

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 established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. Effective January 30, 1986, the Commonwealth of Pennsylvania Hazardous Waste Regulations ("PaHWR") were authorized by the U.S. Environmental Protection Agency ("EPA") 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 two separate occasions (September 26, 2000 and January 20, 2004). Such authorized revised PaHWR requirements and provisions became effective on November 27, 2000 and March 22, 2004, respectively. The provisions of Pennsylvania's current authorized revised PaHWR, codified at 25 Pa. Code Chapters 260a-266a, 266b, and 268a-270a (July 1999 edition), 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. The factual allegations and legal conclusions in this CA are based on provisions of the PaHWR in effect at the time of the violations alleged herein. The PaHWR incorporates by reference certain federal hazardous waste management regulations that were in effect as of May 1, 1999 for the November 27, 2000 PaHWR authorization, and in effect as of June 28, 2001 for the March 22, 2004 PaHWR authorization. The 2004 authorized PaHWR do not make any changes to the November 27, 2000 PaHWR that are relevant to the violations alleged herein. For convenience, all CA citations to the federal hazardous waste management regulations set forth at 40 C.F.R. Parts 260 - 273 are to the July 1, 2007 edition of the Code of Federal Regulations.
5. 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. Respondent is hereby notified of EPA's determination that Respondent has violated RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, and federally-authorized PaHWR requirements, at its facility located at 3500 Walnut Street, McKeesport, Pennsylvania 15132.
6. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated October 10, 2008, 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. 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, immediately 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.
13. The provisions of this CAFO shall be binding upon Complainant and Respondent, its officers, directors, employees, successors and assigns.
14. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit; nor does this CAFO constitute a waiver, suspension or modification of the requirements of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, or any regulations promulgated and/or authorized thereunder.

III. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW

15. 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:
16. Respondent is a Delaware limited liability corporation headquartered in New York and wholly-owned by Sequa Corporation.
17. Respondent is the owner of Precoat Metals, a division of Sequa Coatings, LLC, which operates a metal coil coating facility located at 3500 Walnut Street, McKeesport, Pennsylvania 15132, EPA Facility I.D. # PAD006266324 (hereinafter, the "Facility").

18. At its Facility, the Respondent engages in the application of decorative and protective coatings to continuous coiled steel for use in commercial and residential construction projects.
19. Respondent is 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 Section 260a.10.
20. The Facility identified in Paragraphs 17 and 18, above, is a hazardous waste storage "facility" as that term is defined in 40 C.F.R. § 260.10 and 25 PA Code Section 260a.10.
21. At all times relevant to this CAFO, Respondent was and is the "owner" and "operator" of the Facility, as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1.
22. As described below, Respondent is and, at all times relevant to this CAFO has been, 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.
23. At all times relevant to this CAFO, and as described below, Respondent has engaged in the "storage" of "solid waste" and "hazardous waste" in "container[s]", "tank[s]" and "tank system[s]" at the Facility, as the term "storage" 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.
24. Respondent has submitted to EPA a Notification of Hazardous Waste Activity ("Notification"), pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, for its operations at the Facility, which include operation as a large quantity generator of hazardous waste.
25. On May 6, 2008, a duly authorized representative of EPA conducted a compliance evaluation inspection (the "Inspection") of the Facility to assess compliance with federally authorized PaHWR requirements.
26. On July 23, 2008, pursuant to the authority of RCRA § 3007(a), 42 U.S.C. § 6927(a), EPA sent an information request letter ("IRL") to Facility representatives seeking additional information regarding Respondent's hazardous waste generation and management practices at the Facility and requesting the production of specified documents and information.
27. A Facility representative replied to EPA's IRL by correspondence dated August 29, 2008.

28. On December 10, 2008 EPA sent a Notice of Noncompliance and Request to Show Cause letter (“NON”) to the Facility advising Respondent 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.
29. In response to the NON, Respondent provided EPA with supplemental information by correspondence dated January 26, 2009 which EPA reviewed and addressed via correspondence dated February 10, 2009. Respondent thereafter provided EPA with additional and relevant information via correspondence dated February 27, 2009.
30. On the basis of the Facility Inspection and a review of the supplemental information provided to EPA in response to the NON, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, and federally authorized PaHWR requirements promulgated thereunder.

Applicable Definitions

31. Pursuant to 40 C.F.R. § 260.10., as incorporated by reference in 25 Pa. Code § 260a.1.:
 - a. the term *container* “means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.”
 - b. the term *generator* “means any person, by site, whose act or process produces hazardous waste identified or listed in [40 C.F.R. Part 261] or whose act first causes a hazardous waste to become subject to regulation.”
 - c. the term *hazardous waste* means a hazardous waste as defined in [40 C.F.R.] § 261.3. . . .”
 - d. a *hazardous waste management unit* “is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area[.]” and “[e]xamples of hazardous waste management units include . . . a tank and its associated piping and underlying containment system and a container storage area . . . [which] includes containers and the land or pad upon which they are placed.”
 - e. the term *operator* “means the person responsible for the overall operation of a facility.”
 - f. the term *owner* “means the person who owns a facility or part of a facility.”

- g. the term *tank* “means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.”
- h. the term *tank system* “means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.”
- i. the term *universal waste* includes “any of the following hazardous wastes that are managed under the universal waste requirements of [40 C.F.R.] part 273 . . . : (1) Batteries as described in [40 C.F.R.] § 273.2 . . . ; * * * (4) Lamps as described in [40 C.F.R.] § 273.5”
- j. the term *universal waste handler* includes “(1). . . (i) A generator (as defined in [40 C.F.R. § 260.10]) of universal waste”

32. Pursuant to 25 Pa. Code § 260a.10.:

- a. the term *facility* is defined to mean “[t]he land, structures and other appurtenances or improvements where municipal or residual waste disposal or processing is permitted or takes place, or where hazardous waste is treated, stored or disposed.”
- b. the term *management or hazardous waste management* is defined to mean “[t]he entire process, or part thereof, of storage, collection, transportation, processing, treatment and disposal of solid wastes by a person engaging in the process. The term “hazardous waste management” refers to management of hazardous waste.”
- c. the Federal definition for “*new tank system or new tank component*” in 40 C.F.R. § 260.10 — which is “a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986; except, however, for purposes of § 264.193(g)(2) and § 265.193(g)(2), a new tank system is one for which construction commences after July 14, 1986. . . .” — “is incorporated by reference, except that the date referenced is **January 16, 1993**, instead of July 14, 1986.” [Emphasis supplied].
- d. the term *storage* means “[t]he containment of a waste on a temporary basis that does not constitute disposal of the waste. It will be presumed that the containment of waste in excess of 1 year constitutes disposal. The presumption can be overcome by clear and convincing evidence to the contrary.”

Permit Requirements

33. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 40 C.F.R. § 270.1(b), as incorporated by reference into 25 Pa. Code § 270a.1., no person may own or operate a facility for the treatment, storage or disposal of hazardous waste without first obtaining a permit or interim status for such facility.
34. At all times relevant hereto, Respondent did not have a permit, pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), or 40 C.F.R. Part 270, as incorporated by reference into 25 Pa. Code § 270a.1., for the storage of hazardous waste at the Facility, and did not have interim status pursuant to Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), or 40 C.F.R. § 270.70., as incorporated by reference into 25 Pa. Code § 270a.1.

Permit Exemption Conditions - Accumulation Time/Requirements

35. Pursuant to 40 C.F.R. § 262.34(a), as incorporated by reference in 25 Pa. Code § 262a.10., generators of hazardous waste who accumulate hazardous waste in containers, tanks, drip pads, or containment buildings on-site for less than 90 days are exempt from the requirement to obtain a permit for such accumulation, so long as the hazardous waste is stored in accordance with a number of conditions set forth in that section, including, *inter alia*:
- a. the condition set forth at 40 C.F.R. § 262.34(a)(1)(i), which requires, in pertinent part and with exceptions not herein applicable, that when hazardous waste is placed in containers, the generator must comply with the applicable requirements of 40 C.F.R. Part 265, Subparts I, AA, BB and CC;
 - b. the condition set forth at 40 C.F.R. § 262.34(a)(1)(ii), which requires, in pertinent part and with exceptions not herein applicable, that when hazardous waste is placed in tanks, the generator must comply with the applicable requirements of 40 C.F.R. Part 265, Subparts J, AA, BB and CC;
 - c. the condition set forth at 40 C.F.R. § 262.34(a)(2), which requires, in pertinent part and with exceptions not herein applicable, that the date upon which each period of accumulation begins must be clearly marked and visible for inspection on each container;
 - d. the condition set forth at 40 C.F.R. § 262.34(a)(3), which requires, in pertinent part and with exceptions not herein applicable, that while being accumulated on-site, each container and tank must be labeled or marked clearly with the words "Hazardous Waste"; and

- e. the conditions set forth at 40 C.F.R. § 262.34(c)(1), which provides, in pertinent part and with exceptions not herein applicable, that a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with the requirements of 40 C.F.R. § 262.34(a), provided he: (i) complies with §§ 265.171, 265.172, and 265.173(a) of 40 C.F.R. Part 265, Subpart I; and (ii) marks his containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.

Regulatory Permit Exemption Conditions - Management of Containers

- 36. 25 Pa. Code § 265a.1. incorporates by reference requirements and provisions of 40 C.F.R. Part 265, Subpart I, including the provisions of 40 C.F.R. § 265.173(a), which require that “[a] container holding hazardous waste must always be kept closed during storage, except when it is necessary to add or remove waste.”

Regulatory Permit Exemption Conditions - Air Emission Standards for Equipment Leaks

- 37. 25 Pa. Code § 265a.1. incorporates by reference requirements and provisions of 40 C.F.R. Part 265, Subpart BB (entitled “Air Emission Standards for Equipment Leaks”), including each of the following provisions and requirements pertaining to the “Applicability”, “Definitions”, “Standards: Pumps in light liquid service”, “Standards: Valves in gas/vapor service or in light liquid service”, “Alternative standards for valves in gas/vapor service or in light liquid service: percentage of valves allowed to leak”, “Alternative standards for valves in gas/vapor service or in light liquid service: skip period leak detection and repair”, “Test methods and procedures” and “Recordkeeping requirements”:
 - a. Pursuant to 40 C.F.R. § 265.1050(a) and with exceptions and exclusions not herein applicable, the regulations in 40 C.F.R. Part 265, Subpart BB, “apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes.”
 - b. Pursuant to 40 C.F.R. § 265.1050(b), in relevant part and with exceptions and exclusions not herein applicable, 40 C.F.R. Part 265, Subpart BB “applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following: (1) A unit that is subject to the permitting requirements of 40 CFR part 270, or * * * (3) A unit that is exempt from permitting under the provisions of 40 CFR 262.34(a) (i.e., a “90-day” tank or container) and is not a recycling unit under the provisions of 40 CFR 261.6.”

- c. Pursuant to 40 C.F.R. § 265.1050(c), “[e]ach piece of equipment to which [40 C.F.R. Part 265, Subpart BB] applies shall be marked in such a manner that it can be distinguished readily from other pieces of equipment.”
- d. In relevant part, 40 C.F.R. § 265.1051 provides that, “[a]s used in [40 C.F.R. Part 265, Subpart BB], all terms shall have the meaning given them in [40 C.F.R.] § 264.1031 . . . , which section therein defines the term:
 - i. *equipment* to mean and include “each valve, pump . . . open ended valve or line, or flange or other connector . . .”; and
 - ii. *in light liquid service* to mean “that the piece of equipment contains or contacts a waste stream where the vapor pressure of one or more of the organic components in the stream is greater than 0.3 kilopascals (kPa) at 20°C, the total concentration of the pure organic components having a vapor pressure greater than 0.3 kilopascals (kPa) at 20°C is equal to or greater than 20 percent by weight, and the fluid is a liquid at operating conditions”.
- e. Pursuant to 40 C.F.R. § 265.1052(a)(1) and with exceptions and exclusions (including those of 40 C.F.R. § 265.1050(d), (e) and (f) pertaining to *equipment* in vacuum service, *equipment* that contains or contacts hazardous waste with an organic concentration of 10 percent by weight for less than 300 hours per calendar year and pharmaceutical manufacturing facilities) not herein applicable, “[e]ach pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in [40 C.F.R.] § 265.1063(b). . . .”
- f. Pursuant to 40 C.F.R. § 265.1052(a)(2), “[e]ach pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal.”
- g. Pursuant to 40 C.F.R. § 265.1057(a), in relevant part and with exceptions not herein applicable, “[e]ach valve in . . . light liquid service shall be monitored monthly to detect leaks by the methods specified in [40 C.F.R.] § 265.1063(b). . . .”
- h. Pursuant to 40 C.F.R. § 265.1061(a), “an owner or operator subject to the requirements of 40 C.F.R. § 265.1057 may elect to have all valves within a hazardous waste management unit comply with an alternative standard that allows no greater than 2 percent of valves to leak”, as described further in 40 C.F.R. § 265.1061(b) and (c).

- i. 40 C.F.R. § 265.1062(a) provides that an owner or operator subject to the requirements of 40 C.F.R. § 265.1057 may elect for all valves within a hazardous waste management unit to comply with one of the alternative work practices specified in 40 C.F.R. § 265.1062(b)(2) and (3).
- j. 40 C.F.R. § 265.1063(a) provides that each owner or operator subject to the provisions of 40 C.F.R. Part 265, Subpart BB, “shall comply with the test methods and procedures requirements provided in [40 C.F.R. § 265.1063].”
- k. 40 C.F.R. § 265.1064(b)(1) requires that owners and operators must record information in the facility operating record for each piece of equipment to which subpart BB of part 265 applies, including but not limited to, “(i) Equipment identification number and hazardous waste management unit identification[;] (ii) Approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan)[;] (iii) Type of equipment (e.g., a pump or pipeline valve)[;] (iv) Percent-by-weight total organics in the hazardous waste stream at the equipment[;] (v) Hazardous waste state at the equipment (e.g., gas/vapor or liquid)[; and] (vi) Method of compliance with the standard (e.g., “monthly leak detection and repair” or “equipped with dual mechanical seals”).
- l. 40 C.F.R. § 265.1064(g) further requires, in relevant part, that: “[t]he following information pertaining to all equipment subject to the requirements in §§ 265.1052 through 265.1060 shall be recorded in a log that is kept in the facility operating record: (1) A list of identification numbers for equipment . . . subject to the requirements of this subpart[;] (2)(i) A list of identification numbers for equipment that the owner or operator elects to designate for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background . . . (3) A list of equipment identification numbers for pressure relief devices required to comply with § 265.1054(a)[;] (4)(i) The dates of each compliance test required in §§ 265.1052(e), 265.1053(i), 265.1054, and 265.1057(f)[;] (ii) The background level measured during each compliance test[;] (iii) The maximum instrument reading measured at the equipment during each compliance test[;] (5) A list of identification numbers for equipment in vacuum service[and ;] (6) Identification, either by list or location (area or group) of equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year.”

COUNT I
(Operating Without a Permit)

38. The allegations of Paragraphs 1 through 37 of this Consent Agreement are incorporated herein by reference.
39. At all times relevant to this CA, Respondent has been the *owner* and *operator* of a *facility* (i.e., the Facility), where the Respondent engaged in *hazardous waste management* activities, 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.
40. At all times relevant to this CA, Respondent was the *generator* of *hazardous waste*, as these terms are defined in 40 C.F.R. § 260.10 and incorporated by reference in 25 Pa. Code § 260a.1., having EPA Hazardous Waste Numbers that include, but which are not necessarily limited to, D001, D007, D035, F003 and F005, as specified in 40 C.F.R. §§ 261.21, 261.24 and 261.31 and incorporated by reference in 25 Pa. Code § 261a.1., including D001/D035/F003/F005 *hazardous waste* with an organic concentration of at least 10 percent by weight.
41. At all times relevant to this CA, Respondent engaged in the *storage*, as that term is defined in 25 Pa. Code § 260a.10, of *hazardous waste* in *container[s]* and in *tanks*, as those terms are defined in 40 C.F.R. § 260.10 and incorporated by reference in 25 Pa. Code § 260a.1, at the Facility including, but not limited to:
- a. the May 6, 2008 *storage* of D001, D007, D035, F003 and F005 *hazardous wastes* in *containers*; and
 - b. the *storage* of D001/D035/F003/F005 *hazardous waste* with an organic concentration of at least 10 percent by weight in a 6,000 gallon spent solvent tank (“Tank 1”) located in the Solvent Still area of the Facility from on or about February 26, 2005 through on or about September 10, 2008.
42. On May 6, 2008, Respondent was storing *hazardous waste* in the *containers* and in the *tank* identified below, which were not labeled or otherwise marked with the words “Hazardous Waste”, as required pursuant to 25 PA Code Section 262a.10., which incorporates by reference the requirements of 40 C.F.R. § 262.34(a)(3):
- a. two 55-gallon drum *containers* of D007 chromium-containing *hazardous waste* in storage at the Facility’s 90-day Hazardous Waste Storage Area of Solid and Liquid Chrome Containing Wastes; and

- b. the 6,000 gallon Tank 1 spent solvent *tank* located in the Solvent Still area of the Facility, in which D001/D035/F003/F005 hazardous waste was being stored.
43. On May 6, 2008, the two containers of D007 chromium-containing *hazardous waste* previously identified in paragraph 42.a., above, were not marked with the date upon which each period of accumulation began, as required pursuant to the requirements of 25 PA Code Section 262a.10, which incorporate by reference the requirements of 40 C.F.R. § 262.34(a)(2).
44. On May 6, 2008, Respondent was storing greater than 55 gallons of *hazardous waste* in a satellite accumulation area ("SAA") of the Facility and was storing *hazardous waste* in SAA containers that were not marked with the words "Hazardous Waste" or with other words that identified the contents of each *container*, as well as in containers that were not being kept closed at times when it was not necessary to add or remove waste, pursuant to the requirements of 25 PA Code Section 262a.10, which incorporate by reference the requirements of 40 C.F.R. § 262.34(c)(1)(ii), and, by further reference, the requirements of 40 C.F.R. § 265.173(a), as further specified below:
- a. one full and one three-quarters full 55 gallon drum *container* of D007 chromium-containing *hazardous waste* generated from coater pan/roll assemblies cleanup operations at the Facility's 60" coating line chemical coater were in storage, in a quantity exceeding 55 gallons, at the Facility's Chrome Waste SAA and the latter *container* was open when it was not necessary to add or remove waste.
- b. one 55-gallon drum *container* of D001/ D035/F003/F005 *hazardous waste* solvent from line clean up operations at the Solvent Still Reclaim SAA of the Facility was not marked with the words "Hazardous Waste" or with other words that identified the contents of this *container*;
- c. one 55-gallon drum *container* of D001/D035/F003/F005 *hazardous waste* solvent generated from the 60" coil coating line cleanup operations finish coater and in storage at the Waste Solvent SAA in the Facility's 60" Mixing Room was not marked with the words "Hazardous Waste" or with other words that identified the contents of the *container* and was open when it was not necessary to add or remove waste;
- d. one 55-gallon drum *container* of D001/D007/D035/ F003/F005 coater trash *hazardous waste* generated from cleanup operations at the Facility's 60" coil coating line finish coater and in storage at the Paint Contaminated Solid Waste SAA in the Facility's 60" mixing room was open when it was not necessary to add or remove waste;

- e. one 55-gallon drum *container* of D001/D035/F003/F005 *hazardous waste* solvent generated from 48" coating line coater cleanup operations and in storage at the Paint Solid Waste and Filter SAA in the Facility's 48" Mixing Room was not marked with the words "Hazardous Waste" or with other words that identified the contents of the container and was open when it was not necessary to add or remove waste;
 - f. two out of three 55-gallon drum *containers* of D001/D007/D035/ F003/F005 *hazardous waste* filters generated from the 48" coating line coater filter housing, D001/D035/ F003/F005 *hazardous waste* solvent generated from the 48" coating line coater filter housing and D001/D007/D035/F003/F005 *hazardous waste* coater trash generated from the 48" coating line coater cleanup operations in storage at the Facility's Waste satellite accumulation drum SAA in the Facility's 48" mixing room were open when it was not necessary to add or remove waste;
45. Tank 1, along with its associated ancillary *equipment* and containment system, is a *tank system*, as this term is defined in 40 C.F.R. § 260.10 and incorporated by reference in 25 Pa. Code § 260a.10.
46. The Tank 1 *tank system* contains *equipment* that includes a pump and valves and/or other connectors that are *in light liquid service*, as these terms are defined in 40 C.F.R. § 264.1031 and incorporated by reference in 40 C.F.R. § 265.1051 and in 25 Pa. Code §§ 264a.1. and 265a.1.
47. The Tank 1 *tank system* and its associated ancillary *equipment*, were not in vacuum service and routinely contained and contacted D001/D035/F003/F005 *hazardous waste* with organic concentrations that equaled or exceeded 10 percent by weight for periods in excess of 300 hours per calendar year during all times relevant to the allegations set forth herein.
48. The Solvent Still area of the Facility, where the Tank 1 *tank system*, ancillary *equipment* and containment system, is located, is a *hazardous waste management unit* as that term is defined in 40 C.F.R. § 260.10 and incorporated by reference in 25 Pa. Code § 260a.1.
49. From on or about February 26, 2005 through on or about September 10, 2008, Respondent routinely engaged in the *storage* of D001/D035/F003/F005 *hazardous waste* with an organic concentration of at least 10 percent by weight in Tank 1 and in its associated *tank system*.

50. From on or about February 26, 2005 through on or about September 10, 2008, and with respect to the ancillary *equipment* associated with the Tank 1 *tank system* or *new tank component[s]*, Respondent failed to perform the following activities, required pursuant to 25 PA Code Section 262a.10., which incorporates by reference the requirements of 40 C.F.R. § 262.34(a)(1)(ii) and, by further reference, the requirements of 40 C.F.R. Part 265, Subpart BB, including, but not limited to, 40 C.F.R. §§ 265.1050(c), 265.1052(a)(1) and (2) and 265.1057(a):
- a. Failure to mark each piece of *equipment* to which the requirements of 40 C.F.R. Part 265, Subpart BB applies, in such a manner that it could be distinguished readily from other pieces of equipment, as required pursuant to 40 C.F.R. § 265.1050(c);
 - b. Failure to:
 - (i) monitor monthly each pump in light liquid service to detect leaks by the methods specified in 40 C.F.R. § 265.1063(b), as required by 40 C.F.R. § 265.1052(a)(1); and
 - (ii) check by visual inspection each calendar week, each pump in light liquid service for indications of liquids dripping from the pump seal, as required pursuant to 40 C.F.R. § 265.1052(a)(2);
 - c. Failure to monitor monthly each valve in light liquid service to detect leaks by:
 - (i) the methods specified in 40 C.F.R. § 265.1063(b), as required pursuant to 40 C.F.R. § 265.1057(a); or
 - (ii) one of the alternative standards described in 40 C.F.R. § 265.1061(b) and (c), as required pursuant to 40 C.F.R. § 265.1061(a); or
 - (iii) one of the alternative work practices specified in 40 C.F.R. § 265.1062(b)(2) and (3), as required pursuant to 40 C.F.R. § 265.1062(a).
 - d. Failure to determine for each piece of *equipment*, in accordance with the waste analysis plan required pursuant to 40 C.F.R. §§ 265.1063(d) and 265.13(b), whether the equipment contains or contacts a hazardous waste with organic concentration that equals or exceeds 10 percent by weight by one of the methods specified in 40 C.F.R. § 265.1063(d)(1) through (3); and

- e. Failure to comply with the recordkeeping requirements of 40 C.F.R. § 265.1064(b) and (g), pursuant to the requirements of 40 C.F.R. § 265.1064(a)(1).
51. For each of the reasons and during each of the times set forth in Paragraphs 42 through 50, above, Respondent failed to comply with the conditions, identified in Paragraph 35, above, for temporary (*i.e.*, 90 days or less) or satellite accumulation 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 Section 262a.10., and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such section.
52. 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 valid exemption to the permitting/interim status requirements.

COUNT II

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

53. The allegations of Paragraphs 1 through 52, above, are incorporated herein by reference as though fully set forth at length.
54. 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.”
55. On May 6, 2008, the *containers of hazardous waste* previously identified in Paragraph 44, subparagraphs a., c., d., e. and f., above, were being stored at the Facility and were not kept closed at times when it was not necessary to add or remove waste.
56. Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference the requirements of 40 C.F.R. § 264.173(a), by holding *hazardous waste* in containers that were not kept closed during storage, when it was not necessary to add or remove waste.

COUNT III

(Failure to Comply with Air Emission Standards Equipment Marking Requirements)

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 Section 264a.1. incorporates by reference the “Applicability” requirements of 40 C.F.R. § 264.1050, which include the following provisions:
- a. 40 C.F.R. § 264.1050(a) provides, with exceptions and exclusions not herein applicable, that the regulations in 40 C.F.R. Part 264, Subpart BB, “apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes”;
 - b. 40 C.F.R. § 264.1050(b) provides, in relevant part and with exceptions and exclusions not herein applicable, that 40 C.F.R. Part 264, Subpart BB, “applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following: (1) A unit that is subject to the permitting requirements of 40 CFR part 270, or . . . (3) A unit that is exempt from permitting under the provisions of 40 CFR 262.34(a) (i.e., a “90-day” tank or container) and is not a recycling unit under the provisions of 40 CFR 261.6.”; and
 - c. 40 C.F.R. § 264.1050(d) provides that “[e]ach piece of equipment to which this subpart applies shall be marked in such a manner that it can be distinguished readily from other pieces of equipment.”
59. 25 PA Code Section 264a.1. incorporates by reference the “Definitions” of 40 C.F.R. § 264.1051, which provide, in relevant part, that: “[a]s used in this [40 C.F.R. Part 264] subpart [BB], all terms shall have the meaning given them in [40 C.F.R.] § 264.1031 . . .”, which section defines the term “*equipment*” to mean and include “each valve, pump, . . . or flange or other connector . . .”
60. At all times herein relevant, including the time period from on or about February 26, 2005 through on or about September 10, 2008, the Tank 1 and the Tank 1 *tank system* were subject to the permitting requirements of 40 C.F.R. Part 270 because of the Respondent’s failure to comply with the conditions that are identified in Paragraph 35, above, for temporary (*i.e.*, 90 days or less) accumulation of hazardous waste by a generator that are required pursuant to 40 C.F.R. § 262.34(a), as incorporated by reference into 25 Pa. Code § 262a.10.
61. At all times relevant to this CA, the Tank 1 *tank system* included a pump, valves and/or other connectors *in light liquid service*, which *equipment* was not in vacuum service and routinely contained or contacted hazardous waste with organic concentrations that equaled or exceeded 10 percent by weight for periods in excess of 300 hours per calendar year.

62. From on or about February 26, 2005 through on or about September 10, 2008, the *equipment* (i.e., the pump, valves and/or other connectors) associated with the Tank 1 *tank system* was not marked in such a manner that it could be distinguished readily from other pieces of equipment.
63. Respondent violated 25 Pa. Code § 264a.1., which incorporates by reference the requirements of 40 C.F.R. § 264.1050(d), by failing to mark *equipment* (i.e., the pump, valves and/or other connectors associated with the Tank 1 *tank system*) that was subject to the air emission standards for equipment leaks of 40 C.F.R. Part 264, Subpart BB, in a manner by which they could be distinguished readily from other pieces of equipment.

COUNT IV

(Failure to Comply with Monitoring Requirements for Pumps in Light Liquid Service)

64. The allegations of Paragraphs 1 through 63, above, are incorporated herein by reference as though fully set forth at length.
65. 25 Pa. Code § 264a.1. incorporates by reference the “Standards: Pumps in light liquid service” of 40 C.F.R. Part 264, Subpart BB, which requirements are set forth at 40 C.F.R. § 264.1052 and provide, in pertinent part, as follows:
- a. 40 C.F.R. § 264.1052(a)(1) provides, with exceptions and exclusions (including those of 40 C.F.R. § 264.1050(e), (f) and (g) pertaining to *equipment* in vacuum service, *equipment* that contains or contacts hazardous waste with an organic concentration of 10 percent by weight for less than 300 hours per calendar year and pharmaceutical manufacturing facilities) not herein applicable, that “[e]ach pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in [40 C.F.R.] § 264.1063(b) . . .”.
 - b. 40 C.F.R. § 264.1052(a)(2) provides that “[e]ach pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal.”
66. 25 Pa. Code § 264a.1. incorporates by reference the “Test methods and procedures” of 40 C.F.R. Part 264, Subpart BB, which requirements are set forth at 40 C.F.R. § 264.1063 and, provide, in pertinent part, as follows:
- a. 40 C.F.R. § 264.1063(b)(1) provides that “[l]eak detection monitoring, as required in [40 C.F.R.] §§ 264.1052 – 264.1062, shall comply with . . . Reference Method 21 in 40 CFR Part 60.”

- b. 40 C.F.R. § 264.1063(d)(1) through (3) provides that “[i]n accordance with the waste analysis plan required by [40 C.F.R.] § 264.13(b), an owner or operator of a facility must determine, for each piece of equipment, whether the equipment contains or contacts a hazardous waste with organic concentration that equals or exceeds 10 percent by weight using the following: (1) Methods described in ASTM Methods D 2267–88, E 169–87, E 168–88, E 260–85 . . . ; (2) Method 9060A . . . SW-846 . . . ; or (3) Application of the knowledge of the nature of the hazardous waste stream or the process by which it was produced [with required] [d]ocumentation of a waste determination [made] by knowledge. . . .”
67. At all times relevant to the allegations in this CA, the Tank 1 *tank system* included a pump *in light liquid service*, within the meaning and definition of 40 C.F.R. § 264.1051, as incorporated by referenced in 25 Pa. Code § 264a.1., which *equipment* routinely contained and/or contacted hazardous wastes with organic concentrations of at least 10 percent by weight and was not subject to any exemption from the requirements of 40 C.F.R. Part 264, Subpart BB, as incorporated by reference in 25 Pa. Code § 264a.1.
68. From on or about February 26, 2005 through on or about September 10, 2008, the pump *in light liquid service* associated with the Tank 1 *tank system* was neither “monitored monthly to detect leaks” by the Respondent pursuant to the methods specified in 40 C.F.R. § 264.1063, in accordance with the applicable requirements of 40 C.F.R. § 264.1052(a)(1), nor “checked by visual inspection each calendar week for indications of liquid dripping from the pump seal” by the Respondent in accordance with the applicable requirements of 40 C.F.R. § 264.1052(a)(2).
69. Respondent violated 25 Pa. Code § 264a.1., which incorporates by reference the requirements of 40 C.F.R. § 264.1052(a)(1) and (2), by failing to monitor the pump *in light liquid service* associated with the Tank 1 *tank system* at the Facility monthly, by the methods specified in 40 C.F.R. § 264.1063, to detect leaks and to check each of these pumps by visual inspection each calendar week for indications of liquid dripping from the pump seal.

COUNT V

(Failure to Comply with Air Emission Standards for Valves in Light Liquid Service)

70. The allegations of Paragraphs 1 through 69, above, are incorporated herein by reference as though fully set forth at length.
71. 25 Pa. Code § 264a.1. incorporates by reference the “Standards: Valves in gas/vapor service or in light liquid service” of 40 C.F.R. Part 264, Subpart BB, which requirements are set forth at 40 C.F.R. § 264.1057 and provide, in pertinent part, as follows:

- a. 40 C.F.R. § 264.1057(a) provides, in relevant part, with exceptions not herein applicable, that “[e]ach valve in . . . light liquid service shall be monitored monthly to detect leaks by the methods specified in [40 C.F.R.] § 264.1063(b). . . .”
72. 25 Pa. Code § 264a.1. incorporates by reference the requirements of 40 C.F.R. § 264.1061(a), which provides that “an owner or operator subject to the requirements of 40 C.F.R. § 264.1057 may elect to have all valves within a hazardous waste management unit comply with an alternative standard that allows no greater than 2 percent of valves to leak”, as described further in 40 C.F.R. § 264.1061 (b) and (c);
73. 25 Pa. Code § 264a.1. incorporates by reference the requirements of 40 C.F.R. § 264.1062(a), which provides that an owner or operator subject to the requirements of 40 C.F.R. § 264.1057 may elect for all valves within a hazardous waste management unit to comply with one of the alternative work practices specified in 40 C.F.R. § 264.1062(b)(2) and (3).
74. From on or about February 26, 2005 through on or about September 10, 2008, each of the valves *in light liquid service* associated with the Tank 1 *tank system* were not monitored monthly by the Respondent to detect leaks in accordance with: the methods specified in 40 C.F.R. § 264.1063(b), as required pursuant to 40 C.F.R. § 264.1057(a); one of the alternative standards described in 40 C.F.R. § 264.1061(b) and (c), as required pursuant to 40 C.F.R. § 264.1061(a); or one of the alternative work practices specified in 40 C.F.R. § 264.1062(b)(2) and (3), as required pursuant to 40 C.F.R. § 264.1062(a).
75. Respondent violated 25 Pa. Code § 264a.1., which incorporates by reference the requirements of 40 C.F.R. §§ 264.1057(a), 264.1061(b) and (c), and 264.1062(a), by failing to comply with any of the standards therein, for the *valves in light liquid service* associated with the Tank 1 *tank system* at the Facility.

COUNT VI

(Failure to Contain Universal Waste Lamps Properly)

76. The allegations of Paragraphs 1 through 75, above, are incorporated herein by reference as though fully set forth at length.
77. 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).

78. 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.”
79. At all times relevant to the allegations herein, Respondent was a small quantity handler of universal waste lamps and batteries.
80. On May 6, 2008, at the time of the EPA inspection of the Facility, Respondent was accumulating universal waste lamps in multiple containers and cardboard boxes that were not closed.
81. Respondent violated 25 Pa. Code § 266b.1., which incorporates by reference the requirements of 40 C.F.R. § 273.13(d), by storing universal waste lamps at the Facility in a container that was not closed.

COUNT VII

(Failure to Comply with Universal Waste Labeling/Marking Requirements)

82. The allegations of Paragraphs 1 through 81, above, are incorporated herein by reference as though fully set forth at length.
83. The 40 C.F.R. Part 273, Subpart B, “Standards for Small Quantity Handlers of Universal Waste” that are incorporated by reference in 25 PA Code Section 266b.1 include the 40 C.F.R. § 273.14(a) and (e) requirements governing universal waste battery and universal waste lamp labeling/marketing requirements.
84. 40 C.F.R. § 273.14(a) requires that “Universal waste batteries (i.e., each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: “Universal Waste—Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).”
85. 40 C.F.R. § 273.14(e) requires that “[e]ach lamp or container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: “Universal Waste — Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).”

86. On May 6, 2008, at the time of the EPA inspection of the Facility, Respondent was accumulating:
- a. five un-containerized universal waste wet cell batteries that were not labeled or marked with any one of the applicable and required phrases (i.e., "Universal Waste—Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)"); and
 - b. multiple containers and cardboard boxes of universal waste lamps, as previously identified in paragraph 80. above, that were not labeled or marked with any one of the applicable and required phrases (i.e., "Universal Waste—Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)").
87. Respondent violated 25 Pa. Code § 266b.1., which incorporates by reference the requirements of 40 C.F.R. § 273.14(a) and (e), by failing to properly label or mark universal waste batteries and lamps that it was accumulating at the Facility.

IV. CIVIL PENALTIES

88. Respondent agrees to pay a civil penalty in the amount of **Sixty-Five Thousand Dollars (\$65,000.00)**, in settlement and satisfaction of all civil claims for penalties which Complainant may have concerning the violations 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 the 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 this CAFO is mailed or hand-delivered to Respondent.
89. The civil penalty settlement amount set forth in Paragraph 88, immediately above, was determined after consideration of the statutory factors 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. 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), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19 and the September 21, 2004 memorandum by Acting EPA Assistant Administrator Thomas V. Skinner entitled, *Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule* ("Skinner Memorandum"). Pursuant to 40 C.F.R. Part 19, and as provided in the Skinner Memorandum and in the RCRA Penalty Policy,

penalties for RCRA violations occurring after January 30, 1997 were increased by 10% to account for inflation, not to exceed a \$27,500.00 per violation statutory maximum penalty. Pursuant to 40 C.F.R. Part 19, and as provided in the Skinner Memorandum, penalties for RCRA violations occurring after March 15, 2004 and before January 13, 2009 have been increased by an additional 17.23% to account for subsequent inflation, not to exceed a \$32,500.00 per violation statutory maximum penalty.

90. Payment of the civil penalty as required by Paragraph 88, above, shall be made via one of the following methods:

- a. All checks shall be made payable to **“United States Treasury”**;
- b. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

Contact: Natalie Pearson, 314-418-4087

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

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

Contact: Natalie Pearson, 314-418-4087

- d. 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"

- e. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact: Jesse White 301-887-6548

ABA = 051036706
Transaction Code 22 - Checking
Environmental Protection Agency
Account 310006
CTX Format

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

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

- g. The customer service phone numbers for the above payment centers are:

212-720-5000 (wire transfers, Federal Reserve Bank of New York)
800-762-4224 (ACH/Wire Info, PNC Bank)

Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment_cin.htm

91. All payments by the Respondent shall include the Respondent's full name and address and the EPA Docket number of this Consent Agreement (RCRA-03-2009-0130).
92. At the time of payment, Respondent shall send a notice of such payment, including a copy of the check or EFT authorization, as applicable, to:

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

and

A.J. D'Angelo
Sr. Assistant Regional Counsel (3RC30)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

93. 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.
94. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a Consent Agreement and Final Order begins to accrue on the date that a copy of the Consent Agreement and Final Order 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).
95. 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.
96. 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).
97. 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. CERTIFICATIONS

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

VI. OTHER APPLICABLE LAWS

99. 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. RESERVATION OF RIGHTS

100. This CAFO resolves only EPA's claims for civil penalties for the specific violations 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.

VIII. FULL AND FINAL SATISFACTION

101. 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.

IX. PARTIES BOUND

102. 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.

X. EFFECTIVE DATE

103. 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.

XI. ENTIRE AGREEMENT

104. 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 Sequa Coatings, LLC:

Date: 4/09/09

By: 

Gerard M. Dombek
President and General Manager
Precoat Metals


In Re: Sequa Coatings, LLC
EPA Facility I.D. #PAD006266324

Consent Agreement
Docket No. RCRA-03-2009-0130

For the Complainant:

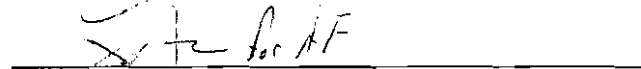
U.S. Environmental Protection Agency, Region III

Date: 4/15/2009

By: 
A.J. D'Angelo
Sr. Assistant Regional Counsel

After reviewing the EPA Findings of Fact, 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: 4/15/2009

By: 
Abraham Ferdas, Director
Land and Chemicals Division

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

09-10-2009 10:32

In Re:)
)
Sequa Coatings, LLC) Docket No. RCRA-03-2009-0130
200 Park Avenue)
New York, New York 10166,)
)
RESPONDENT.) Proceeding Under Section
) 3008(a) and (g) of the
Precoat Metals, Inc.) Resource Conservation and
3500 Walnut Street) Recovery Act, as amended,
McKeesport, PA 15132) 42 U.S.C. § 6928(a) and (g)
EPA Facility I.D. # PAD006266324)
)
FACILITY.)

FINAL ORDER

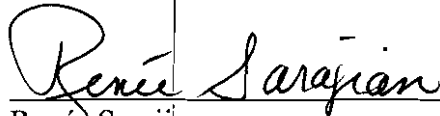
Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, Sequa Coatings, LLC, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice 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, with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3). 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) and (g) of the Solid Waste Disposal Act, commonly known as Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, by 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*, after having determined, based on the representations of the Parties set forth in the Consent Agreement, that the civil penalty of Sixty-Five Thousand Dollars (\$65,000.00) agreed to therein was based upon a consideration of the factors set forth in RCRA Section 3008(a), 42 U.S.C. § 6928(a), **IT IS HEREBY ORDERED** that Respondent pay a civil monetary penalty of Sixty-Five Thousand Dollars (\$65,000.00) in accordance with the provisions of the foregoing Consent Agreement and comply timely with each of the additional terms and conditions thereof.

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

4/22/09
Date



Renée Sarajian
Regional Judicial Officer
U.S. Environmental Protection Agency, Region III

