

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

In the Matter of:	:	
	:	
GVD Coating Specialists, Inc.	:	U.S. EPA Docket No. RCRA-03-2022-0023
1305 Spring Street	:	
Latrobe, PA 15650	:	Proceeding under Section 3008(a) and
	:	(g) of the Resource Conservation and
	:	Recovery Act, as amended, 42 U.S.C.
Respondent.	:	Section 6928(a) and (g)
	:	
GVD Coating Specialists, Inc.	:	
1305 Spring Street	:	
Latrobe, PA 15650,	:	
	:	
Facility.	:	

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and GVD Coating Specialists, Inc. (“Respondent”) (collectively the “Parties”), pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as “RCRA”), 42 U.S.C. §§ 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. RCRA Section 3008(a)(1), 42 U.S.C. Section 6928(a)(1), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under RCRA Section 3008(a)(1), 42 U.S.C. Section 6928(a)(1), (or the “Act”) for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated November 7th, 2019, EPA notified the Pennsylvania Department of the Environment (“PaDEP”) of EPA’s intent to commence this administrative action against Respondent in response to the alleged violations of RCRA Subtitle C and the PaHWMR that are set forth herein.

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. The Commonwealth of Pennsylvania has received federal authorization to administer a Hazardous Waste Management Program (the “Pennsylvania Hazardous Waste Management Program”) (“PaHWMR”) in lieu of the federal hazardous waste management program authorized under RCRA Subtitle C, 42 U.S.C. §§6921 – 6939 (g). Effective January 30, 1986, the PaHWMR was authorized by the EPA pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A and thereby became requirements of RCRA Subtitle C and enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). *See 51 Fed.Reg. 1791* (January 15, 1986), *65 Fed. Reg. 57734* (September 26, 2000), *69 Fed. Reg. 2674* (January 20, 2004) and *74 Fed. Reg. 19453* (April 29, 2009).
14. Factual allegations or legal conclusions in this Consent Agreement that are based on provisions of federally authorized PaHWMR requirements cite those respective provisions as the authority for such allegations or conclusions.
15. When EPA last authorized the Pennsylvania hazardous waste regulations on June 29, 2009, EPA approved Pennsylvania’s incorporation by reference of the federal regulations which were in effect as of October 12, 2005, including, among other things, incorporation of 40 C.F.R. § 262.34 (Accumulation Time, which lists the requirements for the generator permit exemption). As a result, 40 C.F.R. § 262.34 (2005) is the currently federally enforceable version of that RCRA regulation in Pennsylvania. On November 28, 2016, EPA re-codified the generator permit exemption, effective on May 30, 2017. The federal requirements previously found in 40 C.F.R. §262.34 are now re-codified at 40 C.F.R. §§ 262.15 – 262.17. The Code of Federal Regulation citations used herein are to the 2005 Federal regulations, when referring to the Federal regulations incorporated by the Pennsylvania regulations.
16. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes EPA to initiate an enforcement action and issue an order requiring compliance whenever it determines 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.
17. Respondent is and was at the time of the violations alleged herein, a corporation of the Commonwealth of Pennsylvania.
18. Respondent is and was at the time of the violations alleged herein, a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903, 25 Pa. Code § 260a.10.

19. Respondent is, and at all times relevant to this Consent Agreement, was the “owner” and “operator” of a “facility”, described in Paragraph 20 below, as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1, except for the term “facility which is defined in 25 Pa. Code § 260a.10.
20. The facility referred to in Paragraph 19, above, including all of its associated equipment and structures (hereinafter the “Facility”), is a manufacturing facility located at 1305 Spring Street, Latrobe, Pennsylvania, 15650.
21. Respondent was at all times relevant to this Consent Agreement and Final Order, a “generator” of, and has engaged in the “storage” in “containers” at the Facility of materials described below that are “solid wastes” and “hazardous wastes”, as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference by 25 Pa. Code § 260a.1, with the exception of the term “storage”, which is defined in 25 Pa. Code § 260a.10.
22. Respondent was at all times relevant to this Consent Agreement and Final Order, a large quantity generator of hazardous waste that generated more than 1,000 kilograms of hazardous waste per month at its Facility. Respondent is assigned EPA ID No. PAD056871460.
23. On August 13, 2018, a representative of EPA conducted a RCRA Compliance Evaluation Inspection (“CEI”) at the Facility.
24. At the time of the CEI, “hazardous wastes” generated by Respondent, identified below in Paragraphs 25 - 27, below, were in “storage” in containers and tanks at the Facility.
25. Respondent generates waste solvent at the Facility which is a hazardous waste (EPA Hazardous Waste Nos. D001 (for the characteristic of ignitability) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. Part 261.
26. Respondent generates waste solvent at the Facility which is a hazardous waste (EPA Hazardous Waste Nos. D002 (for the characteristic of corrosivity), D007 (it exhibits the characteristic of toxicity for chromium) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. Part 261.
27. Respondent generates waste non-halogenated solvents which are listed hazardous wastes (EPA Hazardous Waste Nos. F003 and F005) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. Part 261.

Count I
Failure to Make a Hazardous Waste Determination

28. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

29. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11 with exceptions not relevant herein, provides that a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste using the following methods:
 - (a) He should first determine if the waste is excluded from regulation under 40 C.F.R. § 261.4.
 - (b) He must then determine if the waste is listed as a hazardous waste in subpart D of 40 C.F.R. Part 261.
 - (c) For purposes of compliance with 40 C.F.R. Part 268, or if the waste is not listed in subpart D of 40 C.F.R. Part 261, the generator must then determine whether the waste is identified in subpart C of 40 C.F.R. Part 261 by either:
 - (1) Testing the waste according to the methods set forth in subpart C of 40 CFR part 261, or according to an equivalent method approved by the Administrator under 40 CFR 260.21; or
 - (2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.
30. On August 13, 2018, Respondent placed spent filters from is wet coating process in the regular trash at the Facility without first making a hazardous waste determination, in violation of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11.
31. The spent filters from the wet coating process are and were at the time of the alleged violations “solid wastes” as this term is defined in 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.2, with exceptions not relevant here.
32. In failing to comply with 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count II

Operating a Treatment, Storage, and Disposal Facility without a Permit or Interim Status

33. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
34. 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), provide, in pertinent part, that a person may not own or operate a facility for the treatment, storage or disposal of

hazardous waste unless such person has first obtained a permit for such facility or has qualified for interim status for the facility.

35. 25 Pa. Code § 262a.10 incorporates by reference 40 C.F.R. § 262.34, which provides, in pertinent part, that a generator that accumulates hazardous waste on site for less than 90 days in compliance with the terms of that section may do so without a permit or interim status, provided that the generator meets the conditions specified in the regulations.
36. 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i) with further reference to 40 C.F.R. § 265.174 provides that a generator may accumulate hazardous waste in containers for 90 days or less without a permit or having interim status provided that, among other things, the owner or operator conduct weekly inspections of the container storage areas.
37. 25 Pa. Code § 262a.10 incorporates by reference 40 C.F.R. § 262.34(a)(2) which provides, in pertinent part, that a generator may accumulate hazardous waste in containers on-site for 90 days or less without a permit or having interim status provided that, among other things, each container, while being accumulated on site, is properly labeled with the date upon which each period of accumulation began.
38. 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.34(a)(3), provides that a generator may accumulate hazardous waste in containers for 90 days or less without a permit or having interim status provided that, among other things, each container, while being accumulated on site, is properly labeled with the words “Hazardous Waste.”
39. 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.34(a)(4), provides, in pertinent part, that a generator may accumulate hazardous waste in containers on-site for 90 days or less without a permit or having interim status provided that, among other things, the generator complies with the personnel training requirements of 40 C.F.R. § 265.16.
40. 25 Pa. Code § 262a.10 incorporates by reference the generator accumulation and permit exemption requirements and conditions of 40 C.F.R. § 262.34(a)(4) with further reference to 40 C.F.R. Part 265 Subpart D which requires that each facility have a contingency plan which includes a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.
41. At the time of the CEI, Respondent had accumulated hazardous waste in eighteen (18) 55-gallon containers at the Facility for a greater than one year in contradiction to the conditions of 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.34(a).

42. At the time of the CEI, Respondent had accumulated hazardous waste in twenty-five (25) 55-gallon containers at the Facility that were not labeled with the words “Hazardous Waste” as required by 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.34(a)(3).
43. At the time of the CEI, Respondent had accumulated hazardous waste in waste in twenty-five (25) 55-gallon containers at the Facility that were not marked with start accumulation date as required by 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.34(a)(2).
44. From at least calendar year 2016 until August 13, 2018, Respondent did not provide RCRA training to employees responsible for responding to spills as required by 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.34(a)(4), with further reference to 40 C.F.R. § 265.16.
45. At the time of the CEI, Respondent did not have a Contingency Plan for the Facility as required by 25 Pa. Code § 262a.10, which incorporates by reference of 40 C.F.R. § 262.34(a)(4) with further reference to 40 C.F.R. § Subpart D.
46. From at least August 14, 2016 until the time of the CEI, Respondent did not conduct weekly inspections of hazardous waste storage areas, s required by 25 Pa. Code § 262a.10 which incorporates by reference 25 Pa. § 264a.1, which incorporates by reference 40 C.F.R. § 264.174.
47. For the reasons and during the times set forth above at the Facility, 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 25 Pa. Code § 262a.10, which incorporates by reference the requirements of 40 C.F.R. § 262.34, and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such section.
48. Respondent’s Facility is a hazardous waste treatment, storage, or disposal “facility” as that term is defined in 25 Pa. Code § 260a.10 with respect to the storage of hazardous waste as described above.
49. Respondent does not have, and never had, a hazardous waste treatment or storage permit or interim status pursuant to 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), for the treatment or storage of hazardous waste at the Facility.
50. Respondent was required by 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), to obtain a permit for the hazardous waste storage activities described in this count.
51. At the time of the CEI, Respondent violated 25 Pa. Code § 270a.1, 40 C.F.R. § 270.1(b) and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by operating a hazardous waste

storage facility without a permit, interim status or a valid exemption to the permit requirement.

52. In failing to comply with 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), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count III

Failure to Maintain Signed Copies of Hazardous Waste Manifests

53. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
54. 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.40(a) requires that a generator must keep a copy of each manifest signed in accordance with 40 C.F.R. § 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.
55. 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.42(a) with the exception that the words “Regional Administrator” be substituted for the word “Department,” requires a generator of 1,000 kilograms or greater of hazardous waste in a calendar month, to submit an Exception Report to PaDEP if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter.
56. At the time of the CEI, Respondent had not maintained signed copies of four hazardous waste manifests as required by 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.40(a).
57. At the time of the CEI, Respondent had not submitted an Exception Report to PaDEP when Respondent had not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter in violation of 25 Pa. Code § 262a.10 which incorporates by reference, with the exception as noted above, 40 C.F.R. § 262.42(a).
58. In failing to comply with 25 Pa. Code § 262a.10 which incorporates by reference with the exception noted above, 40 C.F.R. § 262.40(a) and 40 C.F.R. § 262.42(a), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count IV
Failure to Submit a Biennial Report

59. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
60. 25 Pa. Code § 262a.41, requires every generator who ships any hazardous waste offsite to a treatment, storage or disposal facility within the United States to prepare and submit a single copy of a biennial report to the Director of PADEP by March 1 of each even numbered year.
61. At the time of the CEI, Respondent had not prepared and submitted the Biennial Report required by 25 Pa. Code § 262a.41 for the prior two reporting periods in violation of 25 Pa. Code § 262a.41.
62. In failing to comply with 25 Pa. Code § 262a.41 and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count V
Failure to Provide RCRA Training

63. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
64. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c) requires Facility personnel responsible for hazardous waste management to take part in an annual review of the initial training required in 40 C.F.R. § 264.16.
65. From at least calendar year 2016 until August 13, 2018, Respondent did not provide annual hazardous waste training to Facility personnel responsible for hazardous waste management in violation of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16.
66. In failing to comply with 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16, and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count VI
Failure to Prepare a Contingency Plan

67. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

68. 25 Pa. § 264a.1, which incorporates by reference 40 C.F.R. Part 264 Subpart D requires owners and operators of hazardous waste facilities to prepare a Contingency Plan pursuant to the requirements set forth in 40 C.F.R. Part 264 Subpart D.
69. At the time of the EPA CEI, Respondent did not have a Contingency Plan in violation of 25 Pa. § 264a.1, which incorporates by reference 40 C.F.R. Part 264 Subpart D.
70. In failing to comply with 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. Part 264 Subpart D, and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count VII
Failure to Inspect Container Areas

71. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
72. 25 Pa. § 264a.1, which incorporates by reference 40 C.F.R. § 264.174 requires that areas where containers of hazardous waste are stored must be inspected at least weekly. The owner or operator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.
73. From at least August 14, 2016 until the time of the CEI Respondent did not conduct weekly inspections of hazardous waste storage areas, in violation of 25 Pa. § 264a.1, which incorporates by reference 40 C.F.R. § 264.174.
74. In failing to comply with 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.174, and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

COMPLIANCE ORDER

75. Respondent shall perform the following Compliance Task set forth below within the time specified. Respondent shall certify completion of the Compliance Tasks set forth in Paragraph 76 in accordance with Paragraph 77, below, no later than July 31, 2022.
76. No later than six months after the Entry of this Consent Agreement and Final Order, Respondent shall provide evidence in writing to EPA with certification in the form required by Paragraph 77 as well as additional documentation that demonstrates to EPA that operations at the Facility are compliant with Pennsylvania Department of the Environment Regulations and RCRA Subtitle C: specifically with regard to the requirements for labeling and dating of hazardous waste storage containers, performance of weekly inspections of hazardous waste storage areas, and training of employees

responsible for managing hazardous waste. These documents shall include but are not limited to inspection records, work orders, invoices, manifests, photographs, and other documentation supporting the means in which the facility has returned to compliance. The items provided to EPA shall demonstrate that the facility is operating in compliance with Large Quantity Generator requirements under 40 Code of Federal Regulations (C.F.R.) Parts 262, 264, and 270.

77. Submissions to EPA: Any notice, certification, data presentation, or other document submitted by Respondent pursuant to this Compliance Order which discusses, describes, demonstrates, or supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirements of this Compliance Order shall be certified by a responsible corporate officer of Respondent. A responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. The aforesaid certification shall provide the following statement above the signature of the responsible corporate officer signing the certification on behalf of the Respondent:

I certify under penalty of law that this document and all attachments are true, accurate and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: _____
 Name: _____
 Title: _____

Except as otherwise provided herein, notifications or submissions to EPA required by this Compliance Order shall be emailed to:

Andrew D. Van Woert (3ED22)
vanwoert.andrew@epa.gov

and

Joyce A. Howell (3RC40)
howell.joyce@epa.gov

CIVIL PENALTY

- 78. In settlement of EPA’s claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of FORTY THOUSAND DOLLARS (\$40,000.00), which Respondent shall be liable to pay in accordance with the terms set forth below.
- 79. The civil penalty is based upon EPA’s consideration of a number of factors, including the penalty criteria (“statutory factors”) set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), including, the following 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 reflects the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6982(a)(3) and (g). the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA’s civil penalty policies to account for inflation.
- 80. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier’s check, certified check or electronic wire transfer, in the following manner:
 - a. All payments by Respondent shall include reference to Respondent’s name and address, and the Docket Number of this action, *i.e.*, RCRA-2022-03-0023;

All checks shall be made payable to the “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
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

- c. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- d. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously by email to:

Joyce Howell
Sr. Assistant Regional Counsel
howell.joyce@epa.gov

and

U.S. EPA Region III Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

81. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
82. Payment of the civil penalty, in accordance with the above terms and provisions, is due and payable immediately upon Respondent's receipt of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
83. INTEREST: In accordance with 40 C.F.R. § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of the fully executed and filed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any

amount of the civil penalties 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).

84. ADMINISTRATIVE COSTS: The costs of the EPA'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 – Case 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.
85. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
86. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
87. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. §162(f)(2)(A)(ii), performance of the compliance task set forth in Paragraph 76 is restitution or required to come into compliance with law.

GENERAL SETTLEMENT CONDITIONS

88. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
89. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

90. Respondent will certify to EPA upon completion of the tasks required in Paragraphs 75 - 77 of the Consent Agreement (Compliance Order) and after Respondent's personal investigation and to the best of its knowledge and belief that it is in compliance with the regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

91. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of RCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

92. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. 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, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

93. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

94. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

95. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: GVD COATING SPECIALISTS, INC.

Date: 11-10-21

By: Eugene Christner
Gene Christner
Operations Manager

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: _____

By: _____

Karen Melvin, Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: _____

By: _____

Joyce A. Howell
Sr. Assistant Regional Counsel
U.S. EPA – Region III

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

In the Matter of:	:
	:
GVD Coating Specialists, Inc. 1305 Spring Street Latrobe, PA 15650	:
	:
Respondent.	:
	:
GVD Coating Specialists, Inc. 1305 Spring Street Latrobe, PA 15650,	:
	:
Facility.	:

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division , U.S. Environmental Protection Agency, Region III, and Respondent, GVD Coating Specialists, Inc. 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 22.18(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.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 (“RCRA Penalty Policy”), which reflects the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6982(a)(3) and (g).

NOW, THEREFORE, PURSUANT TO Section 3008(a) and (g) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a) and (g) and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of FORTY THOUSAND DOLLARS (\$40,000.00), in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c) and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order

shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish, or otherwise affect Respondent’s obligation to comply with all applicable provisions of RCRA and the regulations promulgated thereunder.

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

Date: _____

By: _____

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III