



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

SEP 16 2019

CERTIFIED MAIL 7017 1450 0001 3748 0611
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

Mr. Joseph Mazzucco, Jr.
President
Jomar, Inc, d/b/a Harbor Packaging
1090 South Crystal Avenue
Benton Harbor, Michigan 49022

Re: Consent Agreement and Final Order
Jomar Inc. d/b/a Harbor Packaging
MI0000373027
Docket No: RCRA-05-2019-0015

Dear Mr. Mazzucco:

Enclosed, please find an original signed and fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The original was filed on September 16, 2019, with the Regional Hearing Clerk (RHC).

Please pay the civil penalty in the amount of \$22,626 in the manner prescribed in paragraphs 99-104 of the CAFO, and reference all checks with the docket number RCRA-05-2019-0015. Your payment is due within 30 calendar days of the effective date of the CAFO. Thank you for your cooperation in resolving this matter.

If you have any questions, please feel free to contact me at (312) 886-7812, or samaranski.derrick@epa.gov.

Sincerely,

Derrick Samaranski
Land and Chemicals Enforcement and Compliance Assurance Branch
Enforcement and Compliance Assurance Division

Enclosure

cc: Alex Clark, MDEQ, clarka@michigan.gov
Lonnie Lee, MDEQ, leel@michigan.gov
Jack Schinderle, MDEQ, schinderlej@michigan.gov
John Matson, ORC, EPA, matson.john@epa.gov

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Jomar Inc. d/b/a
Harbor Packaging

Benton Harbor, Michigan

Respondent.



Docket No. RCRA-05-2019-0015

Proceeding to Commence and Conclude
an Action to Assess a Civil Penalty
Under Section 3008(a) of the Resource
Conservation and Recovery Act,
42 U.S.C. § 6928(a)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. U.S. EPA provided notice of commencement of this action to the State of Michigan pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
4. Respondent is Jomar, Inc., d/b/a Harbor Packaging (Respondent), a corporation doing business in the State of Michigan.

5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6992k, and the regulations at 40 C.F.R. Parts 260 - 279.

Statutory and Regulatory Background

12. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste and used oil, pursuant to Sections 3001 – 3007, 3013, and 3014, among others, of RCRA, 42 U.S.C. §§ 6921 – 6927, 6934, and 6935.¹

¹On Nov. 28, 2016, EPA amended the regulations applicable to generators of hazardous waste. Thus, this CAFO refers to the regulations in effect on April 25, 2014; the first date of the violations.

13. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Michigan final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective October 30, 1986. 51 Fed. Reg. 36804 (October 16, 1986). The EPA-authorized Michigan regulations are codified beginning at Rule 299.4101 of the Michigan Administrative Code (MAC). *See also* 40 C.F.R. § 272.1150 *et seq.*

15. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both. The Administrator of U.S. EPA may assess a civil penalty of up to \$37,500 per day for each violation of Subtitle C of RCRA that occurred after January 12, 2009 through November 2, 2015, pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

16. Respondent was and is a "person" as defined by MAC R. 299.9106(i), 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. Respondent was and is an "owner" or "operator," as those terms are defined under MAC R. 299.9106(f) and (g) and 40 C.F.R. § 260.10, of a facility located at 1090 South Crystal Avenue, Benton Harbor, Michigan (Facility).

18. At all times relevant to this CAFO, Respondent's Facility consisted of land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.

19. Respondent's Facility is a "facility," as that term is defined under MAC R. 299.9103(s) and 40 C.F.R. § 260.10.

20. Respondent's Facility performs flexographic printing and laminating operations on polyester, polypropylene, and polyethylene substances for food, industrial, pressure sensitive, and commercial packaging.

21. At all times relevant to this CAFO, Respondent's coating and laminating applications at the Facility produced a discarded material; spent ink/Methyl Ethyl Ketone (MEK), waste adhesive, and liquid and solid flammable waste (xylene/toluene), which are hazardous wastes identified or listed in MAC R. 299.9201-9230.

22. At all times relevant to this CAFO, Respondent held MEK for temporary periods in: (a) 5-gallon satellite containers; and/or (b) 55-gallon drums/containers which Respondent held in the hazardous waste storage area of the Facility (the Material Storage Area), before the material was shipped from the Facility for treatment, storage, disposal, burning or incineration elsewhere.

23. At all times relevant to this CAFO, Respondent's act of holding MEK in containers in the Material Storage Area of the Facility constituted "storage," as that term is defined under MAC R. 299.9107(gg) and 40 C.F.R. § 260.10.

24. At all times relevant to this CAFO, the MEK in containers in the Material Storage Area of the Facility was a "solid waste" as that term is defined under MAC R. 299.9202(9) and 40 C.F.R. § 261.2, and a "hazardous waste" as that term is defined under MAC R. 299.9104(f) and 40 C.F.R. § 261.3.

25. At all times relevant to this CAFO, Respondent was a "generator" of MEK *inter alia*, as that term is defined under MAC R. 299.9104(a) and 40 C.F.R. § 260.10.

26. At all times relevant to this CAFO, Respondent was a large quantity generator.

27. At all times relevant to this CAFO, Respondent was subject to the regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921 - 6939e, or the analogous Michigan regulations as part of the applicable state hazardous waste management program for the state of Michigan, or both.

28. At all times relevant to this CAFO, Respondent did not have interim status for the treatment, storage, or disposal of hazardous waste at the Facility.

29. On April 25, 2014, U.S. EPA conducted an inspection of the Facility.

30. On February 27, 2015, EPA requested from Respondent information concerning its operations of the Facility (the Information Request).

31. On March 19, 2015, Respondent forwarded to EPA records and a narrative response to the Information Request (HP's Information Request Response).

32. On December 18, 2015, U.S. EPA issued a Notice of Violation to Respondent alleging certain violations of RCRA.

33. On January 20, 2016, Respondent submitted to EPA a written response to the Notice of Violation (HP's NOV Response).

**Count 1: Storage of Hazardous Waste for Longer than 90 Days
Without a Permit or Interim Status**

34. Complainant incorporates paragraphs 1-33 as though fully set forth in this paragraph.

35. Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), and 40 C.F.R. § 270.1 prohibit the treatment, storage, or disposal of hazardous waste at a facility by any person who has not applied for, or received, a permit to treat, store, or dispose of hazardous waste at the facility.

36. Pursuant to MAC R. 299.9306 and 40 C.F.R. § 262.34(a), and subject to certain exceptions, a generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without having a permit or interim status, provided that the generator complies with all applicable conditions set forth in MAC R. 299.9306(1)(a) - (d) and (2) and 40 C.F.R. § 262.34(a)(1) – (4) and (c).

37. Pursuant to 40 C.F.R. § 262.34(b) and MAC R. 299.9301(3), a generator of 1,000 kg of hazardous waste per month, who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to, and must comply with, the requirements of *inter alia* Parts 264, 265, and MAC R. Part 5-Construction Permits and Operating Licenses, and the permit requirements of Part 270 and MAC R. 299.9502, 299.9508, 299.9510, unless the generator has been granted an extension to the 90-day period.

38. 40 C.F.R. § 270.1(c) and MAC R. 299.9502 require a permit for the storage of any hazardous waste identified or listed in 40 C.F.R. Part 261.

39. Respondent generated more than 1000 kg of hazardous waste at the Facility during each calendar month relevant to this Complaint.

40. On April 25, 2014, Respondent stored or held twenty 55-gallon containers of spent ink/MEK (D001, D035) hazardous waste (the 20 Drums) in the Material Storage Area at the Facility.

41. Spent ink/MEK is a hazardous waste identified or listed in 40 C.F.R. Part 261.

42. On April 25, 2014, 12 of the 20 Drums (the 12 Stored Drums) were placed into storage at the Material Storage Area at the Facility on or before January 24, 2014.

43. On April 25, 2014, and at all times relevant to this Complaint, Respondent did not have a permit or interim status to accumulate hazardous waste for more than 90 days, nor had Respondent been granted an extension to this 90-day storage period.

44. Respondent thus violated 3005(a) of RCRA, 42 U.S.C. § 6925(a), 40 C.F.R. § 270.1(c), and MAC R. 299.9502.

**Count 2: Failure to Minimize the Possibility of a Fire, Explosion,
or any Unplanned Release of Hazardous Waste**

45. Complainant incorporates paragraphs 1-33 as though fully set forth in this paragraph.

46. Pursuant to 40 C.F.R. § 262.34(b), MAC R. 299.9301(3), and MAC R. 299.9601, as a result of Respondent's accumulation of hazardous waste for more than 90 days, Respondent became an operator of a hazardous waste storage facility subject to the requirements of *inter alia*, 40 C.F.R. § 265.31 and MAC R. 9606(1).

47. MAC R. 299.9606(1) and 40 C.F.R. § 264.31 require an operator of a hazardous waste storage facility to maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment. *See also* 40 C.F.R. § 265.31.

48. On April 25, 2014, Respondent had MEK waste on the floor of the Material Storage Area at the Facility.

49. MEK waste can possibly cause a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste constituents to air soil, or surface water which could threaten human health or the environment.

50. Respondent's failure to maintain and operate its Facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste constituents to air soil, or surface water which could threaten human health or the environment violated 40 C.F.R. § 264.31, and MAC R. 299.9606(1).

Count 3: Failure to Maintain Land Disposal Restriction Documents

51. Complainant incorporates paragraphs 1-33 as though fully set forth in this paragraph.

52. 40 C.F.R. § 268.1, and MAC R. 299.9311(1), require that generators and owners and operators of storage facilities comply with, among other things, the requirements for owners or operators in 40 C.F.R. Part 268.

53. 40 C.F.R. § 268.7(a)(8) and MAC R. 299.11003(v) require that a generator maintain land disposal restriction records, notices, and certifications for three years from the date hazardous waste was offered for off-site disposal. *See also* 40 C.F.R. § 264.73(b)(16).

54. On April 25, 2014, Respondent did not have land disposal restriction documents for waste ink (D001, D035) and waste adhesive (D001) waste streams generated at the Facility that Respondent offered for off-site disposal on May 24, 2012 and July 20, 2012.

55. Respondent did not produce these land disposal restriction records to EPA in HP's Notice of Violation Response.

56. Respondent's failure to maintain land disposal restriction records, notices, and certifications for its waste ink (D001, D035) and waste adhesive (D001) waste streams for three years from the date it offered the waste for off-site disposal violated 40 C.F.R. § 268.7(a)(8), MAC R. 299.9311(1), and MAC R. 299.11003(v).

Count 4: Failure to Provide Secondary Containment for Container Storage Area

57. Complainant incorporates paragraphs 1-33 as though fully set forth in this paragraph.

58. Pursuant to 40 C.F.R. § 262.34(b), MAC R. 299.9301(3), and MAC R. 299.9601, as a result of Respondent's accumulation of hazardous waste for more than 90 days, Respondent became an operator of a hazardous waste storage facility subject to the requirements of *inter alia*, 40 C.F.R. § 264.175 and MAC R. 299.9614(1). *See also* MAC R. 299.9306(1)(a)(i).

59. 40 C.F.R. § 264.175 and MAC R. 299.9614(1) require that container storage areas in hazardous waste storage facilities must have a secondary containment system designed and operated in accordance with 40 C.F.R. § 264.175(b).

60. On April 25, 2014, Respondent did not have a secondary containment system for the container storage area holding the 12 Stored Drums of MEK hazardous waste at the Facility.

61. Respondent's failure to provide a secondary containment system for its container storage area violated 40 C.F.R. § 264.175, and MAC R. 299.9614(1).

Count 5: Failure to Record Weekly Container Storage Area Inspections

62. Complainant incorporates paragraphs 1-33 as though fully set forth in this paragraph.

63. Pursuant to 40 C.F.R. § 262.34(b) and MAC R. 299.9301(3), as a result of Respondent's accumulation of hazardous waste for more than 90 days, Respondent became an operator of a hazardous waste storage facility subject to the applicable requirements of *inter alia*, 40 C.F.R. § 265.174, MAC R. 299.9614(1), and MAC R. 299.9306(1)(a)(i).

64. 40 C.F.R. § 265.174 and MAC R. 299.9614(1)(a) require that a large quantity generator conduct weekly inspections of the container storage areas. *See also* 40 C.F.R. § 264.174.

65. MAC R. 299.9306(1)(a)(i) requires that generators document the inspections required pursuant to 40 C.F.R. § 265.174 and maintain the inspection records onsite for a period of not less than 3 years from the date of the inspection.

66. On April 25, 2014, Respondent did not have any weekly inspection records available for the Material Storage Area at the Facility.

67. Respondent did not produce these weekly inspection records to EPA in HP's Information Request Response.

68. Respondent's failure to maintain weekly inspection records of the container storage areas violated MAC R. 299.9301(3) and MAC R. 299.9306(1)(a)(i).

Count 6: Failure to Label Containers with Waste Accumulation Start Dates

69. Complainant incorporates paragraphs 1-33 as though fully set forth in this paragraph.

70. Pursuant to 40 C.F.R. § 262.34(b) and MAC R. 299.9301(3), as a result of Respondent's accumulation of hazardous waste for more than 90 days, Respondent became an operator of a hazardous waste storage facility subject to the applicable requirements of *inter alia*, MAC R. 299.9306(1)(b).

71. MAC R. 299.9306(1)(b) requires that a large quantity generator label each container with the accumulation start date.

72. On April 25, 2014, Harbor Packaging had not marked accumulation start dates on: (a) twelve 55-gallon drums storing MEK solvent hazardous waste in the Material Storage Area; and (b) a 55-gallon satellite container labeled "Coater Waste" accumulating excess hazardous waste coater/laminator cleaning solvent (ethyl acetate) near the laminator unit.

73. Respondent's failure to mark accumulation start dates on these containers violated MAC R. 299.9301(3) and MAC R. 299.9306(1)(b).

Count 7: Failure to Label Satellite Containers as Hazardous Waste

74. Complainant incorporates paragraphs 1-33 as though fully set forth in this paragraph.

75. Pursuant to 40 C.F.R. § 262.34(b) and MAC R. 299.9301(3), as a result of Respondent's accumulation of hazardous waste for more than 90 days, Respondent became an operator of a hazardous waste storage facility subject to the requirements of *inter alia*, MAC R. 299.9306(2).

76. Pursuant to MAC R. 299.9306(2), a facility may accumulate, *inter alia*, up to 55 gallons of hazardous waste in satellite containers at or near the point of generation without having a permit or interim status, provided that the generator marks the satellite container with the words "Hazardous Waste," or a waste number or chemical name identifying the contents of the containers.

77. On April 25, 2014, Respondent had not labelled the following containers at the Facility with the words "Hazardous Waste," or a waste number or chemical name identifying the contents of the containers:

- (a) two 5-gallon satellite containers accumulating hazardous waste press cleaning solvent (mixture of n-propyl alcohol, acetate, and inks) near the ink press;
- (b) one 55-gallon satellite container accumulating hazardous waste press cleaning solvent near the ink press; and
- (c) two 55-gallon satellite containers accumulating hazardous waste coater/laminator cleaning solvent (ethyl acetate) near the laminator unit.

78. Respondent's failure to label these satellite containers at the Facility with the words "Hazardous Waste," or a waste number or chemical name identifying the contents of the containers violated MAC R. 299.9301(3) and MAC R. 299.9306(2).

Count 8: Failure to File Biennial Report

79. Complainant incorporates paragraphs 1-33 as though fully set forth in this paragraph.

80. 40 C.F.R. § 262.41(a) and MAC R. 299.9308(1) require generators who ship any hazardous waste off-site to a treatment, storage, or disposal facility to prepare and submit to the Michigan Department of Environmental Quality (MDEQ) by March 1 of each even numbered year a copy of a Biennial Report covering the company's hazardous waste activities from the previous year.

81. Respondent shipped hazardous waste off-site to a treatment, storage, or disposal facility in 2013.

82. As of April 25, 2014, Respondent had not prepared and submitted to the MDEQ a copy of the 2013 Biennial Report covering the company's hazardous waste activities in 2013 for the Facility.

83. Respondent's failure to prepare and submit to the MDEQ by March 1, 2014, a copy of the 2013 Biennial Report for the Facility violated 40 C.F.R. 262.41(a) and MAC R. 299.9308(1).

Count 9: Failure to Properly Label Used Oil Containers

84. Complainant incorporates paragraphs 1-33 as though fully set forth in this paragraph.

85. Pursuant to 40 C.F.R. 279.1 and MAC R. 299.9109(r), used oil is defined as: (1) oil that has been refined from crude oil; or (2) synthetic oil that has been used and as a result of being used is contaminated by physical or chemical impurities.

86. Pursuant to MAC R. 299.9810(3), used oil generators must comply with 40 C.F.R. §§ 279.22(b) – (d), 279.23 and 279.24, including the used oil storage standards set forth at 40 C.F.R. §§ 279.2 – 279.24.

87. Pursuant to 40 C.F.R. § 279.22(c)(1) and MAC R. 299.9810(3), a used oil generator must label containers used for the storage of used oil with the words “Used Oil.”

88. At all times relevant to this Complaint, Respondent was a used oil generator.

89. On April 25, 2014, Respondent had not labeled a 55-gallon drum accumulating “used oil,” as defined by 40 C.F.R. 279.1 and MAC R. 299.9109(r), in the Facility’s maintenance area with the words “Used Oil.”

90. Respondent’s failure to label the 55-gallon drum with the words “Used Oil” violated the used oil generator container labeling requirements of 40 C.F.R. § 279.22(c)(1) and MAC R. 299.9810(3).

Count 10: Failure to Comply with Universal Waste Regulations

91. Complainant incorporates paragraphs 1-33 as though fully set forth in this paragraph.

92. At all times relevant to this Complaint, Respondent was a small quantity handler of universal waste.

Improper Labeling

93. 40 C.F.R. § 273.14(e) and MAC R. 299.9228(4)(c)(iv) require a small quantity handler of universal waste to label each lamp or a container or package in which such lamps are contained with one of the following phrases: “Universal Waste-Lamp(s),” “Waste Lamp(s),” or “Used Lamp(s).”

94. On April 25, 2014, Respondent had not labeled the used fluorescent lamps it accumulated in the maintenance department at the Facility with one of the required phrases.

95. Respondent’s failure to label these used fluorescent lamps with one of the required phrases violated the small quantity handler universal waste labeling requirement of 40 C.F.R. § 273.14(e) and MAC R. 299.9228(4)(c)(iv).

Improper Packaging

96. 40 C.F.R. § 273.13(d)(1) and MAC R. 299.9228(4)(c)(ii) require a small quantity handler of universal waste to contain used fluorescent lamps in containers or packages that: (a) are structurally sound, adequate to prevent breakage, compatible with the contents of the lamps; and (b) are closed.

97. On April 25, 2014, Respondent did not contain the used fluorescent lamps in the maintenance department at the Facility in containers that were closed.

98. Respondent’s failure to contain these used fluorescent lamps in a closed container violated 40 C.F.R. § 273.13(d)(1) and MAC R. 299.9228(4)(c)(ii).

Civil Penalty

99. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$22,626.00. In determining the penalty amount, Complainant took into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

100. Within 30 days after the effective date of this CAFO, Respondent must pay a \$22,626 civil penalty for the RCRA violations by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

[for checks sent by regular U.S. Postal Service mail]

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

[for checks sent by express mail]

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The check must state the case title and the docket number of this CAFO.

101. A transmittal letter stating Respondent's name, the case title and the case docket number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Derrick Samaranski (ECR-17J)
LCECAB Branch
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

John Matson (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

102. This civil penalty is not deductible for federal tax purposes.

103. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

104. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

105. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: matson.john@epa.gov (for Complainant), and eric@ggtmlaw.com (for Respondent).

106. Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for the violations alleged in the CAFO.

107. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

108. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws or permits.

109. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, U.S. EPA's RCRA Civil Penalty Policy, and U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

110. The terms of this CAFO bind Respondent, its successors, and assigns.

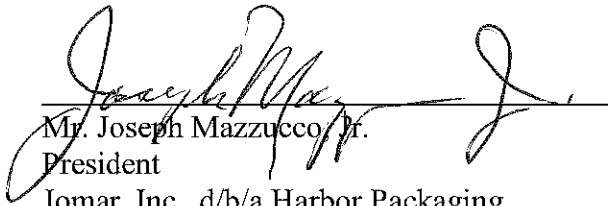
111. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

112. Each party agrees to bear its own costs and attorney's fees in this action.

113. This CAFO constitutes the entire agreement between the parties.

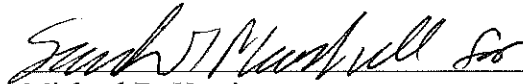
Jomar, Inc., d/b/a Harbor Packaging, Respondent

Date 8/23/19


Mr. Joseph Mazzucco, Jr.
President
Jomar, Inc., d/b/a Harbor Packaging

United States Environmental Protection Agency, Complainant

9/11/19
Date


Michael D. Harris
Acting Director
Enforcement and Compliance Assurance Division

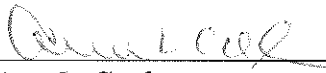
**In the Matter of:
Jomar, Inc., d/b/a Harbor Packaging
Docket No.**

RCRA-05-2019-0015

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9/19/19
Date


Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5
Enforcement and Compliance Assurance Division

In the matter of: Jomar Inc. d/b/a Harbor Packaging
EPA ID Number: MI0000373027
Docket Number: RCRA-05-2019-0015

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, Docket Number RCRA-05-2019-0015, which was filed on September 16, 2019, in the following manner to the addressees:

Copy by Certified Mail to
Respondent:

Joseph Mazzucco, Jr.
President
Jomar, Inc, d/b/a Harbor Packaging
1090 South Crystal Avenue
Benton Harbor, Michigan 49022

Copy by e-mail to
Attorney for Respondent:

Eric R. Gielow
eric@ggtmlaw.com

Copy by e-mail to
Attorney for Complainant:

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Dated:

September 16, 2019



LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

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