

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

In the Matter of:	:
	:
Niermann Weeks Co., Inc.	: U.S. EPA Docket No. RCRA-03-2021-0038
750 Generals Highway	:
Millersville, MD 21108	:
	:
Respondent.	: 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)
750 Generals Highway	:
Millersville, Maryland 21108	:
	:
Facility.	:

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Niermann Weeks Co., Inc. (“Respondent”) (collectively the “Parties”) pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act 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 (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. 42 U.S.C. Section 6928(a)(1), RCRA Section 3008(a)(1), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into Consent Agreements to the Complainant. This Consent Agreement and the attached Final Order resolve Complainant’s civil penalty claims against Respondent under RCRA (or the “Act”) for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. By letter dated April 16, 2019, EPA has given the State of Maryland, 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).
6. This Consent Agreement and the accompanying Final Order address alleged violations, by Respondent, of Subtitle C of RCRA, 42 U.S.C. §§ 6921 – 6939g, and the current authorized 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 750 Generals Highway, Millersville, Maryland, 21108 (the “Facility”).
7. 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, June 1, 2001 (66 Fed. Reg. 29712) effective July 31, 2001, and July 26, 2004 (69 Fed. Reg. 44463) effective 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

8. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
9. Except as provided in Paragraph 8, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement
10. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.

11. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and waives its right to appeal the accompanying Final Order.
12. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
13. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

14. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
15. Respondent is and was at the time of the violations alleged herein, a corporation of the State of Maryland.
16. Respondent is, and at the time of the violations alleged herein, was a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and COMAR 26.13.01.03B(61).
17. Respondent leases the property located at 750 Generals Highway, Millersville, Maryland, and Respondent is, and at the time of the violations alleged herein has been, the "operator" of a "facility," described in paragraph 18, below, as the terms "facility" and "operator" are defined in COMAR 26.13.01.03B(58) and (23), respectively.
18. The Facility referred to in Paragraph 17, above, including all of its associated equipment and structures, is a furniture modification process facility located at 750 Generals Highway, Millersville, Maryland, 21108.
19. Respondent is assigned EPA RCRA ID No. MDR000000315.
20. Respondent is and, at all times relevant to this Consent Agreement and Final Order 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 COMAR 26.13.01.03B(29), (76), (9), (78), (73), and (31).
20. On September 26, 2018, representatives of EPA conducted an EPA Compliance Evaluation Inspection (EPA CEI) at Respondent's Facility.
21. Respondent generates, *inter alia*, waste solvents, resins, lacquers, metals, and oxidizers at the Facility which are hazardous wastes with the meaning of COMAR 26.13.02.

COUNT I

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

22. The preceding paragraphs are incorporated by reference.
23. 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 here, 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.
24. 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.
25. 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 at the Facility.
26. COMAR 26.13.03.05E(1)(d), (which references COMAR 26.13.05.09D), provides that generators of hazardous waste may accumulate hazardous waste on-site for less than 90 days in containers provided that, *inter alia*, a container holding hazardous waste is always closed during storage, except when necessary to add or remove waste.
27. COMAR 26.13.03.05E(1)(d), (which references COMAR 26.13.05.09E.), provides that generators of hazardous waste may accumulate hazardous waste on-site for less than 90 days in containers provided that, *inter alia*, the generator inspects the areas where containers are stored, at least weekly, looking for leaks and for deterioration of containers holding hazardous.
28. COMAR 26.13.03.05E(1)(e) provides that a generator may accumulate hazardous waste on-site without a permit or without holding interim status for less than 90 days in containers if *inter alia*, the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

29. COMAR 26.13.03.05E(1)(f)(ii) provides that generators of hazardous waste may accumulate hazardous waste on-site for less than 90 days in containers provided that, *inter alia*, a container holding hazardous waste is labeled or marked clearly with the words "Hazardous Waste," while being accumulated on site.
30. COMAR 26.13.03.05E(3)(b) provides that generators of hazardous waste may accumulate as much as 55 gallons of hazardous waste or 1 quart of acutely hazardous waste listed in COMAR 26.13.02.19E in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status provided the generator marks the containers with either the words "Hazardous Waste" or with other words that identify the contents of the containers.
31. COMAR § 26.13.03.05.E(1)(k)(iii)), provides that generators of hazardous waste may accumulate hazardous waste on-site for less than 90 days in containers provided that, *inter alia*, the generator maintains an inspection log or summary which documents the inspections performed in accordance with COMAR § 26.13.05E(1)(d) and (h), and the log or summary includes the date and time of each inspection, the name of the inspector, a notation of observations made, and the date and nature of any repairs made or other remedial action taken and the generator keeps the log on file for a minimum of 3 years from the date of inspection.
32. At the time of the EPA CEI, Respondent had, within the Facility's hazardous waste accumulation area, six 55-gallon containers labeled as hazardous waste (2- waste rags and latex gloves [F005, D001, D035], 1- waste paint and thinner [F003, F005, D001, D005, D006, D007, D008, D035], 2- oily water mixed with waste paint [D006], 1- waste filters from the paint booth [F003, F005, D001, D005, D007, D035], and 1- trash can containing hazardous waste lacquer filters) without the date upon which each period of accumulation began on each container.
33. At the time of the EPA CEI, Respondent had, within the Facility's hazardous waste accumulation area, ten (10) cardboard containers of universal waste lamps that were not closed, were not labeled clearly with one of the following phrases: "Universal Waste—Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)", and without the date upon which each period of accumulation began on each container. Such containers of hazardous waste were neither labeled or marked clearly with the words "Hazardous Waste," while being accumulated on site.
34. At the time of the EPA CEI, Respondent had, within the Facility's hazardous waste accumulation area, a trash can containing hazardous waste lacquer filters that was not labeled with the words "Hazardous Waste" while being accumulated on site.

35. At the time of the EPA CEI, in a hallway in the Bay 3 area at the Facility, Respondent had (1) 15-gallon container labeled as hazardous waste (waste rags and gloves - F005, D001, D035) that was not at the point of the hazardous waste's generation, nor was it under the control of the operator of the process generating the waste.
36. At the time of the EPA CEI, near the lacquer booth section of the Facility, Respondent had (1) cardboard box containing spent aerosol cans (D001) at the point of generation that was not marked with the words "Hazardous Waste" or other words identifying the contents.
37. At the time of the EPA CEI, Respondent did not keep hazardous waste containers closed during storage within the Facility's hazardous waste accumulation area (a bung hole on the 30-gallon container accumulating hazardous waste liquid (D001) from punctured aerosol cans was open, the lid on the 55-gallon hazardous waste container collecting waste filters from the paint booths (F003, F005, D001, D005, D007, D035) was not completely closed, and a trash can containing hazardous waste lacquer filters was uncovered) except when it is necessary to add or remove waste from such hazardous waste containers.
38. At the time of the EPA CEI, Respondent provided no records of inspections being conducted in the hazardous waste accumulation area
39. Respondent's Facility is a hazardous waste treatment, storage or disposal "facility" as that term is defined in COMAR 26.13.01.03B(23), with respect to the storage of hazardous waste as described above.
40. At the time of the EPA CEI on September 26, 2018, Respondent failed to comply with the permit exemption conditions set forth in COMAR 26.13.03.05E(1)(c), E(1)(d), E(1)(e), E(1)(f)(ii), E(1)(g), (E)(1)(h)(i), E(1)(k) and (E)(3), as described in Paragraphs 33 through 37, above, for temporary storage (i.e., 90 days or less), as required pursuant to COMAR 26.13.03.05E(1), and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such sections.
41. At the time of the EPA CEI on September 26, 2018, the permit requirement of Chapter 26.13.07 applied to the Facility, because Respondent failed to meet certain conditions of the permit exemption.
42. Respondent failed to comply with Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and COMAR 26.13.07.01A, and, therefore, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

COUNT II

(Failure to Make Hazardous Waste Determinations)

43. The preceding paragraphs are incorporated by reference.
44. COMAR 26.13.03.02 requires that a person who generates a solid waste shall determine if that waste is a hazardous waste using the methods set forth in COMAR 26.13.03.02A(1) – (3).
45. At the time of the CEI on September 26, 2018, Respondent did not perform hazardous waste determinations on waste silver leaf (D011) which became solid waste within the meaning and definition of COMAR 26.13.01.03B(73) and COMAR 26.13.02.02 and which was disposed by Respondent in the trash container without first determining if this material was hazardous waste, as required by COMAR 26.13.03.02.
43. On September 26, 2018, Respondent violated COMAR 26.13.03.02 by failing to perform hazardous waste determinations on solid waste generated at the Facility.
44. In failing to comply with COMAR 26.13.03.02, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

COUNT III

(Failure to Keep a Copy of Each Manifest)

45. The preceding paragraphs are incorporated by reference.
46. COMAR 26.13.03.06A(1) requires a generator to keep a copy of each manifest signed in accordance with COMAR 26.13.03.04A(1) for three years or until the generator receives a signed copy from the designated facility which received the waste. The generator shall retain the signed copy as a record for at least three years from the date the waste was accepted by the transporter.
47. At the time of the EPA CEI on September 26, 2018, Respondent did not have signed, returned copies from the destination facility for three (3) manifests of hazardous waste accepted for transport in March, June and August 2018.
48. On September 26, 2018, Respondent violated COMAR 26.13.03.06A(1) by failing to keep a copy of each manifest signed in accordance with COMAR 26.13.03.04A(1) for three years or until Respondent received a signed copy from the designated facility which received the waste.

49. In failing to comply with COMAR 26.13.03.06A(1), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

COUNT IV

(Failure to Keep Containers of Hazardous Waste Closed)

50. The preceding paragraphs are incorporated by reference.
51. COMAR 26.13.05.09D provides that a container holding hazardous waste must always be closed during storage, except when necessary to add or remove waste.
52. At the time of the EPA CEI on September 26, 2018, Respondent did not keep hazardous waste containers closed during storage within the Facility's hazardous waste accumulation area (a bung hole on the 30-gallon container accumulating hazardous waste liquid (D001) from punctured aerosol cans was open, the lid on the 55-gallon hazardous waste container collecting waste filters from the paint booths (F003, F005, D001, D005, D007, D035) was not completely closed, and a trash can containing hazardous waste lacquer filters was uncovered) except when it is necessary to add or remove waste from such hazardous waste containers in violation of COMAR 26.13.05.09D.
53. In failing to comply with COMAR 26.13.05.09D, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

COUNT V

(Failure to Conduct Weekly Inspections of Hazardous Waste Accumulation Areas)

54. The preceding paragraphs are incorporated by reference.
55. COMAR 26.13.05.09E, pertaining to the "Use and Management of Containers," requires: "Inspections. The owner or operator shall inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration of containers and the containment system caused by corrosion or other factors."
56. COMAR 26.13.05.02F, pertaining to "General Inspection Requirements," provides:
- F. General Inspection Requirements.
- (1) The owner or operator shall inspect his facility for malfunctions and deterioration, operator errors, and discharges which may be causing, or may lead to, a release of hazardous waste constituents to the environment or may be causing, or may lead to, a threat to human health. The owner or

operator shall conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

* * *

- (4) The owner or operator shall record inspections in an inspection log or summary. He shall keep these records for at least 3 years from the date of inspection. At a minimum, these records shall include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.
57. During the Inspection on September 26, 2018, the EPA Inspectors requested to review three years' worth of inspection records which documented the inspections Respondent had conducted of the Facility's hazardous waste accumulation areas.
58. From at least January 1, 2016 until at least September 26, 2018 (date of the Inspection), Respondent violated the requirements of COMAR 26.13.05.09E, by failing to inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration of containers and the containment system caused by corrosion or other factors.
59. In the alternative, from at least January 1, 2016 until at least September 26, 2018 (date of the Inspection), Respondent violated the requirements of COMAR 26.13.05.02F(4) by failing to record inspections in an inspection log or summary, and/or keep these records for at least 3 years from the date of inspection.
60. In failing to comply with COMAR 26.13.05.09E or alternatively COMAR 26.13.05.02F4, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

CIVIL PENALTY

61. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of TEN THOUSAND DOLLARS (\$10,000.00), which Respondent shall be liable to pay in accordance with the terms set forth below.
62. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 ("RCRA Penalty Policy") which reflects the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6982(a)(3) and (g), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
63. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
 - a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2021-0038;
 - b. All checks shall be made payable to the "United States Treasury";
 - c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
 - d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

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

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

Louis F. Ramalho
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC40)
1650 Arch Street
Philadelphia, PA 19103-2029
ramalho.louis@epa.gov

64. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
65. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
66. INTEREST: In accordance with 40 C.F.R. § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of the fully executed and filed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
67. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

68. **LATE PAYMENT PENALTY:** A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
69. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

GENERAL SETTLEMENT CONDITIONS

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

CERTIFICATION OF COMPLIANCE

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

OTHER APPLICABLE LAWS

82. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of RCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

83. This Consent Agreement and Final Order resolves only EPA's claims against Respondent for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

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

EFFECTIVE DATE

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

ENTIRE AGREEMENT

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

For Respondent:

Niermann Weeks Co., Inc.

Date:

11/25/2020

By:


Justin Binnix
President

For the Complainant:

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

Date: 12/9/20

By: **KAREN MELVIN** Digitally signed by KAREN MELVIN
Date: 2020.12.09 12:36:23 -05'00'
Karen Melvin
Director, Enforcement and Compliance Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: 12/8/20

By: **LOUIS RAMALHO** Digitally signed by LOUIS RAMALHO
Date: 2020.12.08 12:06:15 -05'00'
Louis F. Ramalho
Sr. Assistant Regional Counsel
U.S. EPA – Region III

(g), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **TEN THOUSAND DOLLARS (\$10,000.00)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

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

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

Date: 12/10/20

By:

JOSEPH LISA Digitally signed by JOSEPH LISA
Date: 2020.12.10 08:57:20 -05'00'

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

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

In the Matter of: :
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Niermann Weeks Co., Inc. : **U.S. EPA Docket No. RCRA-03-2021-0038**
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 : **Section 6928(a) and (g)**
 :
760 Generals Highway :
Millersville, Maryland 21108 : **Consent Agreement and Final Order**
 :
 :
Facility. :

CERTIFICATE OF SERVICE

I certify that on 12/10/20, the original and one (1) copy of the foregoing ***Consent Agreement and Final Order***, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the foregoing to the following person, in the manner specified below, at the following electronic email addresses:

Copy served via Electronic Mail to:

Michael Forlini, Esq.
Forlini Law Group, LLC
5 East Franklin Street
Baltimore, MD 21202
Michael@forlinilawgroup.com
410.528.7777

Louis F. Ramalho
Sr. Assistant Regional Counsel
U.S. EPA, Region 3
Ramalho.Louis@epa.gov

BEVIN

ESPOSITO

Regional Hearing Clerk
EPA Region III

Digitally signed by BEVIN
ESPOSITO
Date: 2020.12.10 09:16:45
-05'00'