

1986, the Commonwealth of Pennsylvania Hazardous Waste Regulations (“PaHWR”) were authorized by the U.S. Environmental Protection Agency (“EPA” or “Agency”) pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A. The PaHWR subsequently were revised, and thereafter re-authorized by EPA, on September 26, 2000, January 20, 2004, and April 29, 2009. Such authorized revised PaHWR requirements and provisions became effective on November 27, 2000, March 22, 2004, and June 29, 2009 respectively. The PaHWR incorporate, with certain exceptions, federal hazardous waste management regulations that were in effect as of May 1, 1999 (and as of July 6, 1999 for certain regulations regarding Universal Waste) for the November 27, 2000 PaHWR authorization, June 28, 2001 for the March 22, 2004 PaHWR authorization, and October 12, 2005 for the April 29, 2009 PaHWR authorization. The provisions of Pennsylvania’s current authorized revised PaHWR, codified at 25 Pa. Code Chapters 260a-266a, 266b, and 268a-270a, have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a).

4. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes EPA to initiate an enforcement action whenever it is determined that a person is in violation of any requirement of RCRA Subtitle C, EPA’s regulations thereunder, or any regulation of a state hazardous waste program which has been authorized by EPA. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil penalty against any person who violates any requirement of Subtitle C of RCRA.
5. This Consent Agreement and the accompanying Final Order address alleged violations by Respondent of Subtitle C of RCRA, 42 U.S.C. §§ 6921–6939g, and the authorized Pennsylvania Hazardous Waste Regulations, set forth at 25 Pa. Code §§ 260a-270a, *et seq.*, which incorporate by reference the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260–266, 268 and 270-273, in connection with Respondent’s facility. Respondent’s facility is located at 2206 Pennsylvania Avenue, York, PA, 17404 (the “Facility”). Factual allegations or legal conclusions in this Consent Agreement that are based on provisions of federally-authorized PaHWR requirements cite those respective provisions as the authority for such allegations or conclusions.
6. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated February 12, 2014, EPA notified the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (“PADEP”), of EPA’s intent to commence this administrative action against Respondent in response to the violations of RCRA Subtitle C that are alleged herein.

II. GENERAL PROVISIONS

7. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
8. Respondent neither admits nor denies the specific factual allegations or the conclusions of law contained in this CAFO, except as provided in Paragraph 7, above.

9. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of the CAFO.
10. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
11. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
12. Respondent shall bear its own costs and attorney's fees.

III. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW

13. In accordance with the *Consolidated Rules of Practice* at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant makes the following findings of fact and conclusions of law:
14. EPA has jurisdiction over this matter pursuant to RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g).
15. Respondent is a Pennsylvania corporation.
16. Respondent is, and was at the time of the violations alleged herein, a "person" as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15), 40 C.F.R. § 260.10 and 25 Pa. Code § 260a.10.
17. Respondent was, at all times relevant to the allegations set forth in this CAFO, the "owner" and "operator" of a "facility" located at 2206 Pennsylvania Avenue, York, PA 17404 (hereinafter, "the Facility"), as these terms are defined in 40 C.F.R. § 260.10, and incorporated by reference in 25 Pa. Code § 260a.1, and as defined in 25 Pa. Code § 260a.10.
18. Respondent's Facility uses electroplating processes to produce plated finished material for the military, telecommunications, microwave, electronics and commercial industries. On August 21, 2013, at the time of the EPA Compliance Evaluation Inspection of the Facility ("Inspection"), Respondent was operating approximately ten different plating lines at the Facility, including lines for plating zinc, cadmium and precious metals.
19. As described below, Respondent was, at all times relevant to this CAFO, a "generator" of "solid waste" and "hazardous waste" at the Facility, as these terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1.
20. At all times relevant to this CAFO, and as described below, Respondent was engaged in the "storage" of "solid waste" and "hazardous waste" in "container[s]" and "tanks" at the Facility, as the term "storage" is defined in 25 Pa. Code § 260a.10, and as the remaining

terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1.

21. At all times relevant to this CAFO, and as described below, Respondent has engaged in the “disposal” of “solid waste” and “hazardous waste” as the term “disposal” is defined in 25 Pa. Code Section 260a.10, and as the remaining terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1.
22. Respondent’s Facility was, at all times relevant to the allegations set forth in this CAFO, a hazardous waste storage and disposal “facility” as that term is defined in 40 C.F.R. § 260.10 and 25 Pa. Code § 260a.10.
23. A representative of EPA conducted a Compliance Evaluation Inspection (“the Inspection”) at the Facility on August 21, 2013, to examine the Facility’s compliance with the federally-authorized PaHWR requirements. EPA prepared a report summarizing its observations and findings from the Inspection of the Facility (the “EPA Inspection Report”).
24. On December 12, 2013, EPA issued a formal information request letter (“IRL”) to Respondent, pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a). Respondent provided information to EPA in response to the IRL on January 15, 2014.
25. On May 29, 2014, EPA sent a Request to Show Cause and Request for Information (“Show Cause letter”) to Respondent advising it of EPA’s preliminary findings of PaHWR violations at the Facility and offering the Respondent an opportunity to provide such additional information as it believed the Agency should review and consider before reaching any final conclusions as to the Respondent’s PaHWR compliance at the Facility. Respondent provided additional information to EPA in response to the Show Cause letter.
26. On the basis of the Inspection and a review of the information provided to EPA by Respondent in response to EPA’s IRL, Show Cause letter, and other correspondence, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and federally authorized PaHWR requirements promulgated thereunder.

COUNT I

(Operating a Hazardous Waste Storage Facility Without a Permit or Interim Status)

27. The allegations of Paragraphs 1 through 26, above, of this Consent Agreement are incorporated herein by reference.
28. At all times relevant to this Consent Agreement, Respondent was the generator of hazardous waste, having EPA Hazardous Waste Numbers that include, but which are not necessarily limited to, D003, D006, and F008, as specified in 40 C.F.R. §§ 261.23, 261.24, and 261.31 and incorporated by reference in 25 Pa. Code § 261a.1.
29. On August 21, 2013, at the time of the EPA Inspection, Respondent was storing the following containers and tanks of hazardous waste at the Facility:

- a. A 55-gallon drum of F008/D003/D006 hazardous waste, generated by a plating line, was stored behind the Facility's Memtek unit, and its lid was ajar;
 - b. An open 20-gallon container of cadmium-contaminated personal protective equipment ("PPE") and towels was stored in the Facility Plating Room;
 - c. An open plastic container of hazardous waste labeled "Material Exposed" was stored in the Facility Plating Room;
 - d. An open "Mixed Box" of F008/D006 hazardous waste was stored in the Facility Boiler Room.
 - e. Tanks 1, 3, 4 and 5, associated with the Memtek unit.
30. In addition, on August 21, 2013, Respondent was storing six 55-gallon drums of chromium-containing raw material in the Facility Plating Room, and stains of chromium-containing hazardous waste (D007) were clearly visible on the floor below the drums.
 31. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and Pa. Code 25 § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), provide, with certain exceptions not relevant to the violations alleged herein, that a person may not operate a hazardous waste treatment, storage or disposal facility ("TSDF") unless such person has first obtained a permit or interim status for the facility.
 32. Respondent has never had "interim status" pursuant to RCRA Section 3005(e) or 25 Pa. Code § 270a.1, or a permit issued pursuant to RCRA Section 3005(a) or 25 Pa. Code § 270a.1, for the treatment, storage, or disposal of hazardous waste at the Facility.
 33. Pursuant to 25 Pa. Code § 262a.10, which incorporates by reference the requirements of 40 C.F.R. § 262.34(a), (b) and (c), 40 C.F.R. § 265.16 and, *inter alia*, Subparts C, D, I, J, AA, BB, and CC of 40 C.F.R. Part 265, generators of hazardous waste who accumulate hazardous waste on-site for less than 90 days are exempt from the requirement to obtain a permit for such accumulation, as long as the hazardous waste is stored in accordance with a number of specified conditions.
 34. The following acts or omissions, further described in the Counts below, prevented Respondent from meeting the regulatory permit exemption requirements on August 21, 2013:
 - a. Respondent failed to keep containers of hazardous waste, identified in Paragraph 29.a. through d., above, closed during storage, except when necessary to add or remove hazardous waste, as required by 25 Pa. Code § 265a.1, which incorporates by reference 40 C.F.R. § 265.173(a), which is within 40 C.F.R. Part 265, Subpart I.
 - b. Respondent stored hazardous waste in a variety of containers in several areas that Respondent considered to be satellite accumulation areas. Respondent failed to

keep several of these containers, identified in Paragraph 29.a. through c., above, closed, except when necessary to add or remove hazardous waste, as required by 25 Pa. Code §§ 262a.1 and 265a.1, which incorporates by reference 40 C.F.R. § 262.34(c)(1)(i)&(ii) and 265.173(a).

- c. Respondent failed to operate and maintain the Facility to prevent unplanned sudden or non-sudden releases of hazardous waste, as required by 25 Pa. Code § 265a.1, which incorporates by reference 40 C.F.R. § 265.31, which is within 40 C.F.R. Part 265, Subpart C.
 - d. Respondent failed to maintain at the Facility, for Tanks 1, 3, 4 and 5, the required written assessments reviewed and certified by a registered Professional Engineer, in accordance with 40 C.F.R. § 270.11(d), attesting that each tank system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste, as required by 25 Pa. Code § 265a.1, which incorporates by reference 40 C.F.R. § 265.192(a), which is within 40 C.F.R. Part 265, Subpart J.
 - e. Respondent failed to maintain adequate secondary containment for Tanks 1, 3, 4 and 5 at the Facility, as required by 25 Pa. Code § 265a.1, which incorporates by reference 40 C.F.R. § 265.193(b), (c), and (e), which is within 40 C.F.R. Part 265, Subpart J.
 - f. Respondent failed to conduct required annual refresher hazardous waste management procedure training for Facility personnel, during the years 2009 through 2013, as required by 25 Pa. Code § 265a.1, which incorporates by reference 40 C.F.R. § 265.16(c).
 - g. Respondent failed to maintain required hazardous waste personnel documents and records for the years 2009 through 2013, as required by 25 Pa. Code § 265a.1, which incorporates by reference 40 C.F.R. § 265.16(d)(1)–(3).
35. For each of the reasons and during each of the times set forth above, Respondent failed to comply with the conditions for the temporary storage (*i.e.*, 90 days or less) of hazardous waste by a generator that are required pursuant to 40 C.F.R. § 262.34(a) and (c), as incorporated by reference in 25 Pa. Code § 262a.10, and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such section.
36. On August 21, 2013, 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 storing hazardous waste at the Facility without a permit, interim status or valid exemption to the permitting/interim status requirements.

COUNT II

(Failure to Make a Hazardous Waste Determination)

37. The allegations of Paragraphs 1 through 36, above, are incorporated herein by reference as though fully set forth at length.

38. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11, provides that a person who generates a solid waste must determine whether that waste is a hazardous waste.
39. On August 21, 2013, Respondent was storing an open container of dark liquid in the Facility Plating Room. This dark liquid was a “solid waste,” within the meaning of 40 C.F.R. § 260.10, as incorporated by reference by 25 Pa. Code § 260a.1.
40. On August 21, 2013, Respondent failed to make a hazardous waste determination for the open, unlabeled container of dark liquid in the Facility Plating Room.
41. On August 21, 2013, Respondent was pumping liquids into Tanks 4 and 5. These liquids were “solid wastes,” within the meaning of 40 C.F.R. § 260.10, as incorporated by reference by 25 Pa. Code § 260a.1.
42. On August 21, 2013, Respondent failed to make a hazardous waste determination for the liquids entering Tanks 4 and 5.
43. On August 21, 2013, Respondent violated 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11, by failing to make a hazardous waste determination for several solid wastes in storage at the Facility.

COUNT III

(Failure to Keep Containers of Hazardous Waste Closed During Storage)

44. The allegations of Paragraphs 1 through 43, above, are incorporated herein by reference as though fully set forth at length.
45. 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), provides, in relevant part, and with exceptions not herein applicable, that “[a] container holding hazardous waste must always be kept closed during storage, except when it is necessary to add or remove waste.”
46. On August 21, 2013, Respondent stored F008/D003/D006 hazardous waste, previously identified in Paragraph 29.a., above, in a 55-gallon metal drum labeled “Filters from Cyanide Plating Processes,” located behind the Memtek unit. This metal drum was not kept closed at times when it was not necessary to add or remove waste.
47. On August 21, 2013, Respondent stored cadmium-contaminated personal protective equipment (“PPE”) and towels, previously identified in Paragraph 29.b., above, in a 20-gallon metal container labeled “Bright Cadmium Cyanide” and “Spent Filter,” located in the Facility Plating Room. This metal container was not kept closed at a time when it was not necessary to add or remove waste.
48. On August 21, 2013, Respondent stored hazardous waste, previously identified in Paragraph 29.c., above, in a plastic container labeled “Material Exposed,” located in the Facility Plating Room. This plastic container was not kept closed at a time when it was not necessary to add or remove waste.

49. On August 21, 2013, Respondent stored F008/D006 hazardous waste, previously identified in Paragraph 29.d., above, in a "Mixed Box," located in the Facility Boiler Room. This Mixed Box was not kept closed at a time when it was not necessary to add or remove waste.
50. On August 21, 2013, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference the requirements of 40 C.F.R. § 264.173(a), by storing hazardous waste in containers that were not kept closed at times when it was not necessary to add or remove waste.

COUNT IV

(Failure to Maintain Integrity Certifications for Hazardous Waste Tanks)

51. The allegations of Paragraphs 1 through 50, above, are incorporated herein by reference as though fully set forth at length.
52. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.192(a), requires the owner or operator of a "new tank system" to demonstrate tank integrity of a new tank through a written assessment, reviewed and certified by a qualified Professional Engineer, in accordance with 40 C.F.R. § 270.11(d), attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste ("Tank Certification"). 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.192(g), requires the owner or operator of a new tank system to keep the Tank Certification on file at the facility.
53. 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10, defines "new tank system" as a tank system that will be used for the storage or treatment of hazardous waste and for which installation commenced after July 14, 1986.
54. At the Facility, each of Respondent's Tanks 1, 3, 4 and 5, located in the Warehouse and associated with the Memtek unit, is a "new tank system," within the meaning of 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
55. On August 21, 2013, Respondent failed to maintain at the Facility Tank Certifications for Tanks 1, 3, 4 and 5.
56. On August 21, 2013, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.192(a), by failing to have and maintain at the Facility written Tank Certifications attesting to the structural integrity of Tanks 1, 3, 4 and 5.

COUNT V

(Failure to Maintain Adequate Secondary Containment for Hazardous Waste Tanks)

57. The allegations of Paragraphs 1 through 56, above, are incorporated herein by reference as though fully set forth at length.
58. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.193(b), (c) and

(e), requires the owner and operator of a hazardous waste tank system to ensure that the external liner system is designed, installed and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water or surface water; secondary containment systems must be constructed of materials that are compatible with the wastes to be placed in the tank systems; and containment systems must be designed or operated to contain 100% of the capacity of the largest tank within the boundary of the liner system, be free of cracks or gaps, and designed or installed to completely surround the tank and cover all surrounding earth likely to come into contact with hazardous waste.

59. On August 21, 2013, Respondent was storing hazardous waste in Tanks 1, 3, 4 and 5 at the Facility. On that date, the cinderblock and concrete secondary containment wall around Tanks 1 through 5 had some thin cracks near Tanks 1 and 3, and the containment pad appeared to be bare concrete.
60. The cracks in the wall could interfere with the wall's ability to contain a leak of hazardous waste from Tanks 1, 3, 4 and 5. Furthermore, because the concrete floor of the containment area was porous, there was a potential for leaked wastes to migrate through the concrete to soil and groundwater.
61. On August 21, 2013, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.193(b), (c) and (e), by failing to maintain an adequate secondary containment system at the Facility around Tanks 1, 3, 4 and 5 that was free of cracks or gaps and designed and operated to contain 100% of the capacity of the largest tank within the boundary of the liner system.

COUNT VI

(Failure to Maintain RCRA Personnel and Training Documents)

62. The allegations of Paragraphs 1 through 61, above, are incorporated herein by reference as though fully set forth at length.
63. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d)(1)–(3), requires the owner and operator of a hazardous waste facility to maintain records which document (a) the job title for each position at the facility related to hazardous waste management and the name of the employee filling each job, (b) a written job description of each such position, (c) a written description of the type and amount of introductory and continuing training that will be given to each person filling such position, and (d) records that document the training and job experience given to and completed by facility personnel who perform hazardous waste management.
64. On August 21, 2013, Respondent was not maintaining at the Facility or otherwise a list of employees who require hazardous waste training, along with their job titles/descriptions, and a description of what type of RCRA training was necessary.
65. On August 21, 2013, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d)(1)–(3), by failing to maintain a list of Facility employees who require hazardous waste training, their job titles/descriptions, and a description of what type of RCRA training was necessary.

COUNT VII

(Failure to Conduct RCRA Annual Refresher Training)

66. The allegations of Paragraphs 1 through 65, above, are incorporated herein by reference as though fully set forth at length.
67. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c), requires the owner or operator of a hazardous waste facility to provide annual hazardous waste refresher training to each person employed in a position related to hazardous waste management. The program may consist of classroom instruction or on-the-job training.
68. In 2010, Respondent failed to conduct a required RCRA refresher training for eleven Facility employees then engaged in positions related to hazardous waste management.
69. In 2011, Respondent failed to conduct a required RCRA refresher training for eleven Facility employees then engaged in positions related to hazardous waste management.
70. In 2012, Respondent failed to conduct a required RCRA refresher training for eleven Facility employees then engaged in positions related to hazardous waste management.
71. In 2013, Respondent failed to conduct a required RCRA refresher training for nine Facility employees then engaged in positions related to hazardous waste management.
72. During the years 2010 through 2013, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c), by failing to provide annual RCRA refresher training for Facility employees, referenced above, then engaged in positions related to hazardous waste management.

COUNT VIII

(Failure to Maintain Land Disposal Restriction (“LDR”) Forms)

73. The allegations of Paragraphs 1 through 72, above, are incorporated herein by reference as though fully set forth at length.
74. 25 Pa. Code § 268a.1, which incorporates by reference 40 C.F.R. § 268.7(a)(1), requires that “a generator of hazardous waste must determine if the waste has to be treated before it can be land disposed.”
75. 25 Pa. Code § 268a.1, which incorporates by reference 40 C.F.R. § 268.7(a)(2), requires that if the waste “does not meet applicable treatment standards, or if the generator chooses not to make the determination of whether his waste must be treated, then with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste and place a copy in the facility file.” This notice is known as the “Land Disposal Restriction Form” or “LDR Form.”
76. 25 Pa. Code § 268a.1, which incorporates by reference 40 C.F.R. § 268.7(a)(8), requires

that hazardous waste generators must retain on-site at their facilities all notices, certifications and waste analysis data for at least three years from the date that the hazardous waste subject to this documentation was last sent to on-site or off-site treatment, storage or disposal.

77. In 2012, Respondent sent hazardous waste to Giant Resource Recovery in Sumter, South Carolina.
78. On August 21, 2013, Respondent was not maintaining LDR Forms at the Facility for any hazardous waste going to Giant Resource Recovery in Sumter, South Carolina.
79. In 2012 and 2013, Respondent sent hazardous waste to Envirite in York, Pennsylvania.
80. On August 21, 2013, Respondent was not maintaining LDR Forms at the Facility for shipments of the following hazardous wastes going to Envirite: "Hazardous Waste Liquid (Arsenic, Barium)" with waste codes D004, D006, D007, D010, and D011; and "Hazardous Waste Solid (Filter Cake)" with waste codes F006 & D006.
81. Respondent violated 25 Pa. Code § 268a.1, which incorporates by reference 40 C.F.R. § 268.7 (a)(1), (2) and (8), by failing to maintain LDR forms for the above listed wastes at the Facility for at least three years.

COUNT IX

(Failure to Maintain and Operate Facility to Minimize the Possibility of a Release)

82. The allegations of Paragraphs 1 through 81, above, are incorporated herein by reference as though fully set forth at length.
83. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.31, provides that facilities must be designed, constructed and maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.
84. Spilled raw materials that are not recovered become "solid waste." Where the spilled raw materials contain listed or characteristic hazardous wastes, the material not recovered becomes "hazardous waste."
85. On August 21, 2013, Respondent stored three 55-gallon drums of chromium-containing raw material, located in the Plating Room at the Facility and previously identified in Paragraph 30, above. Below these drums there was a large blue stain of chromium-containing hazardous waste (D007) that Facility personnel had spilled from the drums through an unplanned release.
86. On August 21, 2013, Respondent stored an additional three 55-gallon drums of chromium-containing raw material, located in the Facility Plating Room and previously identified in Paragraph 30, above. Below these drums there was another large blue stain of chromium-containing hazardous waste (D007) that Facility personnel had spilled from

the drums through an unplanned release.

87. The floor below the drums described in Paragraphs 85 and 86 was and is constructed of concrete, a porous material.
88. The unplanned release and continuous presence of D007 hazardous waste on a porous concrete floor creates the potential for the hazardous waste to migrate through the concrete to soil, groundwater or surface water which could threaten human health or the environment.
89. In November 2014, Respondent's contractor took soil samples below the Facility floor, beneath the stains identified in Paragraphs 85 and 86. Respondent's contractor analyzed these soil samples for total chromium concentration, and also analyzed the samples using the toxicity characteristic leaching procedure ("TCLP") to determine leaching potential. The results showed low concentrations of chromium in the soil beneath the floor. While the levels detected were above background levels, they were below the hazardous waste TCLP levels for chromium.
90. Therefore, on August 21, 2013, Respondent violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.31, by failing to design, construct, maintain and operate the Facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents.

IV. CIVIL PENALTIES

91. Respondent agrees to pay a civil penalty in the amount of **THIRTY NINE THOUSAND FIVE HUNDRED DOLLARS (\$39,500.00)**, in full and final settlement and satisfaction of all civil claims for penalties which Complainant may have concerning the violations and facts alleged and set forth in Section III ("EPA Findings of Fact and Conclusions of Law") of this Consent Agreement. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent.
92. The civil penalty settlement amount set forth in Paragraph 91, immediately above, was determined after consideration of the statutory 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. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 ("RCRA Penalty Policy"), which reflect 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). Complainant has also considered the 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 Rosemarie A. Kelley, entitled *Adjusted Penalty Policy Matrices Based*

on the 2008 Civil Monetary Penalty Inflation Adjustment Rule (“Kelley Memorandum”). The settlement in this proceeding is consistent with the provisions and objectives of Section 3008 of RCRA, and its implementing regulations.

93. The civil penalty of **THIRTY NINE THOUSAND FIVE HUNDRED DOLLARS (\$39,500.00)** set forth in Paragraph 91, above, may be paid in eight (8) installments with interest at the rate of one per cent (1%) per annum on the outstanding principal balance in accordance with the following schedule:
- a. 1st Payment: The first payment in the amount of **\$4,981.25** (consisting of a principal payment of \$ 4,981.25 and an interest payment of \$0.00) shall be paid within thirty (30) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
 - b. 2nd Payment: The second payment in the amount of **\$5,011.12** (consisting of a principal payment of \$4,895.91 and an interest payment of \$115.21) shall be paid within one hundred twenty (120) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
 - c. 3rd Payment: The third payment in the amount of **\$4,981.25** (consisting of a principal payment of \$4,905.55 and an interest payment of \$75.70) shall be paid within two hundred ten (210) days of the date on which this CAFO is mailed or hand-delivered to Respondent; and
 - d. 4th Payment: The fourth payment in the amount of **\$4,981.25** (consisting of a principal payment of \$4,918.08 and an interest payment of \$63.17) shall be paid within three hundred (300) days of the date on which this CAFO is mailed or hand-delivered to Respondent.
 - e. 5th Payment: The fifth payment in the amount of **\$4,981.25** (consisting of a principal payment of \$4,930.65 and an interest payment of \$50.60) shall be paid within three hundred ninety (390) days of the date on which this CAFO is mailed or hand-delivered to Respondent.
 - f. 6th Payment: The sixth payment in the amount of **\$4,981.25** (consisting of a principal payment of \$4,944.08 and an interest payment of \$37.17) shall be paid within four hundred eighty (480) days of the date on which this CAFO is mailed or hand-delivered to Respondent.
 - g. 7th Payment: The seventh payment in the amount of **\$4,981.25** (consisting of a principal payment of \$4,955.89 and an interest payment of \$25.36) shall be paid within five hundred seventy (570) days of the date on which this CAFO is mailed or hand-delivered to Respondent.
 - h. 8th Payment: The eighth payment in the amount of **\$4,981.25** (consisting of a principal payment of \$4,968.59 and an interest payment of \$12.66) shall be paid within six hundred sixty (660) days of the date on which this CAFO is mailed or hand-delivered to Respondent.

Pursuant to the above schedule, Respondent will remit total principal payments for the civil penalty in the amount of **THIRTY NINE THOUSAND FIVE HUNDRED DOLLARS (\$39,500.00)** and total interest payments in the amount of **THREE HUNDRED SEVENTY NINE DOLLARS AND EIGHTY-SEVEN CENTS (\$379.87)**.

94. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in Paragraph 93, above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall *immediately* pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described in Paragraphs 97 through 100 below, in the event of any such failure or default.
95. Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.
96. Payment of the civil penalty set forth in Paragraph 91, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 97 through 100, below, shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:
- a. All payments by Respondents shall reference Respondent's name and address, and the EPA Docket Number of this Consent Agreement, *i.e.*, RCRA-03-2015-0002;
 - 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 and mailed to:

U.S. Environmental Protection Agency
P.O. Box 979077
St. Louis, MO 63197-9000

Customer service contact: 513-487-2105

- d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

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

Contact: 314-418-1028

- 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"

- 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

US Treasury Contact Information
Joseph Schmid: 202-874-7026
Remittance Express (REX): 1-866-234-5681

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

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

- h. Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>

Or by contacting Craig Steffen at 513-487-2091

- i. At the time of payment, Respondent shall send a notice of such payment, including a copy of the check or electronic fund transfer, as applicable, to:

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

and

Natalie Katz
Sr. Assistant Regional Counsel (3RC30)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

97. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs 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.
98. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such 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).
99. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - 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.
100. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of a 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 a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
101. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

V. OPERATIONAL CHANGES

102. By its signature below, Respondent hereby certifies that it has made the following permanent changes to its operating procedures associated with all 55-gallon drums or containers of chromium-containing raw material used at the Facility:
 - a. Respondent clips the dispensing hoses attached to these containers in an upright position when not in use, in order to minimize spills from the containers and hoses.

- b. Respondent operates these containers with a drip pan below the containers, in order to minimize any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to soil or surface water.

VI. CERTIFICATIONS

103. Respondent certifies to Complainant by its signature hereto, to the best of Respondent's knowledge and belief, that Respondent is in compliance with all relevant provisions of the current, authorized revised PaHWR and of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, for which violations are alleged in this Consent Agreement.

VII. OTHER APPLICABLE LAWS

104. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

VIII. RESERVATION OF RIGHTS

105. This CAFO resolves only EPA's claims for civil penalties for the specific violations and facts which are alleged in this Consent Agreement. Nothing in this CAFO shall be construed as limiting the authority of EPA to undertake action against any person, including the 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.

IX. FULL AND FINAL SATISFACTION

106. This settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g), for the violations alleged in this Consent Agreement.

X. PARTIES BOUND

107. 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.

XI. EFFECTIVE DATE

108. The effective date of this CAFO is the date on which the Final Order is filed with the Regional Hearing Clerk after signature by the Regional Administrator or his designee, the Regional Judicial Officer.

XII. ENTIRE AGREEMENT

109. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

For Respondent: AMZ Manufacturing Corporation

Date: 2/18/2015

By: 
Jeffrey Adams
CEO

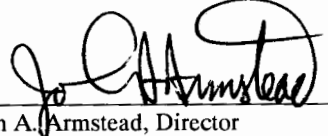
For the Complainant: U.S. Environmental Protection Agency, Region III

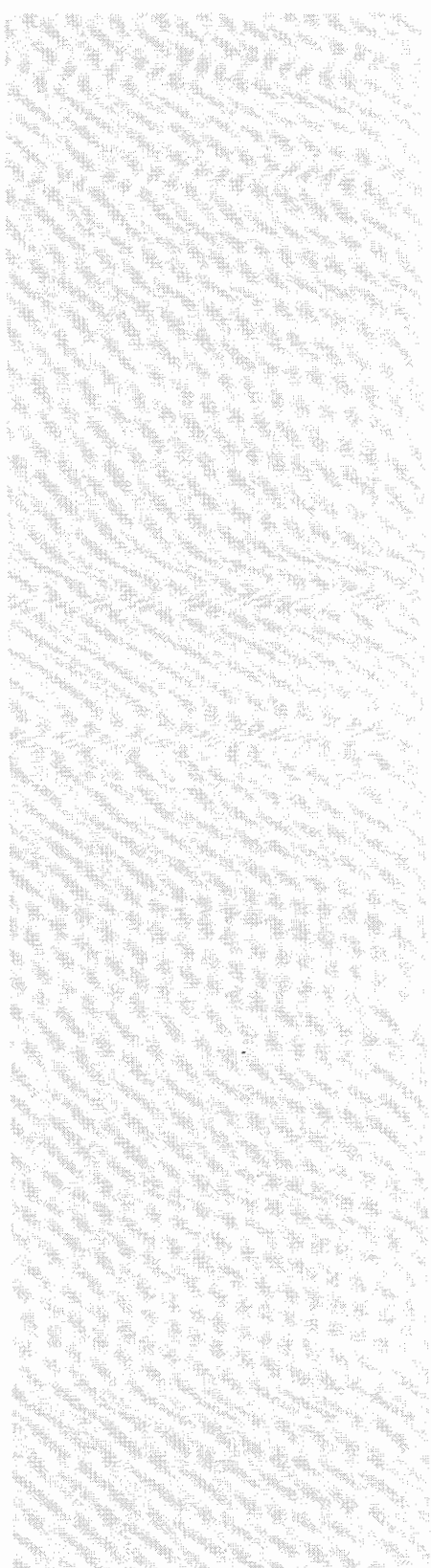
Date: 3/10/15

By: 
Natalie L. Katz
Sr. Assistant Regional Counsel

After reviewing the EPA Findings of Fact and Conclusions of Law and other pertinent matters, the Land and Chemicals Division of the United States Environmental Protection Agency, Region III, recommends that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 3.10.15

By: 
John A. Armstead, Director
Land and Chemicals Division



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

In the Matter of :
:
AMZ Manufacturing Corporation : Docket No. RCRA-03-2015-0002
2206 Pennsylvania Avenue :
York, PA 17404 :
:
Respondent : Proceeding under Section 3008(a) and
:(g) of the Resource Conservation and
Recovery Act, as amended, 42 U.S.C.
2206 Pennsylvania Avenue : § 6928(a) and (g)
York, PA 17404 :
:
Facility :

CERTIFICATE OF SERVICE

I hereby certify that I filed and served copies of the attached Consent Agreement and Final Order, as follows:

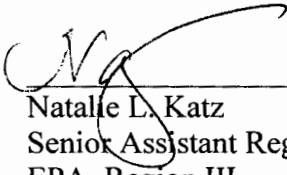
Original and One Copy filed: (via hand delivery) Lydia Guy (3RC00)
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103

Copies to: (via Overnight Mail) Richard Friedman, Esq.
McNees Wallace & Nurick LLC
100 Pine Street, P.S Box 1166
Harrisburg, PA 17108

Jeffrey Adams
AMZ Manufacturing Corporation
2206 Pennsylvania Avenue
York, PA 17404

Date:

3/16/15


Natalie L. Katz
Senior Assistant Regional Counsel
EPA, Region III

REGIONAL HEARINGS CLERK
EPA REGION III PHILA. PA
2015 MAR 16 PM 2:50

RECEIVED