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

In the Matter of:	:	
	:	
Hagerstown Aircraft Services, Inc.	:	
	:	**Docket No. RCRA-03-2011-0112**
RESPONDENT	:	
	:	
	:	Proceeding under Section 3008(a) and (g), 42 U.S.C. § 6928(a) of the Resource Conservation and Recovery Act
Hagerstown Aircraft Services, Inc. 14235 Oak Springs Road Hagerstown, MD 21742	:	
	:	
FACILITY	:	

INITIAL DECISION AND DEFAULT ORDER

This Default Order is issued in a case brought under the authority of Section 3008(a) and (g) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6928(a) and (g) ("RCRA"). The Complaint, Compliance Order, and Notice of Right to Request Hearing ("Complaint") alleges that Hagerstown Aircraft Services, Inc. ("Respondent") violated Subtitle C of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6921-6939e, and the State of Maryland's Hazardous Waste Management Regulations ("MdHWMR"), Code of Maryland Regulations ("COMAR"), Title 26, Subtitle 13 et seq. 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 Maryland Hazardous Waste Management Program set forth at COMAR, Title 26, Subtitle 13 were authorized by EPA effective July 31, 2001 and September 24, 2004. The provisions of the revised authorized program are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

The Motion for Default Order ("Motion for Default") filed by the Director of the Land & Chemicals Division, EPA Region III ("Complainant"), in this proceeding seeks an Order assessing a sixty-four thousand dollar ($64,000) civil penalty against Respondent Hagerstown Aircraft Services, Inc., the owner and operator of an aircraft maintenance and repair facility located at 14235 Oak Springs Road, Hagerstown, Maryland.

FINDINGS OF FACT

Pursuant to 40 C.F.R. § 22.17 and based on the entire record, I make the following findings of fact:

1. As set forth in the Complaint, Respondent Hagerstown Aircraft Services, Inc. is a Maryland corporation. Compl. ¶ 2.
2. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), 40 C.F.R. § 260.10, and COMAR 26.13.01.03.B(61). Compl. ¶ 3.
3. From at least December 1, 1997 until the date of the Complaint (March 23, 2011), Respondent has been the owner

and operator of an aircraft inspection maintenance and repair facility located at 14235 Oak Springs Road, Hagerstown, Maryland 21226 (the "Facility"). Compl. ¶ 4.

4. In or about 1980, Respondent's predecessor submitted to the United States Environmental Protection Agency ("EPA") a Notification of Hazardous Waste Activity ("Notification") for the Facility, pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, identifying itself as a generator of ignitable and corrosive hazardous wastes at the Facility. Compl. ¶ 5. The Facility was assigned EPA ID No. MDD046282398. Id.

5. In or about 1997, Respondent purchased the Facility and business from Alphin Aircraft, Inc. Compl. ¶ 6.

6. At the Facility, Respondent is and has been, at all times relevant to the allegations in the Complaint, a "generator" of materials described below that are "solid wastes" and "hazardous waste," as those terms are defined in COMAR 26.13.01.03.B (29), (73), and (31). Compl. ¶ 7.

7. On April 28, 2010 a representative of EPA and a representative of Maryland Department of the Environment conducted a Compliance Evaluation Inspection ("CEI") at the Facility. Compl. ¶ 8.

8. During and after the above-referenced inspections, EPA determined that the Respondent violated certain provisions of RCRA and of the authorized COMAR. Compl. ¶ 1.

9. On March 24, 2011 an Administrative Complaint was issued to Respondent by Complainant, pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), in accordance with 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 ("Consolidated Rules").

10. The Complaint alleged, in two counts, that Respondent violated RCRA and the authorized COMAR by:

    a. From at least April 28, 2010 to March 23, 2011 generating, and subsequently treating, storing and/or disposing of, a solid waste, *i.e.*, paint waste, spent caustic solution and spent solvents, without performing a hazardous waste determination on such solid waste as required by COMAR 26.13.03.02A. Compl. ¶¶ 10-21.

    b. Failing to respond to an Information Request Letter (IRL) sent by a duly designated employee of Complainant to Respondent, via UPS next day delivery on May 28, 2010 and a follow-up letter sent on August 10, 2010 in violation of section 3007(a) of RCRA, 42 U.S.C. § 6927(a). Compl. ¶¶ 22-28.

11. The Complaint did not include a specific penalty proposal for the violations alleged therein, but instead proposed a per-day penalty pursuant to Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. § 6928(a)(3) and (g), with the exact amount

to be determined after an exchange of information. Compl. ¶¶ 36-38.

12. In the Motion for Default, Complaint proposed the specific penalty of sixty-four thousand dollars ($64,000) for the alleged violations. Mot. Default, 3.

13. 40 C.F.R. § 22.15(a) provides that respondent must file an answer with the Regional Hearing Clerk within thirty (30) days after service of the complaint, and 40 C.F.R. § 22.15(c) provides that respondent has a right to request a hearing upon the issues raised by the complaint and answer. See 40 C.F.R. § 22.15(a).

14. 40 C.F.R. § 22.17(a) further provides that a party may be found in default "after motion, upon failure to file a timely answer to the complaint: . . . . Default by respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the complaint and a waiver of respondent's right to contest such factual allegations."

15. As stated in the Motion for Default and in the supporting Memorandum, on March 25, 2011 Complainant successfully served the Complaint upon the Respondent at the Respondent's corporate business address via "a reliable commercial delivery service that provides written verification of delivery" within the meaning of 40 C.F.R. § 22.5(b)(1)

(i.e., UPS, next day delivery), as evidenced by the UPS Delivery Notification confirming such delivery. Mot. Default, Ex. 2.

16. Respondent did not file an Answer to the Complaint within thirty (30) days of service and has not, to date, filed an Answer or other response to the Complaint.

17. On June 23, 2011 Complainant filed a Motion for Default stating that Respondent failed to file an Answer to the Complaint.

18. On June 23, 2011 the Motion for Default was mailed via UPS next day delivery, signature requested, to Respondent at Respondent's business address. Mot. Default, Certificate of Service.

19. Respondent did not file a response to the Motion for Default.

CONCLUSIONS OF LAW

Pursuant to 40 C.F.R. § 22.17 and based on the entire record, I make the following conclusions of law:

20. The Complaint in this action was lawfully and properly served upon Respondent in accordance with the Consolidated Rules. See 40 C.F.R. § 22.5(b)(1)(i)-(ii)(A).

21. Respondent was required to file an Answer to the Complaint within thirty (30) days of service of the Complaint. See 40 C.F.R. § 22.15(a).

22. Respondent failed to file an Answer to the Complaint and such failure to file an Answer to the Complaint, or otherwise respond to the Complaint constitutes an admission of all facts alleged in the Complaint, for the purposes of the pending proceeding, and a waiver of Respondent's right to a hearing on such factual allegations. See 40 C.F.R. § 22.17(a).

23. Complainant's Motion for Default was lawfully and properly served on Respondent. See 40 C.F.R. § 22.7(c).

24. Respondent was required to file any response to the Motion for Default within twenty (20) days of service. See 40 C.F.R. §§ 22.7(c) and 22.16(b).

25. Respondent failed to respond to the Motion for Default, and such failure is deemed to be a waiver of any objection to the granting of the Motion. See 40 C.F.R. § 22.16(b).

COUNT I
Failure to Make a Waste Determination

26. COMAR 26.13.03.02A provides that a person who generates a solid waste as defined in COMAR 26.13.02.02 shall determine if that waste is a hazardous waste using the method set forth in COMAR 26.13.03.02.A-B. Compl. ¶ 12.

27. As the person who generated the solid waste described in this Count, Respondent was required by COMAR 26.13.03.02A to determine if the solid waste it generated at the

Facility was hazardous waste using the method prescribed by COMAR 26.13.03.02A-B.

28. Respondent strips paint from airplanes with a process that generates paint waste and spent caustic solution, both of which are solid wastes. Compl. ¶ 13. The spent caustic solution is collected and treated in an on-site wastewater treatment plant. Id.

29. Respondent paints airplanes with a process that generates paint waste and spent solvents, both of which are solid wastes. Compl. ¶ 14.

30. Respondent repairs airplane engines with a process that generates spent solvents, which are solid wastes. Compl. ¶ 15.

31. As of April 28, 2010 Respondent stored four drums of paint waste in an area identified by Respondent as the "stripping shop." Compl. ¶ 16. The paint waste had been generated at the Facility at least fourteen years prior to April 28, 2010. Id.

32. From at least April 28, 2010 to March 23, 2011 Respondent generated, and subsequently treated, stored and/or disposed of, a solid waste – i.e., the paint waste described in Paragraphs 28 and 29, supra – without performing a hazardous waste determination on such solid waste. Compl. ¶ 17.

33. From at least April 28, 2010 to March 23, 2011 Respondent generated, and subsequently treated, stored, and/or disposed of, a solid waste—i.e., the spent solvents referred to in Paragraphs 29 and 30, supra—without performing a hazardous waste determination on such solid waste. Compl. ¶ 18.

34. From at least April 28, 2010 to March 23, 2011 Respondent generated, and subsequently treated, stored, and/or disposed of, a solid waste—i.e., the spent caustics referred to in Paragraph 28, supra—without performing a hazardous waste determination on such solid waste. Compl. ¶ 19.

35. Respondent failed to perform hazardous waste determinations as required by COMAR 26.13.03.02A, on solid wastes it generated at the Facility as described herein. Compl. ¶ 20.

36. Respondent violated COMAR 26.13.03.02A by failing to perform a hazardous waste determination on solid waste generated at the Facility, for which a penalty may be assessed pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.

Count II
Failure to Respond to an Information Letter

37. On May 28, 2010 a duly designated employee of EPA sent to Respondent, via UPS next day delivery, an Information

Request Letter ("IRL") pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), regarding the management of hazardous waste at the Facility. Compl. ¶ 23.

38. The IRL required Respondent to provide a response to the IRL within twenty (20) calendar days after receipt of the letter. Compl. ¶ 24.

39. On August 10, 2010 Complainant sent a follow-up letter to Respondent requesting a response to the May 28, 2010 IRL. Compl. ¶ 25.

40. Respondent has not submitted a response to the May 28, 2010 EPA IRL or the August 10, 2010 follow-up letter. Compl. ¶ 26.

41. Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), provides that for the purposes of, inter alia, enforcing the provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921 et seq., any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous wastes shall, upon request, inter alia, of a duly designated EPA employee, furnish information relating to such wastes.

42. Respondent violated Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), by failing to submit a response to an IRL and follow-up letter issued by EPA to Respondent pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), for which a

penalty may be assessed pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.

RESPONDENT'S CIVIL PENALTY LIABILITY

43. Respondent's failure to perform hazardous waste determinations on solid waste generated and subsequently treated, stored, and/or disposed at the Facility as required by COMAR 26.13.03.02A, and Respondent's failure to respond to an Information Request Letter (IRL) as required by section 3007(a) of RCRA, 42 U.S.C. § 6927(a), are violations of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, for which Respondent is liable for civil penalties under Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g).

44. Respondent's failure to file a timely Answer to the Complaint or otherwise respond to the Complaint is grounds for the entry of a default order against the Respondent assessing a civil penalty for the violations described above. See 40 C.F.R. § 22.17(a)-(c).

45. Respondent's failure to file a response to Complainant's Motion for Default is deemed a waiver of Respondent's right to object to the issuance of this Order. See 40 C.F.R. § 22.16(b).

DETERMINATION OF CIVIL PENALTY AMOUNT

Complainant requests the assessment of a civil penalty in the amount of sixty-four thousand dollars ($64,000) for the RCRA violations alleged in the Complaint. Mot. Default, 3. The proposed penalty is based upon Complainant's consideration of the statutory penalty factors set forth 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. Id. at 15. 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 Civil Penalty Policy") which reflects the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g), and the appropriate ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION, 40 C.F.R. Part 19. Id. Pursuant to 40 C.F.R. Part 19, penalties for RCRA violations occurring after January 12, 2009 have been increased to a per violation statutory maximum penalty of up to $37,500. Id.

The RCRA Civil Penalty Policy provides a rational, consistent, and equitable methodology for applying the statutory penalty factors enumerated above to the specific facts and circumstances of this case. Under the RCRA Civil Penalty Policy, an initial gravity-based penalty was calculated for each

violation based on two components: the potential for harm of the violation and the extent of deviation from the applicable requirement. See Mot. Default, Ex. 7; see also RCRA Civil Penalty Policy, 12. The results of that analysis were used to select corresponding penalty values for single day and multi-day violations from the penalty matrices published in the RCRA Civil Penalty Policy. Mem. Supp. Mot. Default, 5. The initial penalty for each violation may be adjusted in accordance with the RCRA Civil Penalty Policy to account for other factors including any good faith efforts to comply with the applicable requirements, and any willfulness or negligence. See RCRA Civil Penalty Policy, 3. In addition to the gravity-based penalty, the RCRA Civil Penalty Policy requires that penalty assessments capture any significant economic benefit that Respondent realized as a result of noncompliance. Id.

As a basis for calculating a specific penalty pursuant to 40 C.F.R. § 22.19(a)(4), Complainant has considered—among other factors—facts or circumstances that were unknown to Complainant at the time of issuance of the Complaint that became known to Complainant after the Complaint was issued. See Mot. Default, Ex. 5. Complainant further considered Respondent's ability to pay a penalty as a factor in determining the proposed civil penalty. Mem. Supp. Mot. Default, 5. However, the burden of raising and presenting evidence regarding any inability to pay a

particular penalty rests with the Respondent, and, in the instant case, Respondent failed to provide any information for making such a determination. See RCRA Penalty Policy, 39.

Compliance with RCRA regulations requires a financial commitment which all generators are required to undertake. Successful implementation of the RCRA program depends on the compliance and accountability of all hazardous waste facilities and involves costs that must be shared equitably among all regulated entities and to prevent any violator from enjoying a competitive advantage by avoiding or delaying hazardous waste management expenses. Pursuant to the RCRA Civil Penalty Policy, the economic benefit of noncompliance may be included in the assessed penalty to ensure that a violator does not gain an economic advantage through its violations.

The penalty proposed by Complainant in this matter was based upon the Respondent's failure to comply with COMAR 26.13.03.02A and section 3007(a) of RCRA, 42 U.S.C. § 6927(a). Pursuant to 40 C.F.R. § 22.14(a)(4)(ii), Complainant provided an explanation of the number of and severity of the violations alleged in the Complaint. As an attachment to the Motion for Default, Complainant further provided specific penalty proposals for the violations alleged in each Count of the Complaint. Mot. Default, Ex. 5-7. These explanations and associated penalty proposals are as follows:

Count I: Respondent violated COMAR 26.13.03.02A by generating, and subsequently treating, storing, and/or disposing of, a solid waste, i.e. paint waste, spent solvents, and spent caustics from at least April 28, 2010 to March 23, 2011 without performing a hazardous waste determination on such solid waste as required.

For the reasons set forth below, with respect to Count 1, a gravity-based penalty component of "major" potential for harm and "major" extent of deviation was assessed for Respondent's failure to perform a hazardous waste determination on solid waste generated at the Facility.

Respondent strips paint from airplanes with a process that generates paint waste and spent caustic solution, both of which are solid wastes. Compl. ¶ 13. The spent caustic solution is collected and treated in an on-site wastewater treatment plant. Id. Respondent paints airplanes with a process that generates paint waste and spent solvents, both of which are solid wastes. Id. at ¶ 14. Respondent repairs airplane engines with a process that generates spent solvents, which are solid wastes. Id. at ¶ 15.

The performance of hazardous waste determinations is the initial trigger for the implementation of the RCRA Subtitle C regulations and the authorized MdHWMR at a facility for the safe handling and management of hazardous wastes. Respondent's failure to perform such determinations resulted in solid wastes that are potentially hazardous wastes not being identified as

such and, as a consequence, not being properly managed and handled at the Facility, thereby posing a risk to human health and the environment. Mot. Default, Ex. 5 ¶ 10. Additionally, the failure to perform such determinations poses a substantial potential for harm to the RCRA program, which relies upon members of the regulated community, such as Respondent, to identify hazardous wastes and institute those practices and procedures deemed necessary under RCRA for their safe handling, storage, treatment, and/or disposal. Id. The potential for harm presented by Respondent's failure to perform a hazardous waste determination is therefore major.

Respondent failed to perform waste determinations on each separate waste stream at the Facility. Compl. ¶ 20. Accordingly, the extent of deviation from the regulatory requirements presented by Respondent's activities is major.

Therefore, as both the potential for harm and the extent of deviation are classified as major, the appropriate penalty range is $28,330.00 to $37,500.00. Complainant's proposed penalty of $32,000.00 is consistent with this range.

Count II: Respondent violated section 3007(a) of RCRA, 42 U.S.C. § 6927(a) by failing to respond to an Information Request Letter (IRL) sent by a duly designated employee of Complainant to Respondent, via UPS next day delivery on May 28, 2010 and a follow-up letter sent by Complainant on August 10, 2010.

For the reasons set forth below, with respect to the violations alleged in Count II of the Complaint, a gravity-based penalty component of "major" potential for harm and "major" extent of deviation was assessed for Respondent's failure to respond to an Information Request Letter ("IRL").

On May 28, 2010 a duly designated employee of EPA sent to Respondent, via UPS next day delivery, an IRL pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), regarding the management of hazardous waste at the Facility. Compl. ¶ 23. The IRL required Respondent to provide a response to the IRL within twenty (20) calendar days after receipt of the letter. Id. at ¶ 24. On August 10, 2010 Complainant sent a follow up letter to Respondent requesting a response to the May 28, 2010 IRL. Id. at ¶ 25. Respondent has not submitted a response to the May 28, 2010 EPA IRL or the August 10, 2010 follow-up letter. Id. at ¶ 26.

Substantial government resources were expended attempting to elicit Respondent's response to the IRL. Mot. Default, Ex. 5, ¶ 16. Moreover, Respondent's failure to respond has delayed regulatory efforts to ensure that the solid waste generated at Respondent's facility is properly identified and managed,

thereby posing a risk to human health and the environment. Id. Additionally, the failure to respond to an IRL poses a substantial potential for harm to the RCRA program, which relies upon the members of the regulated community, such as Respondent, to comply with the statutory requirements that enable the program to be effectively implemented. Id. Therefore, the potential for harm resulting from Respondent's failure to respond is major.

Respondent failed to respond to an Information Request Letter despite two separate written requests. Compl. ¶ 26. Accordingly, the extent of deviation from the regulatory requirements presented by Respondent's failure to respond is major.

Therefore, as both the potential for harm and the extent of deviation are classified as major, the appropriate penalty range is $28,330.00 to $37,500.00. Complainant's proposed penalty of $32,000.00 is consistent with this range.

Respondent's Ability to Pay

The burden to raise and prove an inability to pay a penalty rests with the Respondent. "If the respondent has not met its burden of going forward regarding its inability to pay a civil penalty, the complainant carries no burden on this issue; the respondent will be deemed able to pay the maximum statutory penalty." 56 Fed. Reg. 29996, 30006 (July 1, 1991); see also In

the Matter of: Mr. William J. Fabrick, 3225 Old Westminster Pike, Finksburg, Md. 21048, No. CWA-III-208, 2000 WL 166091 (E.P.A. Apr. 25, 2000). Since the official record is devoid of any information about Respondent's financial status, I find that Respondent is able to pay.

CONCLUSION

Complainant proposes a penalty of $64,000 against Respondent for the violations alleged in the Complaint in accordance with the statutory factors set forth at Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), which requires EPA to take into account the seriousness of the violation and any good faith efforts by Respondent to comply with the applicable requirements, and the RCRA Civil Penalty Policy.

I have determined that the penalty amount of $64,000 proposed by Complainant and requested in the Motion for Default is not inconsistent with RCRA and the record in this proceeding and is appropriate based on the record and on Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g).

ORDER

Pursuant to the Consolidated Rules at 40 C.F.R. Part 22, including 40 C.F.R. § 22.17, Complainant's Motion for Default is hereby GRANTED and Respondent is hereby ORDERED as follows:

1. Respondent, Hagerstown Aircraft Services, Inc., is hereby ordered to comply with the Compliance Tasks set forth at Paragraphs 29 through 35 of the Complaint.

2. Respondent, Hagerstown Aircraft Services, Inc., is hereby assessed a civil penalty in the amount of sixty-four thousand dollars ($64,000), and ordered to pay the civil penalty as directed in this Order.

3. Respondent shall pay the civil penalty to the **"United States Treasury"** within thirty (30) days after this Default Order has become final. See ¶ 8 below. Respondent may use the following means for penalty payment:

   a. All payments made by check and sent by Regular U.S. Postal Service Mail shall be addressed and mailed to:

      U.S. EPA
      Fines and Penalties
      Cincinnati Finance Center
      P.O. Box 979077
      St. Louis, MO 63197-9000

      Contact: Craig Steffen - (513-487-2091)

   d. All payments made by check and sent by Private Commercial Overnight Delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency
Fines and Penalties
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Craig Steffen - (513-487-2091)

e. 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 clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

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

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact for ACH: John Schmid - (202-874-7026)

h. On-Line Payment Option:
WWW.PAY.GOV

Enter "sfo 1.1" in the search field.

Open form and complete required fields.

4. At the same time that payment is made, Respondent shall mail copies of any corresponding check, or written notification confirming any electronic fund transfer or online payment, as applicable, to:

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

and

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

5. Along with its civil penalty remittance made pursuant to ¶ 3, above, and with the copy of the check or written notification (confirming any electronic fund transfer or online payment) sent pursuant to ¶ 4, immediately above, Respondent shall include a transmittal letter identifying the caption (In the Matter of: Hagerstown Aircraft Services, Inc.) and the docket number (RCRA-03-2011-0112) of this action.

6. In the event of failure by Respondent to make payment as directed above, this matter may be referred to a United States Attorney for recovery by appropriate action in United States District Court.

7. Pursuant to the Debt Collection Act, 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debt owed to the United States and a charge to cover the cost of processing and handling a delinquent claim.

8. This Default Order constitutes an Initial Decision, as provided in 40 C.F.R. §§ 22.17(c) and 22.27(a). This Initial Decision shall become a Final Order forty-five (45) days after it is served upon the Complainant and Respondent unless (1) a party appeals this Initial Decision to the EPA Environmental Appeals Board in accordance with 40 C.F.R. § 22.30,[1] (2) a party moves to set aside the Default Order that constitutes this Initial Decision, or (3) the Environmental Appeals Board elects to review the Initial Decision on its own initiative. See 40 C.F.R. § 22.27(c).

IT IS SO ORDERED.

6/27/13
Date

Renée Sarajian
Renée Sarajian
Regional Judicial Officer/
Presiding Officer
U.S. EPA, Region III

[1] Under 40 C.F.R. § 22.30, any party may appeal this Order by filing an original and one copy of a notice of appeal and an accompanying appellate brief with the Environmental Appeals Board within thirty (30) days after this Initial Decision is served upon the parties.

CERTIFICATE OF SERVICE

This Initial Decision and Default Order (Docket No.: RCRA-03-2011-0112) was served on the date below, by the manner indicated, to the following people:

VIA HAND DELIVERY:

Joyce Howell (3RC30)
Senior Assistant Regional Counsel
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

VIA CERTIFIED MAIL/
RETURN RECEIPT REQUESTED:

Tracey Potter
President
Hagerstown Aircraft Services, Inc.
14235 Oak Springs Road
Hagerstown, MD 21742

VIA EPA POUCH:

Eurika Durr
Clerk of the Board
Environmental Appeals Board (MC 1103B)
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

JUL - 1 2013
Date

Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029