

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

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2015 SEP 22 PM 3:40  
REGIONAL HEARING OFFICE  
EPA REGION III, PHILADELPHIA, PA

In the Matter of: :  
: :  
MI Metals, Inc. :  
: :  
Respondent. :  
: :  
MI Metals, Inc. :  
1517 State Route 209 :  
Millersburg, PA 17601-8217, :  
: :  
Facility. :  
: :  
: :  
: :  
: :

EPA Docket No. RCRA-03-2015-0202

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

**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 MI Metals, Inc. (“Respondent”) 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, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
  
2. This Consent Agreement and the accompanying Final Order (hereinafter jointly referred to as this “CAFO”) address alleged violations by Respondent of RCRA and the federally authorized Pennsylvania Hazardous Waste Management Regulations (“PaHWMR”), codified at 25 Pa. Code Chapters 260a – 266a, 266b, and 268a – 270a.

3. The Commonwealth of Pennsylvania has received federal authorization to administer a Hazardous Waste Management Program (the “Pennsylvania Hazardous Waste Management Program”) in lieu of the federal hazardous waste management program authorized under RCRA Subtitle C, 42 U.S.C. §§6921 – 6939 (g). Effective January 30, 1986, the PaHWMR was authorized by the EPA pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A and thereby became requirements of RCRA Subtitle C and enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). *See 51 Fed.Reg. 1791* (January 15, 1986), *65 Fed. Reg. 57734* (September 26, 2000), *69 Fed. Reg. 2674* (January 20, 2004) and *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)*.
4. Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, 40 C.F.R. § 22.13(b), this CAFO simultaneously commences and concludes an administrative proceeding against Respondent, brought under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a), to resolve alleged violations of RCRA at Respondent’s facility located at 1517 State Route 209, Millersburg, Pennsylvania, 17061-8217.
5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
6. For purposes of this proceeding only, Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO, except as provided in Paragraph 5, above.
7. 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.
8. 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.
9. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
10. Each party shall bear its own costs and attorney’s fees in connection with this proceeding.

Notice of Action to the Commonwealth of Pennsylvania

11. 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).

12. Upon making a determination that any person has violated or is in violation of any requirement of RCRA Subtitle C, and upon satisfying the notification requirements of RCRA Section 3008(a)(2), 42 U.S.C. § 6928(a)(2), RCRA Section 3008(a)(1), 42 U.S.C. § 6928(a)(1), authorizes the Administrator of EPA to issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both.

## **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:

13. Respondent is, and was at the time of the violations alleged herein, a corporation of the State of Florida.
14. Respondent is, and at the time of the violations alleged herein, a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903, 25 Pa. Code § 260a.10.
15. Respondent is, and at all times relevant to this Consent Agreement, was the “owner” and “operator” of a “facility”, described in paragraph 16, below, as the term “facility” is defined in 25 Pa. Code § 260a.10 and the terms “owner” and “operator” are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1.
16. The facility referred to in Paragraph 15, above, including all of its associated equipment and structures (hereinafter the “Facility”), is a manufacturing facility located at 1517 State Route 209, Millersburg, Pennsylvania, 17061-8217.
17. Respondent generates more than 1,000 kilograms of hazardous waste per month at its Facility. Respondent is assigned EPA ID No. PAD987279189.
18. Respondent is and, at all times relevant to this CAFO, has been a “generator” of, and has engaged in the “storage” in “containers,” “tanks” and a “new tank system” at the Facility of materials described below that are “solid wastes” and “hazardous wastes”, as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference by 25 Pa. Code § 260a.1, which with the exception of the term “storage” and the January 16, 1993 date denoted with a “new tank system” which are defined and identified in 25 Pa. Code § 260a.10.
19. On June 12 - 13, 2013, representatives of EPA and the PaDEP conducted a RCRA Compliance Evaluation Inspection (“RCRA CEI”) at the Facility.
20. On June 12 - 13, 2013, “hazardous wastes” generated by Respondent, identified below in paragraphs 21 – 22, were in “storage” in containers and tanks at the Facility.

21. Respondent generates waste caustic cleaning solution at the Facility which is hazardous waste (D002) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. §§ 261.22, because it exhibits the characteristic corrosivity.
22. Respondent generates waste paint at the Facility which is a hazardous waste (D001) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.21, because it exhibits the characteristic for ignitability.

#### COUNT I

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

23. The preceding paragraphs are incorporated by reference.
24. 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 own or 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.
25. 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 may accumulate hazardous waste in containers on-site for 90 days or less without a permit or interim status provided that, among other things, while being accumulated on-site, the generator complies with the requirements of 40 C.F.R. Part 265, Subpart I, including the 40 C.F.R. § 265.173(a), requirement that each container holding hazardous waste must always be kept closed during storage, except when necessary to add or remove waste.
26. At the time of the June 12 -13, 2013 RCRA CEI, Respondent did not keep a container holding D001 hazardous waste paint closed during storage when it was not necessary to add or remove waste, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i) and the container use and management requirements of 40 C.F.R. § 265.173(a).
27. 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 may accumulate hazardous waste in tanks on-site for 90 days or less without a permit or having interim status provided that, among other things, a generator who is the owner or operator of a new tank system used for the accumulation of hazardous waste complies with the requirements of 40 C.F.R. Part 265 Subpart J, including the 40 C.F.R. § 265.192(a) requirement to obtain a written assessment reviewed and certified by a qualified Professional Engineer in accordance with 40 C.F.R. § 270.11.

28. At the time of the June 12 – 13, 2013 RCRA CEI, Respondent accumulated D002 hazardous waste caustic cleaning solution in a new tank system which had been installed without first obtaining a written assessment attesting that the system has sufficient structural integrity and is acceptable for the storing and treatment of hazardous waste.
29. 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 may accumulate hazardous waste in tanks on-site for 90 days or less without a permit or having interim status provided that, among other things, the owner or operator of each new or existing tank system used for the accumulation of hazardous waste have secondary containment for such tank system that meets the 40 C.F.R. Part 265, Subpart J requirements of 40 C.F.R. § 265.193(a).
30. At the time of the June 12 – 13, 2013 RCRA CEI, Respondent accumulated D002 hazardous waste caustic cleaning solution in a tank that did not have secondary containment as required by 40 C.F.R. § 265.193(a).
31. 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 may accumulate hazardous waste in tanks on-site for 90 days or less without a permit or having interim status provided that, among other things, the owner or operator of each such tank system used for the accumulation of hazardous waste complies with the 40 C.F.R. Part 265, Subpart J requirements of 40 C.F.R. § 265.195(b) and inspects the tank system at least once each operating day to ensure the tank system is being operated according to its design.
32. On June 12 – 13, 2013, Respondent accumulated D002 hazardous waste caustic cleaning solution in a new tank system without performing inspections each such operating day to ensure the tank system was being operated according to its design as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(ii), and the hazardous waste storage tank inspection requirements of 40 C.F.R. § 265.195(b).
33. Respondent failed to qualify for the “less than 90-day” generator accumulation exemption of 25 Pa. Code § 262a.10, which incorporates by reference the requirements of 40 C.F.R. § 262.34(a)(1)(i) and (ii); by failing to satisfy the conditions for such exemptions referred to in Paragraphs 25, 27, 29, 31, above, and as described in Paragraphs 26, 28, 30 and 32, above.
34. Respondent does not have, and never had, a hazardous waste treatment or storage 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 treatment or storage of hazardous waste at the Facility.
35. 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 the hazardous waste storage activities described in this count.

36. 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, interim status or a valid exemption to the permit requirement.

COUNT II  
(Container Management)

37. The preceding paragraphs are incorporated by reference.
38. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), requires owners and operators of all hazardous waste facilities that store containers of hazardous waste to keep hazardous waste containers closed during storage, except when it is necessary to add or remove waste.
39. On June 12 – 13, 2013, Respondent was storing D001 hazardous paint waste at the Facility in an open container that it failed to keep closed at a time when it was not necessary to add or remove waste from the container.
40. Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), by failing to keep a hazardous waste container holding hazardous waste solvents closed at a time when it was not necessary to add or remove waste.

COUNT III  
(Tank Assessment)

41. The preceding paragraphs are incorporated by reference.
42. 25 Pa. Code § 264a.1 which incorporate by reference 40 C.F.R. 264.192, requires that an owner or operator of new tank systems used to store hazardous waste obtain and keep on file at the facility a written assessment reviewed and certified by a qualified Professional Engineer in accordance with 40 C.F.R. § 270.11, which must show the new tank system has sufficient structural integrity and is acceptable for the storing and treatment of hazardous waste.
43. On June 12 – 13, 2013, Respondent used a new tank system to store D002 hazardous waste caustic cleaning solution without having obtained a written assessment, reviewed and certified by a qualified Professional Engineer in accordance with 40 C.F.R. § 270.11, which met the requirements of 40 C.F.R. § 264.192(a).
44. MI Metals, Inc. responded to EPA concerns that the tank system, known at the Facility as the “sump” was allegedly in violation of RCRA requirements by installing a bypass to the sump. In consultation with EPA, the sump was subsequently backfilled.

45. Respondent violated 25 Pa. Code § 264a.1 which incorporates by reference 40 C.F.R. 264.192, by failing to obtain a written assessment, reviewed and certified by a qualified Professional Engineer in accordance with 40 C.F.R. § 270.11 which met the requirements of 40 C.F.R. § 264.192(a) for the new tank system used to store D002 hazardous waste caustic cleaning solution at the Facility.

COUNT IV  
(Secondary Containment)

46. The preceding paragraphs are incorporated by reference.
47. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.193 with exceptions not relevant herein, requires that an owner or operator of all new and existing tank systems used to store hazardous waste have secondary containment meeting the requirements of 40 C.F.R. § 264.193 to prevent the release of hazardous waste or hazardous constituents.
48. On June 12 – 13, 2013, Respondent stored D002 hazardous waste caustic cleaning solution in a new tank system which did not have secondary containment.
49. Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.193 with exceptions not relevant herein, by failing to have secondary containment meeting the requirements of 40 C.F.R. § 264.193 for a new tank system used to store D002 hazardous waste caustic cleaning solution at the Facility.

COUNT V  
(Daily Tank Inspections)

50. The preceding paragraphs are incorporated by reference.
51. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.195(b) with exceptions not relevant herein, requires owners or operators of facilities that use tank systems for storing or treating hazardous waste to inspect each such tank system at least once each operating day to ensure that the tank system is being operated according to its design.
52. On June 12 and on June 13, 2013, Respondent was operating, but did not inspect, a new tank system in which it was storing D002 hazardous waste caustic cleaning solution to ensure that such tank system was being operated according to its design.

53. Respondent violated 25 Pa. Code § 264a.1 which incorporates by reference 40 C.F.R. § 264.195(b) with exceptions not relevant herein, by failing to inspect at least once each operating day a new tank system in which it was storing D002 hazardous waste caustic cleaning solution to ensure that such tank system was being operated according to its design.

COUNT VI  
(Universal Waste Storage-Closed Containers)

54. The preceding paragraphs are incorporated by reference.
55. 25 Pa. Code Section 266b.1 incorporates by reference the requirements of 40 C.F.R. Part 273, including the “Standards for Small Quantity Handlers of Universal Waste” which requirements are set forth in 40 C.F.R. Part 273, Subpart B, and include the universal waste lamp management standards of 40 C.F.R. § 273.13(d).
56. 40 C.F.R. § 273.13(d) provides, in pertinent part that “[a] small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows: (1) A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.”
57. At all times relevant to the allegations herein, Respondent was a small quantity handler of universal waste lamps.
58. At the time of the June 12 – 13, 2013 RCRA CEI, the EPA inspector observed universal waste lamps being stored in open containers at the Facility.
59. Respondent violated 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.13(d)(1), by failing to keep containers of universal waste lamps closed during storage.

### III. CIVIL PENALTIES

60. Respondent agrees to pay a civil penalty in the amount of **\$56,816.00** in settlement of the alleged violations set forth in this CAFO, 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.
61. The Parties represent that the settlement terms are reasonable and consistent with the provisions and objectives of RCRA Section 3008(a), 42 U.S.C. § 6928(a), and are based upon EPA's consideration of a number of factors, including: the penalty criteria 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, which 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"), and which reflect 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). EPA has also considered and applied the appropriate Adjustment of Civil Penalties for Inflation, 40 C.F.R. Part 19, and the November 16, 2009 memorandum by EPA Waste and Chemical Enforcement Division Director Rosemary A. Kelley entitled *Adjusted Penalty Policy Matrices Based on the 2008 Monetary Penalty Inflation Adjustment Rule* ("Kelley Memorandum").
62. Payment of the civil penalty as required by paragraph 60, above, and/or any accrued interest, administrative fees and/or late payment penalties, 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, *i.e.*, RCRA-03-2015-0202.
  - 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:

U.S. Environmental Protection Agency  
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 overnight delivery service shall be addressed for delivery to:

U.S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101  
Contact: 314-418-1818

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

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

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

- F. 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: John Schmid 202-874-7026 or REX, 1-866-234-5681

- G. On-Line Payment Option: [WWW.PAY.GOV/PAYGOV](http://WWW.PAY.GOV/PAYGOV)

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

- H. Point Of Contact regarding payment questions (i.e. how to make payment via wire, ACH, check, pay.gov):  
Craig Steffen, 513-487-2091, [steffen.craig@epa.gov](mailto:steffen.craig@epa.gov)

Additional payment guidance is available at:  
<http://www2.epa.gov/financial/makepayment>.

63. 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

64. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.
65. 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.
66. 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).
67. 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.

68. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly. 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**

69. Payment of the penalty specified in Paragraph 60 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 VI, 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**

70. 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

#### **VI. OTHER APPLICABLE LAWS**

71. 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. CERTIFICATION OF COMPLIANCE**

72. Respondent certifies to EPA that, upon investigation, to the best of Respondent's knowledge and belief, Respondent is currently in compliance with all applicable provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and the federally authorized PaHWMR, for which violations are alleged in this CA.

**VIII. PARTIES BOUND**

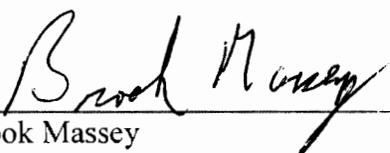
73. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on 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.

**IX. EFFECTIVE DATE**

74. 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.

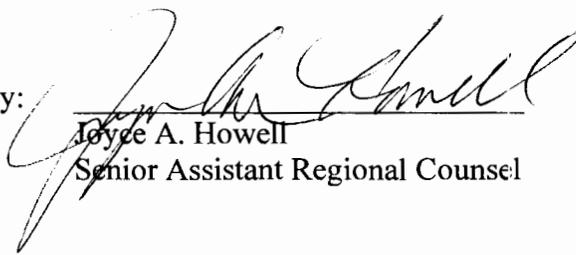
For Respondent, MI Metals, Inc.:

Date: 9/14/15

By:   
Brook Massey  
President  
MI Metals, Inc.

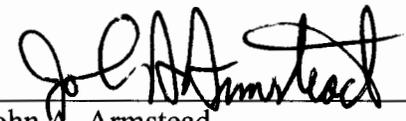
For Complainant, United States Environmental Protection Agency, Region III:

Date: August 18, 2014

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.

9.17.15  
Date

By:   
John A. Armstead  
Director  
Land and Chemicals Division

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ENVIRONMENTAL PROTECTION AGENCY  
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REGIONAL OFFICE  
EPA REGION III  
PHILADELPHIA

**FINAL ORDER**

Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, MI Metals, Inc., have executed a document entitled "Consent Agreement" which I hereby ratify in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

NOW, THEREFORE, PURSUANT TO Section 3008(a) of the Resource Conservation and Recovery Act of 1976, as amended by, inter alia, the Hazardous and Solid Waste 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 \$56,816.00 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 such Final Order is filed with the Regional Hearing Clerk.

9-22-15  
Date

  
\_\_\_\_\_  
Heather Gray,  
Regional Judicial Officer

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

In the Matter of:	:	
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Millersburg, 17061-8217	:	
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Facility.	:	Proceeding under Section 3008(a) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6928(a)
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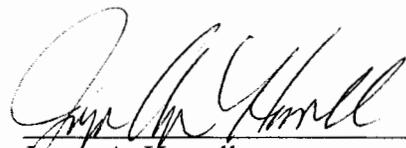
**CERTIFICATE OF SERVICE**

I certify that I sent a copy of the Consent Agreement and Final Order in the above-captioned matter to the addressees and in the manner listed below. The original and one copy of the Complaint were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Via UPS, next day delivery to:

Andrew S. Levine, Esq.  
Stradley, Ronon, Stevens & Young, LLP  
Suite 2600  
2005 Market Street  
Philadelphia, PA 19103-7018

Dated: September 22, 2015

  
\_\_\_\_\_  
Joyce A. Howell  
Senior Assistant Regional Counsel  
U.S. EPA - Region III