

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

RECEIVED

2015 FEB -9 AM 10:45

REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

In the Matter of:

**Crescent Brass Manufacturing Corp.
701 Park Avenue
Reading, Pennsylvania 19611,**

Respondent.

Docket No. RCRA-03-2015-0029

CONSENT AGREEMENT

**Proceeding under RCRA Section
3008(a)(1) and (g), 42 U.S.C.
§ 6928(a)(1) and (g)**

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant"), and Crescent Brass Manufacturing Corp., ("Respondent"), pursuant to Section 3008(a)(1) and (g) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(1) 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.
2. The Consolidated Rules of Practice, 40 C.F.R. § 22.13(b), provide in pertinent part that, where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a Consent Agreement and Final Order pursuant to 40 C.F.R. §§ 22.1(a)(4), 22.18(b)(2) and (3). Pursuant thereto, this Consent Agreement and the accompanying Final Order (collectively referred to herein as the "CAFO"), simultaneously commences and concludes this administrative proceeding against Respondent.

3. This CAFO addresses Respondent's violations of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, various regulations promulgated thereunder as set forth at 40 C.F.R. Parts 260-266, 268, and 270-73, and the authorized Pennsylvania Hazardous Waste Management Regulations, 25 Pa. Code Sections 260a - 266a, 266b, and 268a – 273a ("PaHWMR") that occurred at the Respondent's facility located at 701 Park Avenue, Reading, Pennsylvania 19611 ("Facility").
4. 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. §§ 6921-6939g. Effective January 30, 1986, the Commonwealth of Pennsylvania Hazardous Waste Management Regulations ("PaHWMR") 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 PaHWMR subsequently were revised, and thereafter re-authorized by EPA, on September 26, 2000, January 20, 2004, and April 29, 2009. Such authorized revised PaHWMR requirements and provisions became effective on November 27, 2000, March 22, 2004, and June 29, 2009, respectively. The PaHWMR incorporate, with certain exceptions, federal hazardous waste management regulations that were in effect as of May 1, 1999 (and as of July 6, 1999 for certain regulations regarding Universal Waste) for the November 27, 2000 PaHWMR authorization, June 28, 2001 for the March 22, 2004 PaHWMR authorization, and October 12, 2005 for the April 29, 2009 PaHWMR authorization. The provisions of Pennsylvania's current authorized PaHWMR, codified at 25 Pa. Code Chapters 260a-266a, 266b, and 268a-270a, have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to RCRA Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
5. Upon making a determination that any person has violated or is in violation of any requirement of RCRA Subtitle C and satisfying the notification requirements of RCRA Section 3008(a)(2), 42 U.S.C. § 6928(a)(2), Section 3008(a)(1) of RCRA, 42 U.S.C. § 6928(a)(1), authorizes the Administrator of EPA to issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both.
6. Respondent is, hereby, notified of EPA's determination that Respondent has violated RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, the regulations promulgated thereunder at 40 C.F.R. Parts 260-266, 268, and 270-73, and the PaHWMR.
7. EPA has given the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection ("PADEP"), prior notice of the commencement of this civil proceeding in accordance with RCRA Section 3008(a)(2), 42 U.S.C. § 6928(a)(2).

II. GENERAL PROVISIONS

8. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set

forth in this CAFO.

9. Except as provided in Paragraph 8, above, Respondent neither admits nor denies the specific factual allegations and legal conclusions set forth in this CAFO.
10. 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 CAFO.
11. For purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact in this matter, consents to the issuance of this CAFO without adjudication, and waives its right to appeal the accompanying Final Order.
12. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
13. Respondent and Complainant shall bear their own costs and attorney's fees in connection with this proceeding.

III. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW

14. 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 the following findings of fact and conclusions of law.
15. Respondent is a Pennsylvania corporation doing business in, and with offices and an operating facility located within, the Commonwealth of Pennsylvania, and is a "person" within the meaning of RCRA Section 1004(15), 42 U.S.C. § 6903(15), 40 C.F.R. § 260.10, and 25 Pa. Code Section 260a.10.
16. Respondent is and has been, at all times relevant to this CAFO, the owner and operator of a facility, located at 701 Park Avenue, Reading, Pennsylvania, where the Respondent operates a foundry business.
17. On or about August 22, 2012, a duly authorized representative of EPA, Region III, conducted a compliance evaluation inspection ("CEI") of the Facility to assess the Respondent's compliance with the requirements of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, the federal regulations promulgated thereunder, and the PaHWMR requirements at the Facility.

COUNT I

(Operating a Hazardous Waste Storage Facility without a Permit)

18. The allegations of Paragraphs 1 through 17 of this Consent Agreement are incorporated herein by reference as though fully set forth at length.

19. RCRA Section 3005(a) and (e), 42 U.S.C. Section 6925(a) and (e), and 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. Part 270, provide, in pertinent part, that no person may own and/or operate a facility used for the treatment, storage or disposal of hazardous waste without first having obtain a permit from EPA or a state with an authorized hazardous waste management program, or have interim status for such facility.
20. At all times relevant this Consent Agreement, Respondent generated at the Facility “hazardous waste”, as that term is defined by RCRA Section 1004(5), 42 U.S.C. § 6903(5), and 25 Pa. Code Sections 260a.1 and 261a.1, which incorporate by reference 40 C.F.R. §§ 260.10 and 261.3. See also 25 Pa Code Section 261a.3.
21. The Facility was assigned the EPA Identification Number PA0000879791.
22. At all times relevant to this Consent Agreement, Respondent was a “generator” of hazardous waste as that term is defined by 25 Pa. Code Section 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
23. At all times relevant to this Consent Agreement, hazardous waste was in “storage” in containers and tanks at Respondent’s “facility” as those terms are defined by RCRA Section 1004(33), 42 U.S.C. § 6903(33), 25 Pa. Code Section 260a.1, which incorporates by reference 40 C.F.R. § 260.10, and 25 Pa. Code Section 260a.10.
24. At all times relevant to this Consent Agreement, Respondent was the “owner” and “operator” of a hazardous waste storage facility as those terms are defined by 25 Pa. Code Section 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
25. A “container” is defined to mean “any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.” 25 Pa. Code Section 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
26. At all times relevant to this Consent Agreement, Respondent never possessed a permit or interim status authorizing the treatment, storage or disposal of hazardous waste at the Facility.
27. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), provides, in pertinent part, that a generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit or interim status, provided the generator complies with a number of conditions concerning the management of the hazardous waste, including, but not limited to:
 - (1) Compliance with applicable requirements of Subparts J, AA, BB and CC of 40 C.F.R. Part 265, except §§ 265.197(c) and 265.200, with regard to the storage of hazardous waste in tanks (40 C.F.R. § 262.34(a)(1)(ii));

- (2) Compliance with applicable requirements of Subparts I, AA, BB and CC of 40 C.F.R. Part 265, with regard to the storage of hazardous waste in containers (40 C.F.R. § 262.34(a)(1)(i), and 25 Pa. Code Section 262a.34, and Chapter 265a, Subchapter I);
 - (3) Ensuring that, with regard to the storage of hazardous waste in containers, the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container (40 C.F.R. § 262.34(a)(2));
 - (4) Ensuring that, while being accumulated on-site, each container and tank storing hazardous waste is labeled or marked clearly with the words "Hazardous Waste" (40 C.F.R. § 262.34(a)(3)); and
 - (5) Compliance with the requirements for owners or operators of Subparts C [Preparedness and Prevention] and D [Contingency Plan and Emergency Procedures] in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16 [relating to personnel training], and all applicable requirements under 40 C.F.R. Part 268. (40 C.F.R. § 262.34(a)(4)).
28. At the time of the August 22, 2012 CEI, Respondent was storing hazardous waste at the Facility in, among other things: two 55-gallon containers of burnishing sludge (D007 and D008) in the burnishing area of the Facility; and 5 containers of spent bag-house dust filters (D006 and D008) in a hazardous waste storage area of the Facility.
29. Each of the containers identified in the preceding Paragraph of this CAFO meets the definition of a "container" as that term is defined by 25 Pa. Code Section 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
30. At the time of the August 22, 2012 CEI, Respondent did not qualify for the aforementioned 90-day permitting exemption provided by 25 Pa. Code Section 262a.10 (40 C.F.R. § 262.34) in that, as explained in more detail, below, Respondent was not in compliance with prerequisite requirements, including Respondent's:
- Storage of hazardous waste in containers that were open at a time when waste was not being added (25 Pa. Code Section 265a.1 and 40 C.F.R. § 265.173);
 - Storage of hazardous waste in containers that were not in good condition (25 Pa. Code Section 265a.1 and 40 C.F.R. § 265.171);
 - Failure to comply with hazardous waste personnel training requirements (25 Pa. Code Section 265a.1 and 40 C.F.R. § 265.16(a) - (c)); and
 - Failure to comply with hazardous waste job descriptions requirements (25 Pa. Code Section 265a.1 and 40 C.F.R. § 265.16(d)(2)).
31. On or about August 22, 2012, Respondent violated RCRA Section 3005(a) and (e), 42 U.S.C. Section 6925(a) and (e), and 25 Pa. Code § 270a.1, which incorporates by

reference 40 C.F.R. § 270.1(b), by owning and operating a hazardous waste storage facility without a permit or interim status.

COUNT II

(Open Containers)

32. The allegations of Paragraphs 1 through 31 of this Consent Agreement are incorporated by reference as though fully set forth at length.
33. 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.173, provides that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
34. During the August 22, 2012 CEI, Respondent had the following open containers of hazardous waste at the Facility and the containers were open at a time when it was not necessary to add or remove waste from the containers: 2 open containers containing spent bag-house dust filters (D006 and D008 hazardous waste) in a hazardous waste storage area of the Facility.
35. On or about August 22, 2012, Respondent violated 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.173, by maintaining containers of hazardous waste at the Facility, as identified in Paragraph 34, above, that were open at a time when it was not necessary to add or remove waste from the containers.

COUNT III

(Failure to Perform Hazardous Waste Determinations)

36. The allegations of Paragraphs 1 through 35 of this Consent Agreement are incorporated by reference as though fully set forth at length.
37. 25 Pa Code Section 262a.10, which incorporates by reference 40 C.F.R. § 262.11(a) and (b), requires that a person who generates a solid waste, as defined by 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste by: determining if the waste is excluded from regulation under 40 C.F.R. § 261.4; determining if the waste is listed as a hazardous waste in subpart D of 40 C.F.R. part 261; and testing the waste in accordance with the methods set forth in subpart C of 40 C.F.R. Part 261 or an equivalent method approved by the EPA Administrator, or applying knowledge of the hazardous characteristic of the waste in light of the materials or processes used.
38. At the time of the August 22, 2012, solid waste in the form of discarded aerosol cans were in storage at the Facility.
39. At all times relevant to this CAFO, including, but not limited to the August 22, 2012 CEI, Respondent was the “generator” of the discarded aerosol cans (i.e., “solid waste”) as

those terms are defined by 25 Pa Code Section 260a.1, which incorporates by reference 40 C.F.R. § 260.10.

40. At the time of the August 22, 2012 CEI, Respondent had not performed, in accordance with the methods set forth in 25 Pa Code Section 262a.10, which incorporates by reference 40 C.F.R. § 262.11(a) and (b), hazardous waste determinations on the “solid waste” (i.e., discarded aerosol cans) in storage at the Facility.
41. On or about August 22, 2012, Respondent violated 25 Pa Code Section 262a.10, which incorporates by reference 40 C.F.R. § 262.11(a) and (b), by failing to perform hazardous waste determinations on solid waste (i.e., discarded aerosol cans) in storage at the Facility.

COUNT IV

(Failure to Maintain Hazardous Waste in Containers of Good Condition)

42. The allegations of Paragraphs 1 through 41 of this Consent Agreement are incorporated by reference as though fully set forth at length.
43. 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.171, provides that, if a container holding hazardous waste is not in good condition, including, but not limited to, having a structural defect, or if it begins to leak, the owner or operator must transfer the hazardous waste from the container to another container that is in good condition or manage the waste in some other way that complies with the requirements of 40 C.F.R. Part 264.
44. At the time of the August 22, 2012 CEI, Respondent had five containers of hazardous waste (D006 and D008 spent bag-house dust filters) in storage at the Facility and one of the containers was ruptured on the bottom causing it to have a structural defect.
45. On or about August 22, 2012, Respondent violated 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.171, by storing hazardous waste (D006 and D008 spent bag-house dust filters) in a container that was not in good condition (i.e., with a structural defect) and not having transferred the contents of the ruptured container to a container of good condition or having taken steps to manage this hazardous waste in some other way that complies with the requirements of 40 C.F.R. Part 264.

COUNT V

(Failure to Provide Required Hazardous Waste Personnel Training - 2009)

46. The allegations of Paragraphs 1 through 45 of this Consent Agreement are incorporated by reference as though fully set forth at length.
47. 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(a) - (c),

in pertinent part, requires that facility personnel must: (a) successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of 40 C.F.R. Part 264; (b) complete such program within six months after the date of employment or assignment to a facility; and (c) take part in an annual review of such initial training.

48. For the time period commencing on January 1, 2009 and continuing through December 31, 2009, three of Respondent's employees who had responsibilities for hazardous waste management activities at the Facility did not receive the annual hazardous waste training review required by 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c).
49. For the time period commencing on January 1, 2009 and continuing through December 31, 2009, Respondent violated 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c), by failing to ensure that three employees of its Facility with hazardous waste management responsibilities receive the required annual hazardous waste training review.

COUNT VI

(Failure to Provide Required Hazardous Waste Personnel Training - 2011)

50. The allegations of Paragraphs 1 through 49 of this Consent Agreement are incorporated by reference as though fully set forth at length.
51. For the time period commencing on January 1, 2011 and continuing through December 31, 2011, three of Respondent's employees who had responsibilities for hazardous waste management activities at the Facility failed to receive the annual hazardous waste training review required by 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c).
52. For the time period commencing on January 1, 2011 and continuing through December 31, 2011, Respondent violated 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c), by failing to ensure that three employees of its Facility with hazardous waste management responsibilities receive the required annual hazardous waste training review.

COUNT VII

(Failure to Provide Required Hazardous Waste Personnel Training - 2012)

53. The allegations of Paragraphs 1 through 52 of this Consent Agreement are incorporated by reference as though fully set forth at length.
54. For the time period commencing on January 1, 2012 and continuing through December 31, 2012, two of Respondent's employees who had responsibilities for hazardous waste

management activities at the Facility failed to receive the annual hazardous waste training review required by 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c).

55. For the time period commencing on or about January 1, 2012 and continuing through on or about December 31, 2012, Respondent violated 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c), by failing to ensure that two employees of its Facility with hazardous waste management responsibilities receive the required annual hazardous waste personnel review.

COUNT VIII

(Failure to Provide Required Job Descriptions)

56. The allegations of Paragraphs 1 through 55 of this Consent Agreement are incorporated by reference as though fully set forth at length.
57. 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d)(1), (2), and (3), requires, in relevant part, that the owner or operator of a hazardous waste storage facility must maintain the following documents and records at the facility: the job title for each position at the facility related to hazardous waste management and the name of the employee filling each job; a written job description for each person with hazardous waste management responsibilities; and a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under 40 C.F.R. § 264.16(d)(1).
58. At the time of the August 22, 2012 CEI, Respondent did not have documents or records setting forth the job titles and job descriptions for those Facility employees with hazardous waste management responsibilities, as required by 25 Pa. Code Section 264a.1 (40 C.F.R. § 265.16(d)(1) and (2)).
59. On or about August 22, 2012, Respondent violated 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d)(1) and (2), by failing to have documents or records concerning the job titles and job descriptions for those Facility employees with hazardous waste management responsibilities.

COUNT IX

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

60. The allegations of Paragraphs 1 through 59 of this Consent Agreement are incorporated by reference as though fully set forth at length.
61. 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.1(a)(4), provides, in pertinent part, that the requirements for universal waste management set forth in 40 C.F.R. Part 273 apply to, among other things, the management of lamps, as

described in 40 C.F.R. § 273.5.

62. 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.5(a), provides that the requirements of 40 C.F.R. Part 273 apply to, with exceptions not relevant hereto, lamps as defined by 40 C.F.R. § 273.9.
63. 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.9, defines the term “lamp” to mean the bulb or tube portion of an electric lighting device, including, but not limited to, fluorescent lamps.
64. 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.9, defines a “small quantity handler of universal waste” as a universal waste handler who does not accumulate 5,000 kilograms or more of universal waste at any time.
65. At all times relevant to this CAFO, including, but not limited to, August 22, 2012, Respondent accumulated at its Facility less than 5,000 kilograms of universal waste and, therefore, was a “small quantity handler of universal waste” as that term is defined by 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.9.
66. 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.14(e), requires that a small quantity handler of universal waste label or mark lamps or packages or containers of lamps clearly with one of the following phrases: “Universal Waste – Lamp(s)”; “Waste Lamp(s)”; or “Used Lamp(s).”
67. At the time of August 22, 2012 CEI, Respondent had an open container (i.e., box) of used lamps labeled with the word “old” at the Facility.
68. The used lamps, identified in Paragraph 67, above, qualified as “lamps” as that term is defined by 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.9.
69. At the time of the August 22, 2012 CEI, the open container (i.e., box) holding the used lamps, identified in Paragraph 67, above, was not labeled or marked clearly with one of the following phrases: “Universal Waste – Lamp(s)”; “Waste Lamp(s)”; or “Used Lamp(s).”
70. On or about August 22, 2012, Respondent violated 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.14(e), by having at its Facility an open container (i.e., box) of used lamps that was not labeled or marked clearly with one of the following phrases: “Universal Waste – Lamp(s)”; “Waste Lamp(s)”; or “Used Lamp(s).”

COUNT X

(Failure to Comply with Universal Waste Accumulation Date Requirements)

71. The allegations of Paragraphs 1 through 70 of this Consent Agreement are incorporated by reference as though fully set forth at length.
72. 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.15(c), requires that a small quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received, by choosing one of the methods set forth in 40 C.F.R. § 273.15(c).
73. At the time of the August 22, 2012 CEI, the open container (i.e., box) of used lamps, as identified in Paragraph 67, above, was undated, and Respondent was not able to demonstrate the length of time that the universal waste had been accumulated from the date it became a waste or was received.
74. On or about August 22, 2012, Respondent violated 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.15(c), by accumulating at its Facility an undated and open container of used lamps for which Respondent was unable to demonstrate the length of time that the universal waste had accumulated from the date it became a waste or was received.

COUNT XI

(Failure to Contain Universal Lamps Properly)

75. The allegations of Paragraphs 1 through 74 of this Consent Agreement are incorporated by reference as though fully set forth at length.
76. 25 Pa. Code Section 266b.1, which incorporates by reference 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, including, making certain that containers or packages of lamps remain closed.
77. At the time of the August 22, 2012 CEI, the container of used lamps, identified in Paragraph 67, above, was open.
78. On or about August 22, 2012, Respondent violated 25 Pa. Code Section 266b.1, which incorporates by reference 40 C.F.R. § 273.13(d), by having an open container of used lamps at its Facility.

IV. COMPLIANCE ORDER

79. Respondent has informed EPA that it intends to dissolve the Crescent Brass Manufacturing Corp. and to cease all operations at the Facility, including, but not limited to, the management and storage of hazardous waste, in or about March of 2015. Respondent shall comply with all applicable federal, state and local regulations concerning such cessation of business activities and the management/storage of hazardous waste at the Facility, including, but not limited to, closure obligations.
80. If within one hundred and twenty (120) calendar days of the effective date of this CAFO business operations at the Facility have not terminated, in accordance with 40 C.F.R. §§ 22.1(a)(4), 22.31(d) and 22.37(b), Respondent agrees to, and shall perform the following Compliance Tasks:
- a. Within one hundred and eighty (180) calendar days of the effective date of the CAFO,
 - i. Respondent shall perform a Compliance Audit to determine the company's compliance with applicable hazardous waste management requirements of the federally authorized PAHWMR, including the following requirements: hazardous waste determination(s) of its aerosol can waste stream; annual hazardous waste training for employees that manage hazardous waste; training record-keeping requirements; job descriptions for employees with hazardous waste management responsibilities; updated list of contingency plan emergency coordinators; hazardous waste manifest and manifest record-keeping requirements; hazardous waste container management requirements (including labeling, dating and maintaining closed containers); and universal waste management requirements.
 - ii. Submit to EPA a written description of the measures taken by the Respondent to perform the Compliance Audit and the results from the audit, including a copy of any hazardous waste manifests for off-site shipments of hazardous waste for the aforementioned one hundred and eighty day (180) calendar day period.
81. EPA may review the content of each submission required by this Section of the Consent Agreement and may notify Respondent, through written correspondence, of any deficiency(ies). In the event that EPA notifies Respondent of any deficiency(ies) in any required submission, Respondent shall, within seven (7) calendar days of its receipt of such notification, modify the deficiency(ies) and resubmit such modified submission to EPA.

82. Any submission or other document submitted by Respondent to EPA pursuant to Section IV (Compliance Order) which discusses, describes, demonstrates or supports and 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 each 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: _____

83. Any submission or other document submitted by Respondent to EPA pursuant to Section IV (“Compliance Order”) shall be sent to the attention of:

Andrew Ma (3LC70)
RCRA Enforcement and Compliance Officer
U.S. Environmental Protection Agency, Region III
Environmental Science Center
701 Mapes Road
Fort Meade, MD 20755-5350

and

Joseph J. Lisa (3RC30)
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

V. SETTLEMENT

84. In view of EPA's Findings of Fact and Conclusions of Law, set forth above, Complainant concludes that the Respondent has violated RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, the federal regulations promulgated thereunder, and the authorized PaHWMR.
85. In view of EPA's Findings of Fact and Conclusions of Law, set forth above, Complainant further concludes that the Respondent is liable to the United States for a civil penalty pursuant to RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g).
86. Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), authorize, for violations of any requirement of RCRA Subtitle C, EPA's regulations promulgated thereunder, or any regulation of a state hazardous waste program authorized by EPA, the assessment of a civil penalty of up to \$25,000 per violation, with each day of violation constituting a separate violation. Pursuant to the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, as revised (73 Fed. Reg. 75340-46 (December 11, 2008)), violations of RCRA Subtitle C, EPA's regulations promulgated thereunder, or any regulation of a state hazardous waste program authorized by EPA are subject to an increased statutory maximum penalty of \$37,500 per violation, with each day of violation constituting a separate violation.
87. In settlement of the violations alleged against Respondent in EPA's Findings of Fact and Conclusions of Law Section of this Consent Agreement, and in consideration of each provision of this CAFO, Respondent consents to the assessment of a civil penalty in the amount of ONE HUNDRED DOLLARS (\$100.00) in accordance with the terms set forth below. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO, fully executed by all parties, signed by the Regional Administrator or the Regional Judicial Officer, and filed with the Regional Hearing Clerk. 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 fully executed CAFO is mailed or hand-delivered to Respondent.
88. The aforesaid settlement amount, set forth above, is appropriate for the violations identified in this CAFO and is based on consideration of a number of factors, including, but not limited to: the statutory factors (i.e., serious of the violation and any good faith efforts to comply with applicable requirements) set forth in RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3); and the application of these criteria to the particular facts and

circumstances of this case with specific reference to EPA's *RCRA Civil Penalty Policy* (October 1990 and June 2003), and the November 16, 2009 memorandum by EPA Waste and Chemical Enforcement Division Director Rosemarie A. Kelley, entitled *Adjusted Penalty Matrices Based on the 2008 Civil Monetary Penalty Inflation Adjustment Rule*. The Parties further acknowledge and represent that the aforesaid settlement is based, in part, upon an analysis of Respondents' ability to pay civil penalty. This analysis was based upon the following information submitted to Complainant by Respondent:

- a. 2012 U.S. Income Tax Return for S Corporation (Form 1120S);
 - b. Financial Statements and Supplemental Information – Years ended December 31, 2012 and 2011;
 - c. 2011 U.S. Income Tax Return for S Corporation (Form 1120S);
 - d. Financial Statements and Supplemental Information – Years ended December 31, 2011 and 2010;
 - e. 2010 U.S. Income Tax Return for S Corporation (Form 1120S);
 - f. Financial Statements and Supplemental Information – Years ended December 31, 2010 and 2009;
 - g. 2009 U.S. Income Tax Return for S Corporation (Form 1120S);
 - h. Financial Statements and Supplemental Information – Years ended December 31, 2009 and 2008;
 - i. Accounts Receivable – Aged Trial Balance Options Detail – Receivables Management (April 30, 2014);
 - j. Ability to Pay Questionnaire – Completed May, 2014;
 - k. U.S. Bankruptcy Court – Eastern District of Pennsylvania – Final Decree for Closure of Chapter 11 Case (Docket: 03-22047-tmt)(December 21, 2005); and
 - l. Depreciation Expense Report (as of December 31, 2013).
89. Complainant has relied upon the financial information provided by Respondent and identified in Paragraph 88, above. Based upon an analysis of the same, and in consideration and application of a number of factors to the particular facts and circumstances of this case, including: the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. § 6928(a)(3) and (g), with specific

reference to EPA's *RCRA Civil Penalty Policy* (October 1990 and June 2003); the appropriate Adjustment of Civil Monetary Penalties for Inflation pursuant to 40 C.F.R. Part 19; and associated EPA Office of Civil Enforcement, Waste and Chemical Enforcement Division implementing guidance, it is Complainant's conclusion that the Respondent has established that it is unable to pay a civil penalty in excess of the amount set forth in Paragraph 87, above, in settlement of the above-captioned action.

90. By his or her signature below, Respondent's representative certifies that the information submitted to EPA regarding Respondent's ability to pay and regarding any other matter at issue in this proceeding, is accurate and not misleading. Respondent and its officers, directors and principals 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. Complainant reserves the right to seek and obtain appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to Complainant regarding Respondent's claim of inability to pay, or regarding any other matter herein at issue, is false or, in any material respect, inaccurate.
91. Respondent shall pay the civil penalty amount referenced above, plus any interest, administrative fees, and late payment penalties owed, by either cashier's check, certified check, or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2015-0029;
 - b. All checks shall be made payable to the "United States Treasury";
 - c. All payments made by check and sent by regular mail shall be addressed to:

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

Customer service contact: 513-487-2091
 - d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

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

Contact: 314-418-1818

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 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"

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: 866-234-5681

h. On-Line Payment Option

WWW.PAY.GOV/paygov/

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

i. Additional payment guidance is available at:

<http://www.epa2.gov/financial/makepayment>

j. Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO.

A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Joseph J. Lisa
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029, and

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

92. 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 as specified herein shall result in the assessment of late payment charges including, interest, penalties and/or administrative costs of handling delinquent debts.
93. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the 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).
94. 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 -- 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 additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

95. 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).
96. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty assessed in this CAFO.

Certification of Compliance

97. The individual who signs this Consent Agreement on behalf of Respondent certifies that the Respondent's Facility referred to in this Consent Agreement is currently in compliance with all applicable requirements of RCRA Subtitle C and the authorized PaHWMR, except for those specific requirements addressed in Paragraph 80. ("Compliance Order") of this CAFO.

Other Applicable Laws

98. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

Reservation of Rights

99. This Consent Agreement and the accompanying Final Order resolve only EPA's claims for civil penalties for the specific violations of RCRA Subtitle C and the authorized PaHWMR alleged herein. 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. 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, federal regulations or authorized state regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

Full and Final Satisfaction

100. This Settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant may have pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), for the specific violations alleged in this Consent Agreement. Compliance with the CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

Parties Bound

101. Consent Agreement and the accompanying 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 party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

Effective Date

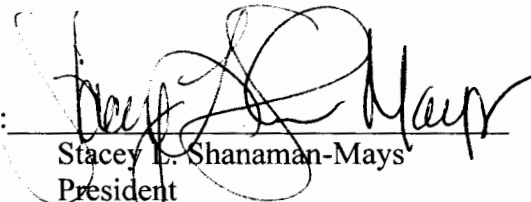
102. The effective date of this Consent Agreement and the accompanying Final Order is the dated on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules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

Entire Agreement

103. This Consent agreement and the accompanying Final Order constitute the entire agreement and understanding between the parties regarding settlement of all claims 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 CAFO.

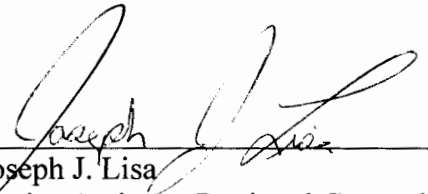
For Respondent:

Date: 1/12/14

By: 
Stacey L. Shanaman-Mays
President
Crescent Brass Manufacturing Corp.

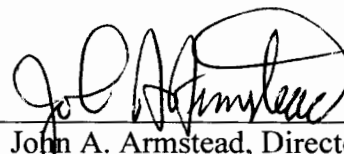
For Complainant:

Date: 1-8-2015

By: 
Joseph J. Lisa
Senior Assistant Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 1.22.15

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

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:

**Crescent Brass Manufacturing Corp.
701 Park Avenue
Reading, Pennsylvania 19611,**

Respondent.

Docket No. RCRA-03-2015-0029

FINAL ORDER

**Proceeding under RCRA Section
3008(a)(1) and (g), 42 U.S.C.
§ 6928(a)(1) and (g)**

FINAL ORDER

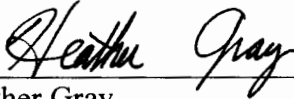
Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent Crescent Brass Manufacturing Corp. have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules 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 22.1(a)(4), 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.

Based on the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, the statutory factors set forth in RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3) and EPA's RCRA Civil Penalty Policy (October 1990 and June 2003).

NOW, THEREFORE, PURSUANT TO Section 3008(a)(1) and (g) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(1) and (g), and the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **ONE HUNDRED DOLLARS (\$100.00)**, plus any applicable interest, as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the foregoing Consent Agreement and this Final Order, signed by the Regional Administrator of U.S EPA Region III or the Regional Judicial Officer, is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: 02-05-2015



Heather Gray
Regional Judicial Officer
U.S. EPA, Region III

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:

**Crescent Brass Manufacturing Corp.
701 Park Avenue
Reading, Pennsylvania 19611,**

Respondent.

Docket No. RCRA-03-2015-0029


**Proceeding under RCRA Section
3008(a)(1) and (g), 42 U.S.C.
§ 6928(a)(1) and (g)**

CERTIFICATE OF SERVICE

I hereby certify that I sent by UPS, Next Day Delivery, a true and correct copy of the Consent Agreement and Final Order to the addressee listed below. The original and true and correct copy of the Consent Agreement and Final Order were hand-delivered to and filed with the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Stacey Shanaman-Mays
President
Crescent Brass Manufacturing Corp.
701 Park Avenue
Reading, Pennsylvania 19611.

Dated: 2-9-2015



Joseph J. Lisa
Sr. Assistant Regional Counsel
U.S. EPA Region III