

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 2

In the Matter of

Taylor Forge Stainless, Inc

Respondent.

Proceeding under Section 3008 of the Solid Waste Disposal Act, as amended.

CONSENT AGREEMENT

AND

FINAL ORDER

Docket No. RCRA-02-2019-7105

REGIONAL HEARING  
CLERK

2019 MAR 20 PM 2:20

U.S. Environmental  
Protection Agency-Region 2

**PRELIMINARY STATEMENT**

This is a civil administrative proceeding instituted pursuant to Section 3008 of the Solid Waste Disposal Act as amended by various laws including the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901, *et seq.* (referred to collectively as “RCRA” or the “Act”).

Pursuant to 40 C.F.R. § 22.13(b), where parties agree to settlement of one or more causes of action before the filing of a Complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (“CA/FO”) pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3). This administrative proceeding constitutes one that is simultaneously being commenced and concluded pursuant to said provisions of 40 C.F.R. Part 22.

The parties agree that settling this matter by entering into this CA/FO is an appropriate means of resolving the RCRA claims specified herein against Taylor Forge Stainless, Inc. (“Respondent” or “TFS”), without litigation. To that end, the parties have met and discussed settlement. No adjudicated findings of fact or conclusions of law have been made in either a judicial or administrative forum.

## EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is Taylor Forge Stainless Inc.
2. TFS is situated at 22 Readington Road, North Branch, New Jersey.
3. Respondent is a manufacturing facility organized pursuant to the laws of the State of New Jersey.
4. RCRA establishes a comprehensive federal regulatory program for the management of hazardous waste and used oil. 42 U.S.C. § 6901 *et seq.*
5. Pursuant to Sections 3002(a) and 3004(a) of RCRA, 42 U.S.C. §§ 6922(a) and 6924(a), the Administrator of EPA has promulgated regulations for the management of hazardous waste including standards for generators and treatment, storage and disposal facilities. These regulations are set forth in 40 C.F.R. Parts 260 through 279.
6. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes the Administrator of EPA to issue an order assessing a civil penalty and/or requiring compliance for any past or current violation(s) of Subtitle C (Hazardous Waste Management) of RCRA, which includes the regulations referenced below.
7. Respondent is a "person" as that term is defined in Section 1004(15) of the Act, 42 U.S.C. § 6903(15), and 40 C.F.R. § 260.10 as incorporated by reference in New Jersey Administrative Code (N.J.A.C.) 7:26G-4.1(a).
8. The North Branch, New Jersey location where Respondent conducts its business activities constitutes an "existing hazardous waste management facility" or "existing facility" as those phrases are defined in 40 C.F.R. § 260.10 as incorporated by reference in N.J.A.C. 7:26G-4.1(a) (hereinafter "Facility").
9. Respondent, since at least 1983, is and has been the "owner" of the Facility as that term is defined in 40 C.F.R. § 260.10 as incorporated by reference in N.J.A.C. 7:26G-4.1(a).
10. Respondent, since at least 1983, is and has been the "operator" of the Facility as that term is defined in 40 C.F.R. § 260.10 as incorporated by reference in N.J.A.C. 7:26G-4.1(a).
11. In or about October 1983, Respondent notified EPA, pursuant to Section 3010 of RCRA, that it was a "generator" of hazardous waste at its Facility at 22 Readington Road, North Branch, New Jersey.
12. In or about October 1983, EPA issued to Respondent Identification Number NJD063144174 for the Facility.
13. Respondent is and has been since at least 1983, the owner and operator of a manufacturing facility engaged in the business of fabricating stainless-steel pipes and fittings.



14. Respondent, in carrying out its manufacturing activities and in its building maintenance operations, has been generating, and continues to generate, "solid waste," as defined in 40 C.F.R. § 261.2 as incorporated by reference in N.J.A.C. 7:26G-5.1(a), at its Facility.
15. Respondent in carrying out its manufacturing activities and in its building maintenance operations, has been generating, and continues to generate, at its Facility, "hazardous waste," as defined in 40 C.F.R. § 261.3 as incorporated by reference in N.J.A.C. 7:26G-5.1(a).
16. As of April 2017, and prior and subsequent thereto, Respondent has been a generator at its Facility of "hazardous waste" within the meaning of 40 C.F.R. 260.10 as incorporated by reference in N.J.A.C. 7:26G-4.1(a).
17. As of April 2017, and prior and subsequent thereto, Respondent has generated and continues to generate (at least) 1000 kilograms ("kgs") of hazardous waste in a calendar month.
18. On or about April 24, 2017, a duly designated representative of EPA conducted an inspection of the Facility, pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, to determine Respondent's compliance with Subtitle C of RCRA and its implementing regulations, including New Jersey's authorized hazardous waste regulations (the "2017 Inspection").
19. On November 28, 2017, EPA issued to Respondent a Notice of Violation, which specified the requirements of RCRA which EPA believed Respondent had violated, and an Information Request Letter ("NOV" and "IRL"). On February 6, 2018, EPA received Respondent's reply to the IRL.
20. Based on the 2017 Inspection and Respondent's responses to EPA's IRL, EPA determined that Respondent committed, *inter alia*, the violations noted in paragraphs 21-24, below.
21. Respondent failed to have secondary containment for a 5,000-gallon hazardous waste tank in violation of 40 C.F.R. § 265.193 as incorporated by reference in N.J.A.C. 7:26G-9.1(a).
22. Respondent failed to have its hazardous waste tank assessed by a qualified professional engineer in violation of 40 C.F.R. § 265.191 as incorporated by reference in N.J.A.C. 7:26 G-9.1(a).
23. Respondent failed to comply with conditions which, if complied with, would have permitted storage of hazardous waste without interim status or a permit.
24. Respondent's operation of its waste management facility without having obtained a permit or qualifying for interim status constituted a violation of each of the following:
  - A. Section 3005 of the Act, 42 U.S.C. § 6925; and
  - B. 40 C.F.R. § 270.1(c) as incorporated by reference in N.J.A.C. 7:26G-12.1(a).
25. Respondent's failure to comply with 40 C.F.R. §§ 265.191 and 265.193 as incorporated

by reference in N.J.A.C. 7:26G-9.1(a), as well as Section 3005 of the Act, 42 U.S.C. § 6925 and 40 C.F.R. § 270.1(c) as incorporated by reference in N.J.A.C. 7:26G-12.1(a) subjects it to injunctive relief and penalties pursuant to Section 3008 of the Act, 42 U.S.C. § 6928.

26. EPA and Respondent met on September 20, 2018 to discuss the EPA determinations described above and agreed to settle this matter by entering into this Consent Agreement.

### CONSENT AGREEMENT

Pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and 40 C.F.R. § 22.18 of the Consolidated Rules of Practice, it is hereby agreed by and between the parties hereto, and voluntarily and knowingly accepted by Respondent, that Respondent, for purposes of this Consent Agreement and in the interest of settling this matter expeditiously without the time, expense or uncertainty of a formal adjudicatory hearing on the merits: (a) admits the jurisdictional basis for EPA prosecuting this case; (b) neither admits nor denies EPA's Findings of Fact and Conclusions of Law; (c) consents to the assessment of the civil penalty as set forth below; (d) consents to the issuance of the Final Order incorporating all the provisions of this Consent Agreement; and (e) waives its right to contest or appeal that Final Order.

Based upon the foregoing, and pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and 40 C.F.R. § 22.18, Respondent voluntarily and knowingly agrees to, and shall comply with, the following terms:

1. Respondent shall hereinafter, at its facility, comply with all applicable RCRA requirements, and any revisions to them, relating to the generation and storage of hazardous waste.
2. Respondent hereby certifies that, as of the date of its signature to this Agreement, to the best of its knowledge and belief, it is in compliance with all the applicable requirements of RCRA relating to both the generation and storage of hazardous waste.
3. This CA/FO is not intended, and shall not be construed, to waive, extinguish or otherwise affect TFS's obligation to comply with all applicable federal, state and local laws and regulations relating to any generation, management, treatment, storage, transport or offering for transport, or disposal of hazardous waste by the Respondent
4. Respondent shall pay a civil penalty to EPA in the total amount of **ONE HUNDRED FORTY THOUSAND DOLLARS (\$140,000)** in one installment. Such payment shall be made by cashier's or certified check or by Electronic Fund Transfer. If the payment is made by check, then the check shall be made payable to the **Treasurer, United States of America**, and shall be mailed to:

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



The check shall be identified with a notation thereon listing the following: ***IN THE MATTER OF Taylor Forge Stainless, Inc.***, and shall bear thereon the **Docket No. RCRA-02-2019-7105**. If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment.
- 2) SWIFT address: **FRNYUS33, 33 Liberty Street, New York, NY 10045.**
- 3) Account Code for Federal Reserve Bank of New York receiving payment: **68010727.**
- 4) Federal Reserve Bank of New York ABA routing number: **021030004.**
- 5) Field Tag 4200 of the Fedwire message should read **D 8010727** Environmental Protection Agency.
- 6) Name of Respondent: Taylor Forge Stainless, Inc.
- 7) Docket Number: **RCRA 02-2019-7105**

5. The payment of \$140,000 must be received at the above address (or account of EPA) on or before thirty (30) calendar days after the date of the signature of the Final Order, which is located at the end of this CA/FO.
  - a. Failure to pay the requisite civil penalty amount in full according to the above provisions may result in the referral of this matter to the United States Department of Justice or Department of the Treasury for collection or other appropriate action.
  - b. Furthermore, if payment is not made on or before the date specified in this document, interest for said payment shall be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, on the overdue amount from the date said payment was required to have been made through the date said payment has been received. In addition, a late payment handling charge of \$15.00 will be assessed for each thirty (30) calendar day period or any portion thereof, following the date any payment was to have been made, in which payment of the amount remains in arrears.
  - c. In addition, a 6% per annum penalty will be applied to any principal amount that has not been received by the EPA within ninety (90) calendar days of the deadline for any payment. Any such non-payment penalty charge on the debt will accrue from the date any penalty payment becomes due and is not paid.
  - d. The civil penalty provided for herein constitutes "penalt[ies]" within the meaning of 26 U.S.C. § 162(f), and is not a deductible expenditure for purposes of federal or state law.
6. Complainant shall mail to Respondent (to the representative designated in Paragraph 7, *infra*), a copy of the fully executed CA/FO, and Respondent consents to service of the CA/FO upon it by an employee of EPA other than the Regional Hearing Clerk.

7. Except as the parties may agree otherwise in writing, all documentation and information required to be submitted in accordance with the terms and conditions of this Consent Agreement shall be sent to:

William Chernes, Enforcement Officer  
RCRA Compliance Branch  
Division of Enforcement & Compliance Assistance  
US Environmental Protection Agency 2,  
290 Broadway, 21st Floor  
New York, New York 10007-1866

and

Carl R. Howard, Assistant Regional Counsel  
Office of Regional Counsel  
US Environmental Protection Agency  
290 Broadway  
New York, New York 10007

Unless the above-named EPA contacts are later advised otherwise in writing, EPA shall address any future written communications related to this matter (including any correspondence related to payment of the penalty) to Respondent at the following address:

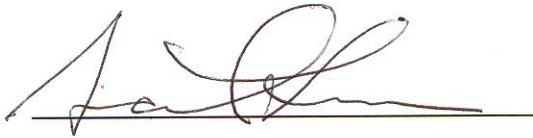
Ms. Kim Kanopka  
Vice President  
Taylor Forge Stainless, Inc.  
22 Readington Road  
North Branch, New Jersey 08876

8. Full payment of the penalty described in Paragraphs 4 and 5 of the Consent Agreement, *supra*, shall only resolve Respondent's liability for federal civil penalties for the violation(s) and facts described in paragraphs 20-24, *supra*, of EPA's Findings of Fact and Conclusions of Law. Full payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
9. The provisions of this Consent Agreement shall be binding upon both Complainant and Respondent along with their authorized representatives and successors or assigns.
10. TFS waives its right to request or to seek any hearing in this matter including one on the terms and conditions set forth in the Consent Agreement and its accompanying Final Order and/or the Findings of Fact/Conclusions of Law, above.
11. Each party hereto agrees to bear its own costs and attorney's fees in this matter.

12. The undersigned signatory for Respondent certifies that he\she is duly and fully authorized to enter into this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.

**In the Matter of Taylor Forge Stainless, Inc.**  
**Docket Number: RCRA 02-2019-7105**

RESPONDENT: **TAYLOR FORGE STAINLESS, INC.**

BY: 

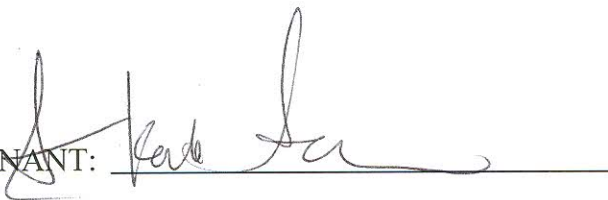
Authorized Signature

NAME: Daniel Frana

(PLEASE PRINT)

TITLE: VP of Operations

DATE: 3/7/2019

COMPLAINANT: 

Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency - Region 2  
290 Broadway  
New York, NY 10007

DATE: **MAR 14 2019**



**In the Matter of Taylor Forge Stainless, Inc.**  
**Docket Number: RCRA 02-2019-7105**

**FINAL ORDER**

The Regional Administrator of EPA, Region 2 concurs in the foregoing Consent Agreement in the case of *In the Matter of Taylor Forge Stainless, Inc.*, bearing Docket No. RCRA-02-2019-7105. Said Consent Agreement, having been duly accepted and entered into by the parties, is hereby ratified, incorporated into and issued as this Final Order, which shall become effective when filed with the Regional Hearing Clerk of EPA, Region 2. 40 C.F.R. § 22.31(b). This Final Order is being entered pursuant to the authority of 40 C.F.R. § 22.18(b)(3) and shall constitute an order issued under authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

DATE:

3/19/19



Peter D. Lopez  
Regional Administrator  
U.S. Environmental Protection Agency-Region 2  
290 Broadway  
New York, New York 10007-1866

**In the Matter of Taylor Forge Stainless, Inc.**  
**Docket Number: RCRA 02-2019-7105**

**CERTIFICATE OF SERVICE**

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and One  
Copy by Hand:

Karen Maples  
Regional Hearing Clerk  
U.S. Environmental Protection  
Agency- Region 2  
290 Broadway, 16th floor  
New York, New York 10007-1866

Copy by Certified Mail,  
Return Receipt Requested:

Jeffrey M. Casaletto, Esq.  
400 Crossing Blvd - 8th Floor  
Bridgewater, NJ 08807

  
Yolanda Majette,  
WTS Branch Secretary

Dated: 3/20/19