Consent Agreement, the “owner” and “operator” of a “facility”, described below, as those terms are defined in 25 Pa. Code § 260a.10, which, with the exception, among others, of the term “facility”, incorporates by reference 40 C.F.R. § 260.10.
13. The facility referred to in Paragraph 12, above, including all of its associated equipment and structures (hereinafter a “Facility”), is a manufacturing facility located at 601 South Street, Saegertown, Pennsylvania, 16433.
14. Respondent produces adhesives and coatings at the Facility.
15. Respondent is a large quantity generator of hazardous waste. Respondent is assigned EPA ID No. PAD048203822.
16. Respondent is a “small quantity handler of universal waste,” as that term is defined in 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.9, with exceptions not relevant herein.
17. Respondent is and, at all times relevant to this CAFO, has been a “generator” of, and has engaged in the “storage” in “containers” and “tanks” at the Facility of materials described below that are “solid wastes” and “hazardous wastes”, as those terms are defined in 25 Pa. Code § 260a.10, which with the exception, among others, of “storage” incorporates by reference 40 C.F.R. § 260.10.
18. On June 27 and 28, 2007, representatives of EPA conducted a RCRA Compliance Evaluation Inspection (“RCRA CEI”) at the Facility.
19. On June 27 and 28, 2007, “hazardous wastes” generated by Respondent were in “storage” at the Facility as those terms are defined by 25 Pa. § 260a.10, which incorporates by reference 40 C.F.R. § 260.10.
20. A substance identified by Respondent as “A-Waste” is an aqueous waste stream generated at the Facility that contains sulfuric acid. A-Waste generated at the Facility is a hazardous waste within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.21, because it has the characteristic for corrosivity within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.22.
21. A substance identified by Respondent as “N-Waste” is an aqueous waste stream generated at the Facility that contains hydrochloric acid. N-Waste generated at the Facility is a hazardous waste within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.21, because it has the characteristic for

corrosivity within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.22.

22. A substance identified by Respondent as "B-Waste" is an aqueous waste stream generated at the Facility that contains methanol. B-Waste generated at the Facility is a hazardous waste within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.21, because it has the characteristic for ignitability within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.21.
23. B-Waste is a hazardous waste with an organic concentration of at least ten percent by weight.
24. A substance identified by Respondent as "Bromide -Chloride" is a waste stream generated at the Facility. Bromide-Chloride is a hazardous waste within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.22, because it has the characteristic for corrosivity within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.22.
25. A substance identified by Respondent as "waste urethane" is a waste stream generated at the Facility. Waste urethane generated at the Facility is a hazardous waste within the meaning of within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.21, because it has the characteristic for ignitability within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.21.
26. A substance identified by Respondent as "waste acetic acid" is a waste stream generated at the Facility. Waste acetic acid generated at the Facility is a hazardous waste within the meaning of within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.21, because it has the characteristic for ignitability within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.21.
27. Dust is generated by the manufacturing process housed in Building 8 at the facility. This dust is collected in dust collectors attached in Building 8 at the Facility. The dust collected by the dust collector attached to Building 8 at the Facility is a hazardous waste within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.21, because it has the characteristic for ignitability within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.21.

COUNT I

(Operating Without Qualifying for a Permit Exemption or Obtaining a Permit)

28. The allegations of Paragraphs 1 through 27 above are incorporated herein by reference as though fully set forth.

29. 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e) provide, in pertinent part, that a person may not operate a facility for the treatment, storage or disposal of hazardous waste unless such person has first obtained a permit for such facility or has qualified for interim status for the facility.
30. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i), provides, in pertinent part, that a generator who generates 1,000 kg or more of hazardous waste in a calendar month may accumulate hazardous waste in containers on-site for 90 days or less without a permit or having interim status provided that, among other things, while being stored on-site, each container holding hazardous waste must be kept closed during storage, except when it is necessary to add or remove waste, as provided in 40 C.F.R. Part 265, Subpart I (including 40 C.F.R. § 265.173(a)).
31. At the time of the June 27 – 28, 2007 RCRA CEI, Respondent failed to keep containers used for storage of hazardous waste described in Paragraphs 25 – 27 above, closed at all times except when adding or removing waste as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34 (a)(1)(i), which in turn references 40 C.F.R. Part 265, Subpart I (including 40 C.F.R. § 265.173(a)).
32. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4), provides, in pertinent part, that a generator who generates 1,000 kg or more of hazardous waste in a calendar month may accumulate hazardous waste on-site for 90 days or less without a permit or having interim status provided that, among other things, the generator maintains aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of the facility operations in an emergency, unless aisle space is not needed for any of these purposes, as provided in 40 C.F.R. Part 265, Subpart C (including 40 C.F.R. § 265.35).
33. At the time of the June 27 – 28 2007 RCRA CEI, Respondent did not maintain adequate aisle space at the Facility as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34 (a)(4), which in turn references 40 C.F.R. Part 265, Subpart C (including 40 C.F.R. § 265.35).
34. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(ii), provides, in pertinent part, that a generator who generates 1,000 kg or more of hazardous waste in a calendar month may accumulate hazardous waste on-site for 90 days or less without a permit or having interim status in tanks provided that, among other things, the generator documents tank inspections in the operating record of the facility, as required by 40 C.F.R. Subpart J (including 40 C.F.R. § 265.195(c)).
35. During the time period beginning July 1, 2004 through April 30, 2007, Respondent did

not document tank inspections in the operating record of the Facility, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34 (a)(1)(ii), which in turn references 40 C.F.R. Subpart J (including 40 C.F.R. § 265.195(c).

36. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(ii), provides, in pertinent part, that a generator who generates 1,000 kg or more of hazardous waste in a calendar month may accumulate hazardous waste on-site for 90 days or less in tanks without a permit or having interim status provided that, among other things, the generator marks equipment that contains or contacts hazardous wastes with organic concentrations of at least ten percent by weight in such a manner that it can be distinguished readily from other pieces of equipment as required by 40 C.F.R. Part 265 Subpart BB (including 40 C.F.R. § 265.1050(c)).
37. At the time of the June 27 – 28, 2007 RCRA CEI Respondent had not marked the ancillary equipment associated with the B-Waste storage tank that contained or contacted B-waste in such a manner that it could be distinguished readily from other pieces of equipment as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(ii), which in turn references 40 C.F.R. Part 265 Subpart BB (including 40 C.F.R. § 265.1050(c)).
38. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(ii), provides, in pertinent part, that a generator who generates 1,000 kg or more of hazardous waste in a calendar month may accumulate hazardous waste on-site for 90 days or less in tanks without a permit or having interim status provided that, among other things, the generator provides secondary containment for hazardous waste storage tank systems that is operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water or surface water at anytime during the use of the tank system, as required by 40 C.F.R. Part 265, Subpart J (including 40 C.F.R. § 265.193(b)(1)).
39. At the time of the June 27 – 28, 2007 RCRA CEI, there was a hole in the secondary containment wall of the N-Waste Tank and cracks in the base of the N-Waste secondary containment liner, such that the secondary containment system was not being operated so as to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water or surface water at anytime during the use of the tank system, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(ii), which in turn references 40 C.F.R. Part 265 Subpart J (including 40 C.F.R. § 265.193(b)(1)).
40. Respondent failed to qualify for the “less than 90-day” generator accumulation exemption of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), by failing to satisfy the conditions for such exemptions as set forth in 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), referred to in Paragraphs 30, 32, 34, 36, and 38, above.

41. By failing to meet the criteria for exemption, the Facility became a hazardous waste treatment, storage or disposal "facility", as that term is defined by 25 Pa. Code § 260a.10.
42. Respondent does not have, and never had, a permit or interim status pursuant to 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), or Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), for the storage of hazardous waste at the Facility.
43. Respondent was required by 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), to obtain a permit for its hazardous waste storage activities described in this count.
44. Respondent violated 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), 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.
45. By letter dated August 5, 2009, Respondent certified that the violations alleged in this Count have been corrected.

COUNT II
(Container Management)

46. The allegations of Paragraphs 1 through 45 above are incorporated by reference as though fully set forth at length herein.
47. Pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173 (a), Respondent is required to keep containers of hazardous waste closed during storage except when it is necessary to add or remove waste.
48. At the time of the June 27 – 28, 2007 RCRA CEI, Respondent failed to keep containers used for storage of hazardous waste closed at all times except when adding or removing waste as required by 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a).
49. Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), by failing to keep containers of hazardous waste closed during storage except when adding or removing waste.
50. By letter dated August 5, 2009, Respondent certified that the violations alleged in this Count have been corrected.

COUNT III
(Aisle Space)

51. The allegations of Paragraphs 1 through 50, above, are incorporated herein by reference as though fully set forth.
52. Pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.35, Respondent is required to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment to any area of facility operations in an emergency.
53. At the time of the June 27 – 28, 2007 RCRA CEI Respondent stored hazardous waste in containers in an area designated by Respondent as the Waste Coordinators Room in such a way that the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment was prevented.
54. Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.35, by failing to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment to any area of facility operations in an emergency.
55. By letter dated August 5, 2009, Respondent certified that the violations alleged in this Count have been corrected.

COUNT IV
(Documentation of Inspections)

56. The allegations of Paragraphs 1 through 55, above, are incorporated herein by reference as though fully set forth.
57. Pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.195(d), Respondent is required to document inspections of the items listed in 40 C.F.R. § 264.195(a) – (c) in the facility operating record.
58. During the time period beginning July 1, 2004 through May 17, 2008 Respondent did not document all tank inspections in the facility operating record of the items listed in 40 C.F.R. § 264.195(a) – (c).
59. From July 1, 2004 through May 17, 2008, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.195(d), by failing to document all tank inspections in the facility operating record of the items listed in 40 C.F.R. § 264.195(a) – (c).
60. By letter dated August 5, 2009, Respondent certified that the violations alleged in this

Count have been corrected.

COUNT V
(Subpart BB)

61. The allegations of Paragraphs 1 through 60, above, are incorporated herein by reference as though fully set forth.
62. Pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.1050(d), Respondent is required to mark equipment that contains or contacts hazardous wastes with organic concentrations of at least ten percent by weight in such a manner that that it can be distinguished readily from other pieces of equipment.
63. At the time of the June 27 – 28, 2007 RCRA CEI, Respondent had not marked the ancillary equipment associated with the B-Waste storage tank that contained or contacted B-waste in such a manner that it could be distinguished readily from other pieces of equipment.
64. Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.1050(d), by failing to mark the ancillary equipment associated with the B-Waste storage tank in such a manner that that it could be distinguished readily from other pieces of equipment.
65. As of June 23, 2008, each piece of ancillary equipment associated with the B-Waste storage tank was marked in a manner that it could be distinguished readily from other pieces of equipment.
66. By letter dated August 5, 2009, Respondent certified that the violations alleged in this Count have been corrected.

COUNT VI
(Maintain Secondary Containment)

67. The allegations of Paragraphs 1 through 66 above are incorporated herein by reference as though fully set forth.
68. Pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.193(b), secondary containment for hazardous waste storage tank systems must be operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water or surface water at anytime during the use of the tank system.
69. At the time of the June 27 – 28, 2007 RCRA CEI, there was a hole in the secondary

containment wall of the N-Waste Tank and cracks in the base of the N-Waste secondary containment liner.

70. The hole and cracks referred to above were repaired by the end of October 2007.
71. Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.193(b), by failing to operate the secondary containment around the N-Waste storage tanks to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water or surface water at anytime during the use of the tank system.
72. By letter dated August 5, 2009, Respondent certified that the violations alleged in this Count have been corrected.

COUNT VII
(Universal Waste Storage)

73. The allegations of Paragraphs 1 through 72 above are incorporated herein by reference as though fully set forth.
74. Pursuant to 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(d)(1), Respondent is required to keep containers of universal waste lamps closed.
75. At the time of the June 27 – 28, 2007 RCRA CEI, EPA inspectors observed five open containers of universal waste lamps.
76. Respondent violated 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(d)(1), by failing to keep containers of universal waste lamps closed.
77. By letter dated August 5, 2009, Respondent certified that the violations alleged in this Count have been corrected.

III. CIVIL PENALTIES

78. Respondent agrees to pay a civil penalty in the amount of **\$81,350.00** in settlement of the alleged violations, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of the executed and filed CAFO. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of the executed and filed CAFO is mailed or hand-delivered to Respondent.
79. Having determined that this Consent Agreement is in accordance with law and that the

civil penalty amount was determined after consideration of the statutory factors set forth in Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements, EPA hereby agrees and acknowledges that payment of the civil penalty shall be in full and final satisfaction of all civil claims for penalties which Complainant may have under Section 3008(a) of RCRA for the violations alleged in this CAFO.

80. Payment of the civil penalty amount assessed above in Paragraph 78 shall be made either by cashier's check, certified check, or electronic wire transfer, in the following manner:

A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, RCRA-03-2009-0223;

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 to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

D. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101
Contact: 314-418-1028

E. 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 45268-001

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

Federal Reserve Bank of New York
ABA = 021030004
Account = 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 Clearing House (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/PAYGOV
Enter sfo 1.1 in the search field, open form and complete the required fields

- I. Additional payment guidance is available at:

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

At the time of payment, Respondent shall send a notice of such payment, including a copy of any check or electronic transfer, as appropriate, to:

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

and

Joyce A. Howell
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

81. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.
82. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment as specified in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
83. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of the executed and filed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil 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).
84. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the 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. A penalty charge of six percent per year will be assessed monthly on any portion of the 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 the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

IV. EFFECT OF SETTLEMENT

85. Payment of the penalty specified in Paragraph 78 above, shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under RCRA Sections

3008(a) and (g), for the specific violations alleged in Counts I through VII, above. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

V. RESERVATION OF RIGHTS

86. This CAFO resolves only EPA's claims for civil penalties for the specific violations alleged in the CAFO. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. 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. Respondent reserves all available rights and defenses it may have to defend itself in any such action.

VI. OTHER APPLICABLE LAWS

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

VII. PARTIES BOUND

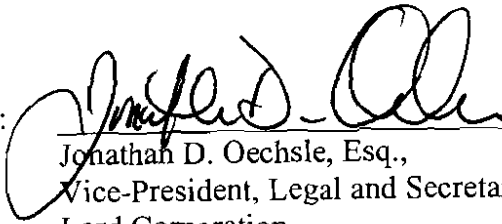
88. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind the Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

VIII. EFFECTIVE DATE

89. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Judicial Officer or Regional Administrator.

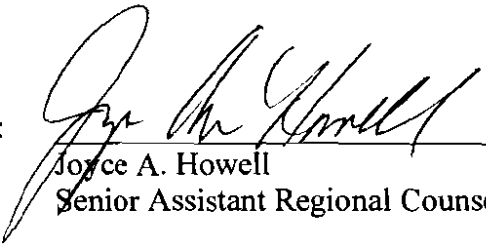
For Respondent, Lord Corporation

Date: 9/28/09

By: 
Jonathan D. Oechsle, Esq.,
Vice-President, Legal and Secretary
Lord Corporation

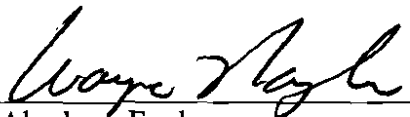
For Complainant, United States Environmental Protection Agency, Region III:

Date: 9/23/2009

By: 
Joyce A. Howell
Senior Assistant Regional Counsel

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

9/24/09
Date

By: 
Abraham Ferdas
Director
Land and Chemicals Division

Amendments of 1984 (RCRA), 42 U.S.C. Section 6928(a), and the Consolidated Rules of Practice, and having determined, on the basis of the parties' representations in the Consent Agreement, that the penalty agreed to therein by the parties is based on a consideration of the factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), it is hereby ordered that Respondent pay \$81,350 in accordance with the Consent Agreement and comply with the terms and conditions of this Consent Agreement.

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

9/29/09
Date

Renee Sarajian
Renee Sarajian
Regional Judicial Officer

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

In the Matter of:

Lord Corporation
111 Lord Drive
Cary, NC 27511

Docket No. RCRA-03-2009-0223

RESPONDENT,

Lord Corporation
601 South Street
Saegertown, PA 16433

FACILITY.

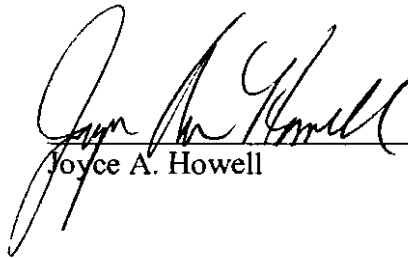
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CERTIFICATE OF SERVICE

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.

Mark J. Shaw
MacDonald, Illig, Jones & Britton LLP
100 State Street, Suite 700
Erie, PA 16507-1459

Dated: September 29, 2009



Joyce A. Howell