

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 2

In the Matter of:

COIM USA, Inc.

Respondent,

Proceeding Under Section 3008 of the
Resource Conservation and Recovery
Act as amended.

**CONSENT AGREEMENT
AND
FINAL ORDER**

Docket No. RCRA-02-2024-7104

PRELIMINARY STATEMENT

This is a civil administrative enforcement proceeding instituted pursuant to Section 3008 of the Solid Waste Disposal Act, as amended by various statutes including the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984 ("HSWA"), 42 U.S.C. §§ 6901 *et seq.* (referred to collectively as the "Act" or "RCRA"). The United States Environmental Protection Agency ("EPA") has promulgated regulations governing the handling and management of hazardous waste at Title 40 of the Code of Federal Regulations ("C.F.R.") Parts 260-273 and 279. Section 3006(b) of the Act, 42 U.S.C. § 6926(b), provides that EPA's Administrator may, if certain criteria are met, authorize a state to operate a hazardous waste program (within the meaning of Section 3006 of the Act, 42 U.S.C. § 6926) in lieu of the regulations comprising the federal hazardous waste program (the Federal Program). The State of New Jersey has been authorized by EPA to conduct a hazardous waste program ("authorized state program").

Pursuant to 40 C.F.R. § 22.13(b), where the parties agree to settlement of one or more causes of action before the filing of an administrative 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.

EPA has given notice of this action to the State of New Jersey.

EPA'S FINDINGS OF FACTS AND CONCLUSIONS OF LAW

Respondent

1. Respondent is COIM USA, Inc. ("COIM"), a for profit corporation organized pursuant to the laws of the State of New Jersey in 2005.

2. Respondent owns and operates a facility located at 286 Mantua Grove Road Bldg. 1, West Deptford, New Jersey 08066 (the "Facility").
3. Respondent is a "person" as that term is defined in Section 1004 (15) of the Act, 42 U.S.C. § 6903(15).
4. Respondent is and has been the "owner" and/or "operator" of the Facility.

Respondent's Generation and Management of Hazardous Waste

5. Respondent is the owner and operator of a manufacturing facility employing three primary product lines: polyester resins (for foams), pre-polymer products, and adhesives (primarily for the food and consumer packaging industry).
6. Respondent, in carrying out its manufacturing activities and in the course of conducting normal 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 the Facility.
7. Respondent, in carrying out its manufacturing activities and in the course of normal building maintenance, has been generating, and continues to generate, "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), at its facility.
8. Respondent is a "large quantity generator" of hazardous waste as that phrase is defined in 40 C.F.R. § 262.34(a) as incorporated by reference in N.J.A.C. 7:26G-6.1(a) .
9. Respondent, when carrying out the activities described in the previous paragraphs, generated "solid waste" and "hazardous waste" at its Facility, as those terms are defined in 40 C.F.R. § 261.2(a)(1) and 40 C.F.R. § 261.3(a), as incorporated by reference in N.J.A.C. 7:26G-5.1(a).

EPA Investigative and Enforcement Activities

10. On or about March 29 – March 31, 2022, duly designated representatives 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 "2022 Inspection").
11. At the 2022 Inspection, EPA observed that COIM did not maintain the secondary containment area for Tanks S-36 and S-37 in order to prevent migration of wastes or accumulated liquid as required by 40 C.F.R. 265.193(b)(1-2) as incorporated by NJAC 7:26G-9.1(a). Damages were observed within the secondary containment area for Tanks S-36 and S-37.
12. At and before the time of the 2022 Inspection, COIM did not inspect Tanks S-36 and S-37 on a daily basis as required in 40 C.F.R. 265.195(b) as incorporated by reference by NJAC 7:26G-9.1(a). Monthly inspections were performed for these tanks.

13. At and before the time of the 2022 Inspection, COIM did not have an initial tank integrity assessment certification as required under 40 C.F.R. 265.192(a), as incorporated by reference by NJAC 7:26G-9.l(a).
14. At and before the time of the 2022 Inspection, applicable equipment under Subpart BB that would require tagging and regular monitoring includes ancillary equipment attached to Tanks S-36 and S-37, such as valves and connections leading from the polyester resins distillation train to Tanks S-36 and S-37 as well as equipment between the tanks and the loadout point. No leaks were detected by the inspection team during the inspection for the equipment monitored along these lines. Tagging and monitoring requirements are still necessary for compliance, and no exclusions or exemptions were documented in the facility's operating record.
15. At and before the time of the 2022 Inspection, for Subpart CC, the fixed roof and closure devices on applicable hazardous waste tanks would need to have initial monitoring and an annual inspection. COIM did not indicate, or provide documentation to show, that any initial monitoring was performed for closure devices on Tanks S-36 or S-37. Additionally, COIM did not determine and record the vapor pressure calculation of either Tank S-36 or S-37 which is required by Subpart CC regulations. No leaks were detected by the inspection team for closure devices monitored on each of these tanks.
16. At and before the time of the 2022 Inspection, COIM has not provided the required notification and reporting documentation regarding their hazardous secondary materials recycling.
17. At and before the time of the 2022 Inspection, a fifty-five (55)-gallon drum labeled as hazardous waste was observed in the Building 2 Satellite Accumulation Area ("SAA") with an accumulation start date of January 18, 2019.
18. At and before the time of the 2022 Inspection, a fifty-five (55)-gallon drum labeled as hazardous waste was observed at the ninety (90)-day storage pad area with an accumulation start date of November 24, 2021.
19. At and before the time of the 2022 Inspection, the inspection team observed several red waste bins managed as SAA containers in a lab that were unlabeled and one with its lid opened. The red waste bins on the floor of the lab were used to dispose of hazardous waste solids such as used solvent-contaminated rags and were unlabeled. Red waste bins in the fume hood were used to dispose of the waste stream managed as "Recycle – Alkyd Stains" and were unlabeled, with one container that was open.
20. At and before the time of the 2022 Inspection, the inspection team observed a fifty-five (55)-gallon drum labeled as "Recycle – Alkyd Stains" in Building 2 SAA that had an open

funnel attached to the top of the drum. At the time of the inspection, one container in the SAA was observed to be open but hazardous waste was not being added nor removed.

21. At and before the time of the 2022 Inspection, the inspection team observed a fifty-five (55)-gallon drum of hazardous waste managed as a SAA in Building 3 with an open top filter. The drum was labeled as containing flammable solids and was not actively in use.
22. At and before the time of the 2022 Inspection, on three separate occasions (in January 2021, April 2021, August 2021), COIM sent waste identified as “polyol solids” off site in containers as non-hazardous waste. The receiving facility, Cycle Chem Inc., conducted waste analysis and found that the material in some of the containers for each of these three shipments exhibited a flashpoint of less than sixty (60) degrees Celsius. COIM did not make an accurate waste determination for the waste, which would be a D001 characteristic hazardous waste.
23. At and before the time of the 2022 Inspection, COIM was managing its closed-vent system and control device at seventy-five percent (75%) efficiency. Based on the use of a closed vent system leading to a control device, Tanks S-36 and S-37 need to regulate air emissions in accordance with 40 C.F.R. 265.1085(g)(1)(iv), which includes reference to 40 C.F.R. 265.1088 for closed-vent system and control device standards. In order to comply with 40 C.F.R. 265.1088(c)(1), the scrubbers would have needed to operate with a control efficiency of at least ninety-five percent (95%).

Information Request, NOV and Responses

24. On or about June 29, 2022, EPA sent Respondent a combined Notice of Violation (“NOV”) and Information Request Letter (“IRL”) (the June NOV-IRL).
25. The NOV, which was issued pursuant to Section 3008 of the Act, 42 U.S.C. § 6928, informed the Respondent that EPA had identified a number of potential RCRA violations at its facility and requested Respondent to provide a description and documentation of the actions it had taken to correct the violations identified by EPA in that NOV.
26. EPA, pursuant to Section 3007 of RCRA, 42 U.S.C. §6927, sent Respondent an Information Request Letter. The June NOV-IRL sought information and required Respondent to submit specific types of documentation relating to its generation and management of hazardous waste at its facility.
27. On or about August 19, 2022, Respondent submitted its response to the June 2022 IRL (the “August Response”).
28. On or about September 1, 2022, Respondent submitted an amendment to the August Response, addressing two outstanding matters (“September Response”).

29. On or about May 24, 2023, EPA issued to Respondent a Notice of Potential Violations and Opportunity to Confer letter ("NOPVOC").
30. From May 2023 to October 2023, EPA and Respondent had several informal settlement conferences, telephone calls and email exchanges. The Parties agreed to settle this matter as provided herein.

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 waives its right to contest or appeal that Final Order.

Pursuant to 40 C.F.R. § 22.31(b), the executed Consent Agreement and accompanying Final Order shall become effective and binding when filed with the Regional Hearing Clerk of the Agency, Region 2 (such date henceforth referred to as the "effective date").

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 comply with RCRA and all applicable New Jersey federally authorized hazardous waste regulations relating to the generation, storage, and management of hazardous waste at the Facility, including the New Jersey Administrative Code regulations that provide for and incorporate by reference the following federal rules:
 - a. Making a hazardous waste determination, in accordance with 40 C.F.R. § 262.11;
 - b. Managing a closed-vent system and control device at the required level of efficiency, in accordance with 40 C.F.R. § 265.1088(c)(1)(i);
 - c. Having an LDAR program, in accordance with 40 C.F.R. 265 Subparts BB and CC;
 - d. Maintaining the secondary containment system in order to prevent migration of waste or accumulated liquid, in accordance with 40 C.F.R. § 265.193(b)(1-2); and

- e. Meeting hazardous waste storage requirements, in accordance with 40 C.F.R. § 262.34(a), 262.34(a)(3), 265.195(b), and 270.70, and 42 U.S.C. § 6925.
2. Respondent hereby certifies that, as of the date of its signature to this Agreement and to the best of its knowledge and belief, it is in compliance at the Facility with applicable RCRA requirements, especially but not limited to the requirements referenced in EPA's Findings of Facts and Conclusions of Law of this CA/FO.
3. This CA/FO is not intended, and shall not be construed, to waive, extinguish or otherwise affect Respondent'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 and Seventy-Nine Thousand, Two Hundred and Sixty-One Dollars (\$179,261.00)**. Such payment shall be made by cashier's check, certified check or by electronic fund transfer (EFT).
 - a. If payment is made by check, then the check shall be:
 - i. Made payable to the **"Treasurer, United States of America;"**
 - ii. Identified with a notation thereon listing the following: **"In the Matter of COIM USA, Inc., Docket Number RCRA 02-2024-7104;"** and
 - iii. If using the United States Postal Service, mailed to:

U.S. Environmental Protection Agency
P.O. Box 979078
St. Louis, Missouri 63197-9000
 - iv. If using UPS or FedEx, sent to:

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, Missouri 63045
 - b. Alternatively, if Respondent chooses to make the payment by EFT, Respondent shall then provide the following information to its remitter bank:
 - i. Amount of Payment (**\$179,261.00**).
 - ii. SWIFT address: **FRNYUS33, 33 Liberty Street, New York, New York 10045**
 - iii. Account Code for Federal Reserve Bank of New York receiving payment: **68010727**
 - iv. Federal Reserve Bank of New York ABA routing number: **021030004**

- v. Field Tag 4200 of the Fedwire message should read: **D 68010727
Environmental Protection Agency**
- vi. Name of Respondents: **COIM USA, Inc.**
- vii. Case docket number: **RCRA-02-2024-7104**

5. Whether Respondent makes the payment by cashier's check, certified check or by the EFT method, Respondent shall, promptly when payment has been made, furnish reasonable proof that the required payment has been made, and such proof shall be furnished to the EPA individuals identified in Paragraph 10 below.
6. The total payment must be received at the above address (or account of EPA) on or before thirty (30) calendar days of the effective date of the Final Order. Failure to pay the amount in full within the time period set forth above may result in referral of this matter to the United States of Justice or the United States Department of the Treasury for collection or other appropriate action.
7. Furthermore, if payment is not made on or before the Due Date, 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 Due Date said payment was to have been made through the date said payment has been received. In addition, a late payment handling charge fifteen dollars (\$15.00) will be assessed for each thirty (30) calendar day period or any portion thereof, following the date the payment was to have been made, in which payment of the amount remains in arrears. In addition, a six percent (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 date by which the payment was required hereto to have been made.
8. The civil penalty provided for in this section (including any payment(s) for interest or late payment handling charge that have become due) constitutes a penalty within the meaning of 26 U.S.C. § 162(f) and does not constitute a deductible expenditure for purposes of federal or state law.
9. Complainant shall email to Respondent (to the representative designated in Paragraph 11 of this Consent Agreement, *infra*) a copy of the fully executed CA/FO. Respondent consents to service of the CA/FO by email and consents to service upon it by an employee of EPA other than the Regional Hearing Clerk.
10. Except as the parties may agree otherwise in writing, all documentation and information required to be submitted by the Respondent to EPA in accordance with the terms and conditions of this Consent Agreement shall be sent by email to:

William Chernes, Compliance Officer
Enforcement & Compliance Assurance Division
Chernes.William@epa.gov

and

Suzanne Englot, Assistant Regional Counsel
Office of Regional Counsel
Englot.Suzanne@epa.gov


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

Jose Abraham
EHS Director
COIM USA, Inc.
286 Mantua Grove Road Bldg. 1
West Deptford, New Jersey 08066
Jose.Abraham@coimgroup.com
12. Full payment of the penalty described in Paragraph 4 of the Consent Agreement, shall only resolve Respondent's liability for federal civil penalties for the violation(s) and facts described in EPA's Findings of Facts 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.
13. The provisions of this Consent Agreement shall be binding upon Respondent, and its successors or assigns.
14. Respondent 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 EPA's Findings of Facts and Conclusions of Law, above.
15. Nothing in this document is intended or construed to waive, prejudice, or otherwise affect the right of EPA, or the United States, from pursuing any appropriate remedy, sanction or penalty prescribed by law against Respondent, if Respondent has made any material misrepresentations or has provided materially false information in any document submitted during this proceeding.
16. Each party hereto agrees to bear its own costs and attorney's fees in this matter.
17. 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.

18. EPA and Respondent agree that the parties may use electronic signatures for this matter.

In the Matter of COIM USA, Inc., Docket No.: RCRA 02-2024-7104

RESPONDENT:

BY: 
BY: Michelangelo Cavallo (Dec 12, 2023 12:56 EST)
(Signature)

NAME: Michelangelo Cavallo
(Please Print)

TITLE: President

COMPLAINANT

Kate Anderson, Acting Director
Enforcement and Compliance Assurance Division
Environmental Protection Agency - Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866

In the Matter of COIM USA, Inc., Docket No.: RCRA 02-2024-7104

FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement, entered into by the Complainant and the Respondent, is hereby approved, incorporated herein, and issued as an Order pursuant to Section 3008 of the Act and 40 C.F.R. § 22.18(b)(3). The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.

Lisa F. Garcia
Regional Administrator
U.S. Environmental Protection Agency - Region 2
290 Broadway, 26th Floor
New York, New York 10007-1866

DATE: _____

In the Matter of COIM USA, Inc., Docket No.: RCRA 02-2024-7104

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 EMAIL:

Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 2
290 Broadway, 17th Floor
New York , New York 10007-1866
Maples.Karen@epa.gov

Copy by EMAIL:

Jose Abraham
EHS Director
COIM USA, Inc.
286 Mantua Grove Road Bldg. 1
West Deptford, New Jersey 08066
Jose.Abraham@coimgroup.com

Dated: _____, 2023 Signature: _____
New York, NY