

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

This form was originated by: L. RAMALHO 5/27/10
Name of Contact person Date

in the OR Office at X 2681 Phone number

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS Administrative Order/Consent Agreement FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt This is a modification

Name of Company making payment: Rambow Structural Materials Inc.

The Total Dollar Amount of Receivable: \$ 87,500.00
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number PERV-03-0010-0131

The Site-Specific Superfund Acct. Number _____

The Designated Regional/HQ Program Office _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
Name of Contact Date

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

- 1. Rosemarie Pacheco
Environmental Enforcement Section
Lands Division, Room 130044
1425 New York Avenue, N.W.
Washington, D.C. 20005
- 2. Originating Office (ORC)
- 3. Designated Program Office

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

- 1. Originating Office
- 2. Designated Program Office
- 3. Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

FIRST CLASS MAIL

June 10, 2010

Lori Weidner
U.S. Environmental Protection Agency
Cincinnati Finance Center
26 W. MLK Drive
Cincinnati, OH 45268

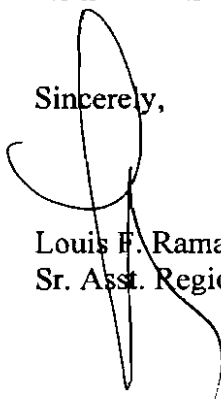
Re: Accounts Receivable
Consent Agreement and Final Order
EPA Docket No. RCRA-03-2010-0131

Dear Ms. Weidner:

Enclosed please find a true and correct copy of the Consent Agreement and Final Order, and the Enforcement Accounts Receivable Control Number Forms (EARCNF) filed with the Regional Hearing Clerk today in settlement of the above referenced subject matters.

Should you have any question or require further information, please feel free to call me at (215) 814-2681.

Sincerely,



Louis F. Ramalho
Sr. Asst. Regional Counsel

Enclosures

cc: Lydia Guy
Regional Hearing Clerk
U.S. EPA, Region III

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

In the Matter of: :

Ranbar Electrical Materials, Inc. :
Route 993 : **U.S. EPA Docket Number**
Manor, PA 15665 : **RCRA-03-2010-0131**

Respondent, :

Ranbar Electrical Materials, Inc. :
Route 993 :
Manor, PA 15665 :
EPA ID. No. PAD0050000591 :

Facility. :

CONSENT AGREEMENT

I. Preliminary Statement

1. This Consent Agreement is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("EPA", "Agency" or "Complainant") and Ranbar Electrical Materials, Inc. ("Ranbar" or "Respondent") pursuant to Section 3008(a) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act ("RCRA") 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 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, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3). This Consent Agreement ("CA") and the accompanying Final Order ("FO") address alleged violations by Respondent of Subtitle C of RCRA and the Pennsylvania Hazardous Waste Management Regulations ("PaHWMR"), 25 Pa. Code, Chapters 260a - 270a, which were authorized by EPA on November 27, 2000 (65 Fed. Reg. 57734 (September 26, 2000)), as amended on December 14, 2002, and subsequently revised on June 29, 2009. The PaHWMR incorporate, with certain exceptions, specific provisions of Title 40 of the 1999 Code of Federal Regulations by reference. *See* 25 Pa. Code § 260a.3(e).

2. Pursuant to § 22.13(b) of the Consolidated Rules of Practice, this CA and the attached FO (hereinafter jointly referred to as this "CAFO") simultaneously commence and conclude an administrative proceeding against Respondent, brought under Sections 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), to resolve alleged violations of RCRA at Respondent's facility located at Route 993, Manor, Pennsylvania (the "Facility").
3. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
4. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CA, except as provided in Paragraph 3, above.
5. For the purposes of this proceeding only, Respondent agrees not to contest EPA's jurisdiction with respect to the execution and issuance of this CAFO, or the enforcement of the CAFO.
6. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CA and any right to appeal the accompanying FO.
7. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
8. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

Notice of Action to the Commonwealth of Pennsylvania

9. EPA has given the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection ("PADEP"), prior notice of the initiation of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

II. Findings of Facts and Conclusions of Law

In accordance with the Consolidated Rules of Practice at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant alleges the following findings of fact and conclusions of law:

10. The United States Environmental Protection Agency's Office of Administrative Law Judges has jurisdiction over this matter pursuant to RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g), and 40 C.F.R. § 22.1(a)(4) and .4(c).
11. Respondent, Ranbar, is a Pennsylvania corporation and is a "person" as defined by RCRA Section 1004(15), 42 U.S.C. § 6903(15), and 25 Pa. Code § 260a.10.

12. Respondent is and, at all times relevant to this CAFO, has been the "owner" and/or "operator" of the Facility identified in Paragraph 2, above, as these terms are defined at 25 Pa Code § 260a.10, which incorporates by reference 40 C.F.R. § 260.10.
13. At all times relevant to this CAFO, and as described below, Respondent has engaged in the "storage" of "solid waste" and "hazardous waste" in "container[s]", "tank[s]" and "tank system[s]" at the Facility, as these terms are defined in 25 PA Code Section 260a.10. or defined in 40 C.F.R. § 260.10., as incorporated by reference in 25 Pa. Code § 260a.1.
14. Respondent is a large quantity generator of hazardous waste who generates greater than 1,000 kilograms of hazardous waste per month.
15. On September 5, 2007, a duly authorized EPA representatives conducted a Compliance Evaluation Inspection ("CEI") of the Facility.
16. Pursuant to RCRA Section 3007(a), 42 U.S.C. § 6927(a), on March 10, 2008, October 20, 2008, and December 22, 2009, EPA issued a Information Request Letters to Respondent concerning hazardous wastes generated, stored, transported from and/or otherwise handled by Respondent at the Facility.

COUNT I

(Owning and/or operating a hazardous waste storage facility without a permit or interim status)

17. The allegations of Paragraphs 1 through 16 of this CAFO are incorporated herein by reference as though fully set forth at length herein.
18. 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 hazardous waste storage, treatment or disposal facility unless such person has first obtained a permit for the facility or has qualified for interim status for the facility.
19. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), provides, in pertinent part, that a generator who generates greater than 1,000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 90 days or less without a permit or having interim status provided that, among other things:
 - (1) The waste is placed: (i) in containers and the generator complies with the requirements of 40 C.F.R. Part 265, Subpart I, AA, BB and CC (relating to use and management of containers); and/or (ii) in tanks and the generator complies with the applicable requirements of 40 C.F.R. Part 265, Subpart J, AA, BB, and CC (except for 40 C.F.R. §§ 265.197(c) and .200);

- (2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
 - (3) While being accumulated on-site, each container is labeled or marked clearly with the words, "Hazardous Waste";
 - (4) The generator complies with the requirements for owners or operators in Subparts C and D in 40 C.F.R. Part 265, and with the requirements of 40 C.F.R. § 265.16 and 40 C.F.R. § 268.7(a)(5).
20. 40 C.F.R. § 262.34(c)(1) provides, in pertinent part, with exceptions not relevant to this proceeding, that a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with the requirements of 40 C.F.R. § 262.34(a), provided he: (i) complies with §§ 265.171, 265.172, and 265.173(a) of 40 C.F.R. Part 265, Subpart I; and (ii) marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.
 21. 40 C.F.R. § 265, Subparts C, D, I, J, AA, BB, and CC, are incorporated by reference into 25 Pa. Code Chapter 265a, with exceptions not relevant to this proceeding.
 22. 40 C.F.R. Part 265, Subpart I, at § 265.171, provides that the owner or operator of a hazardous waste facility must transfer hazardous waste from a container not in good condition, or if it begins to leak, to a container that is in good condition or manage the waste in some other way that complies with the requirements of this part.
 23. 40 C.F.R. Part 265, Subpart I, at § 265.173(a), provides that the owner or operator of a hazardous waste facility must always keep containers holding hazardous waste closed during storage, except when it is necessary to add or remove waste.
 24. 25 Pa. Code § 265a.173(3), provides, in pertinent part, that the owner or operator of a hazardous waste facility shall, for purposes of indoor storage of nonreactive or nonignitable hazardous waste, provide container height, width and depth of a group of containers that provides a configuration and aisle spacing which insures safe management and access for purposes of inspection, containment and remedial action with emergency vehicles.
 25. 40 C.F.R. Part 265, Subpart I, at § 265.174, provides that the owner or operator of a hazardous waste facility must inspect at least weekly areas where containers of hazardous waste are stored at the facility.

26. 40 C.F.R. Part 265, Subpart I, at § 265.177(c), provides that the owner or operator of a hazardous waste facility must separate storage containers holding a hazardous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments or protect such storage containers holding a hazardous waste that is incompatible with any waste or other materials stored nearby in other containers by means of a dike, berm, wall, or other device.
27. Pursuant to 40 C.F.R. § 265.192(a), owners or operators of new tank systems or components must ensure that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection so that it will not collapse, rupture, or fail. The owner or operator must obtain a written assessment reviewed and certified by a qualified Professional Engineer in accordance with [40 C.F.R.] § 270.11(d) attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. This assessment must include, among other things, the following information: Design standard(s) according to which the tank(s) and ancillary equipment is or will be constructed; hazardous characteristics of the waste to be handled, and design considerations to ensure that tank foundations will maintain the load of a full tank, and tank systems will withstand the effects of frost heave.
28. Subpart BB (entitled "Air Emission Standards for Equipment Leaks") of 40 C.F.R. Part 265 includes each of the following provisions and requirements pertaining to the "Applicability", "Definitions", "Standards: Pumps in light liquid service", "Standards: Valves in gas/vapor service or in light liquid service", "Alternative standards for valves in gas/vapor service or in light liquid service: percentage of valves allowed to leak", "Alternative standards for valves in gas/vapor service or in light liquid service: skip period leak detection and repair", "Test methods and procedures" and "Recordkeeping requirements":
 - a. Pursuant to 40 C.F.R. § 265.1050(a) and with exceptions and exclusions not herein applicable, the regulations in 40 C.F.R. Part 265, Subpart BB, "apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes."
 - b. Pursuant to 40 C.F.R. § 265.1050(b), in relevant part and with exceptions and exclusions not herein applicable, 40 C.F.R. Part 265, Subpart BB "applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following: (1) A unit that is subject to the permitting requirements of 40 CFR part 270, or

* * * (3) A unit that is exempt from permitting under the provisions of 40 CFR 262.34(a) (i.e., a "90-day" tank or container) and is not a recycling unit under the provisions of 40 CFR 261.6."

- c. Pursuant to 40 C.F.R. § 265.1050(c), "[e]ach piece of equipment to which [40 C.F.R. Part 265, Subpart BB] applies shall be marked in such a manner that it can be distinguished readily from other pieces of equipment."
- d. In relevant part, 40 C.F.R. § 265.1051 provides that, "[a]s used in [40 C.F.R. Part 265, Subpart BB], all terms shall have the meaning given them in [40 C.F.R.] § 264.1031 . . . , which section therein defines the term:
 - i. *equipment* to mean and include "each valve, pump, pressure relief valve . . . open ended valve or line, or flange or other connector . . ."; and
 - ii. *in light liquid service* to mean "that the piece of equipment contains or contacts a waste stream where the vapor pressure of one or more of the organic components in the stream is greater than 0.3 kilopascals (kPa) at 20°C, the total concentration of the pure organic components having a vapor pressure greater than 0.3 kilopascals (kPa) at 20°C is equal to or greater than 20 percent by weight, and the fluid is a liquid at operating conditions".
- e. Pursuant to 40 C.F.R. § 265.1052(a)(1) and with exceptions and exclusions (including those of 40 C.F.R. § 265.1050(d), (e) and (f) pertaining to *equipment* in vacuum service, *equipment* that contains or contacts hazardous waste with an organic concentration of 10 percent by weight for less than 300 hours per calendar year and pharmaceutical manufacturing facilities) not herein applicable, "[e]ach pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in [40 C.F.R.] § 265.1063(b). . . ."
- f. Pursuant to 40 C.F.R. § 265.1052(a)(2), "[e]ach pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal."
- g. 40 C.F.R. § 264.1054(a) provides, in pertinent part, that each pressure relief device in gas/vapor service shall be operated with no detectable emissions, as indicated by an instrument reading of less than 500 parts per million ("ppm") above background.
- h. 40 C.F.R. § 264.1054(b)(2) provides, in pertinent part, that no later than 5 calendar days after the pressure release, the pressure relief device shall be

monitored to confirm the condition of no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background.

- i. Pursuant to 40 C.F.R. § 265.1057(a), in relevant part and with exceptions not herein applicable, “[e]ach valve in . . . light liquid service shall be monitored monthly to detect leaks by the methods specified in [40 C.F.R.] § 265.1063(b). . . .”
- k. Pursuant to 40 C.F.R. § 265.1061(a), “an owner or operator subject to the requirements of 40 C.F.R. § 265.1057 may elect to have all valves within a hazardous waste management unit comply with an alternative standard that allows no greater than 2 percent of valves to leak”, as described further in 40 C.F.R. § 265.1061(b) and (c).
- l. 40 C.F.R. § 265.1062(a) provides that an owner or operator subject to the requirements of 40 C.F.R. § 265.1057 may elect for all valves within a hazardous waste management unit to comply with one of the alternative work practices specified in 40 C.F.R. § 265.1062(b)(2) and (3).
- m. 40 C.F.R. § 265.1063(a) provides that each owner or operator subject to the provisions of 40 C.F.R. Part 265, Subpart BB, “shall comply with the test methods and procedures requirements provided in [40 C.F.R. § 265.1063].”
- n. 40 C.F.R. § 265.1064(b)(1) provides that owners and operators must record in the facility operating record, for each piece of equipment to which 40 C.F.R. Part 265, Subpart BB applies, the following information: “(i) Equipment identification number and hazardous waste management unit identification. (ii) Approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan). (iii) Type of equipment (e.g., a pump or pipeline valve). (iv) Percent-by-weight total organics in the hazardous waste stream at the equipment. (v) Hazardous waste state at the equipment (e.g., gas/vapor or liquid). (vi) Method of compliance with the standard (e.g., “monthly leak detection and repair” or “equipped with dual mechanical seals”).”
- o. 40 C.F.R. § 265.1064(g) provides that the following information pertaining to all equipment subject to the requirements in 40 C.F.R. §§ 265.1052 through 265.1060 shall be recorded in a log that is kept in the facility operating record: “(1) A list of identification numbers for equipment (except welded fittings) subject to the requirements of this subpart. (2)(i) A list of identification numbers for equipment that the owner or operator elects to designate for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, under the provisions of §§ 265.1052(e), 265.1053(i), and

265.1057(f). (ii) The designation of this equipment as subject to the requirements of §§ 265.1052(e), 265.1053(i), or 265.1057(f) shall be signed by the owner or operator. (3) A list of equipment identification numbers for pressure relief devices required to comply with § 265.1054(a). (4)(i) The dates of each compliance test required in §§ 265.1052(e), 265.1053(I), 265.1054, and 265.1057(f). (ii) The background level measured during each compliance test. (iii) The maximum instrument reading measured at the equipment during each compliance test. (5) A list of identification numbers for equipment in vacuum service. (6) Identification, either by list or location (area or group) of equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year.”

- p. 40 C.F.R. § 265.1085(c)(4)(iv) provides that the owner or operator shall maintain a record of the inspection of the air control equipment pursuant to 40 C.F.R. § 265.1085(c)(4)(i)-(iii) in accordance with the requirements specified in 40 C.F.R. § 265.1090(b).
29. From at least September 5, 2007 through April 21, 2008, Respondent had in storage in the Powder Building at the Facility at least 28 containers of hazardous waste (EPA Hazardous Waste Codes D001, D002, D003, D006, D007, D008, D038, U122, U223, and U196), not labeled with the words “Hazardous Waste” and not marked with the date upon which the period of accumulation of hazardous waste in each such container began.
30. From at least September 5, 2007 through April 21, 2008, Respondent failed to label with the words “Hazardous Waste” its KilnDirect tank containing hazardous waste (EPA Hazardous Waste Codes D001, D006, D007, D008, D025, D026, D035, F003, F004, and F005) located at the Facility.
31. From at least September 5, 2007 through April 21, 2008, Respondent failed to mark with an accumulation start date and label with the words “Hazardous Waste” a container (i.e., a 5-gallon bucket) containing hazardous waste, EPA Hazardous Waste Codes D001, D035, and F003, located at the Alkyd Resin Plant at Respondent’s Facility. The bucket was not closed at a time when it was not necessary to add waste to or remove was from such bucket.
32. From at least September 5, 2007 through April 21, 2008, Respondent failed to mark with an accumulation start date and label with the words “Hazardous Waste” a container (i.e., a 55-gallon drum) of baghouse dust, EPA Hazardous Waste Code D007 (chromium), located in the Paint Plant at Respondent’s Facility.
33. From at least September 5, 2007 through April 21, 2008, Respondent failed to mark with an accumulation start date and label with the words “Hazardous Waste” a container (i.e.,

a 75-gallon green steel drum) containing hazardous waste, EPA Hazardous Waste Codes D023, D024, D025, D026 and F004, located in the Paint Plant at Respondent's Facility.

34. From at least September 5, 2007 through April 21, 2008, Respondent failed to label with the words "Hazardous Waste" a container (*i.e.*, a 5-gallon fire can) being used to accumulate gloves, jars, test tubes and paper towels contaminated with alkyd, polyester, and epoxy ester resins and various solvents, EPA Hazardous Waste Codes D001, D035, F003 and F005, located at the Facility's laboratory.
35. At the time of EPA's CEI on September 5, 2007, Respondent failed to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to its Powder Building facility operation in an emergency where aisle space was needed for such purposes, in accordance with 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4), which in turn incorporated by reference 40 C.F.R. § 265.35.
36. From at least September 1, 2007 through April 30, 2008, Respondent failed to conduct weekly inspections of the hazardous waste container accumulation area in the Powder Building at the Facility in accordance with 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i), which in turn incorporates by reference 40 C.F.R. § 265.174.
37. At the time of EPA's CEI on September 5, 2007, Respondent failed to separate storage containers holding a hazardous waste that was incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments or protect such storage containers holding a hazardous waste that were incompatible with any waste or other materials stored nearby in other containers by means of a dike, berm, wall, or other device in accordance with 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i), which in turn incorporates by reference 40 C.F.R. § 265.177(c).
38. At the time of EPA's CEI on September 5, 2007, Respondent had failed to obtain a written assessment for the KilnDirect tank reviewed and certified by a qualified Professional Engineer attesting that the KilnDirect tank has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste at the Facility in accordance with 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(ii), which in turn incorporates by reference 40 C.F.R. § 265.192(a).
39. At the time of EPA's CEI on September 5, 2007, Respondent had failed to mark each piece of equipment for the KilnDirect tank subject to Subpart BB of 40 C.F.R. Part 265 in a manner that readily distinguishes such equipment from other pieces of equipment on such tank in accordance with 25 Pa. Code § 262a.10, which incorporates by reference 40

C.F.R. § 262.34(a)(1)(ii), which in turn incorporates by reference 40 C.F.R. § 265.1050(c).

40. At the time of EPA's CEI on September 5, 2007, Respondent had failed to monitor monthly and visually inspect weekly a pump, valves, and pressure release devices on the KilnDirect tank subject to Subpart BB of 40 C.F.R. Part 265 in accordance with 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(ii), which in turn incorporates by reference 40 C.F.R. §§ 265.1052(a)(1), 265.1052(a)(2), 265.1054(b)(2), and 265.1057(a).
41. At the time of EPA's CEI on September 5, 2007, Respondent had failed to maintain records for the equipment on the KilnDirect tank subject to Subpart BB of 40 C.F.R. Part 265 in accordance with 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(ii), which in turn incorporates by reference 40 C.F.R. §§ 265.1064(b)(1) and 265.1064(g).
42. At the time of EPA's CEI on September 5, 2007, Respondent had failed to maintain records of initial and annual visual inspections of the KilnDirect tank's fixed roof and its closure devices to check for defects that could result in air pollutant emissions in accordance with 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(ii), which in turn incorporates by reference 40 C.F.R. § 265.1085(c)(4)(iv).
43. From at least September 5, 2007 through April 21, 2008, "hazardous wastes" referred to in Paragraphs 29 through 34 above, generated by Respondent were in "storage" in "containers" and in a "tank" at the Facility as those terms are defined by 25 Pa. Code § 260a.10, which incorporates by reference 40 C.F.R. § 260.10, and, with respect to "storage," as that term is defined by 25 Pa. Code § 260a.10.
44. From at least September 5, 2007 through April 21, 2008, Respondent failed to qualify for the "less than 90 day" generator accumulation exemption of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), for the activities and/or units described in Paragraphs 29 through 42, above, by failing to satisfy the conditions for such exemption as set forth in 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a).
45. From at least September 5, 2007 through April 21, 2008, Respondent owned and operated a hazardous waste treatment, storage or disposal "facility", as the term is defined by 25 Pa. Code § 260a.10, which incorporates by reference 40 C.F.R. § 260.10, with respect to the activities and units described in Paragraphs 29 through 42, above.
46. Respondent has never had a permit or interim status pursuant to 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), or Section 3005 of RCRA, 42

U.S.C. § 6925, for the storage of hazardous waste at the Facility as described in Paragraphs 29 through 42, above.

47. 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 activities and/or units described in Paragraphs 29 through 42, above.
48. Respondent violated 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by operating a hazardous waste storage facility without a permit or interim status.

COUNT II

(Failure to perform hazardous waste determinations)

49. The allegations of Paragraphs 1 through 48 of this CAFO are incorporated herein by reference as though fully set forth at length.
50. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11, provides that a person or municipality who generates a solid waste shall determine if that waste is a hazardous waste using the following procedures:
 - (i) He should first determine if the waste is excluded from regulation under 40 C.F.R. § 261.4 .
 - (ii) He must then determine if the waste is listed as a hazardous waste in Subpart D of 40 C.F.R. Part 261.
 - (iii) 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:
 - (A) testing the waste, or
 - (B) applying knowledge of the hazardous characteristic of the waste in light of the material or processes used.
51. Respondent generated and stored several containers of waste material in its Powder Building at the Facility as described in Paragraph 29, above. These containers, whose contents were unknown at time of EPA's CEI, had been in storage for an undetermined amount of time. Subsequent to EPA's inspection, Respondent examined the materials and found that at least 28 containers held hazardous waste. Such wastes were considered hazardous for ignitability (i.e., resins), corrosivity (hydrochloric acid) or toxicity (i.e., lead, cadmium, chromium).

52. From at least September 5, 2007 through April 21, 2008, the wastes referred to in Paragraph 29, above, were "solid wastes" as this term is defined in 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. 261.2, with an exception not relevant hereto.
53. Respondent failed to determine whether its "solid wastes" were hazardous waste by applying knowledge of the hazardous characteristics of the waste or by testing the waste as provided in 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11.
54. Respondent violated 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11, by failing to perform a hazardous waste determination for the solid wastes generated by the Respondent and stored in the Powder Room at the Facility.

COUNT III

(Failure to maintain adequate aisle space)

55. The allegations of Paragraphs 1 through 54 of this CAFO are incorporated herein by reference as though fully set forth at length herein.
56. 25 Pa. Code § 264a.173(3) provides, in pertinent part, that the owner and operator shall, for purposes of indoor storage of nonreactive or nonignitable hazardous waste, provide container height, width and depth of a group of containers that provide a configuration and aisle spacing which insures safe management and access for purposes of inspection, containment and remedial action with emergency vehicles.
57. 40 C.F.R. § 264.35 provides, in pertinent part, that the owner and operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.
58. At the time of EPA's CEI on September 5, 2007, Respondent's indoor storage area of nonreactive or nonignitable hazardous waste in the Powder Room did not provide adequate container height, width and depth of a group of containers that provided a configuration and aisle spacing which insured safe management and access for purposes of inspection, containment and remedial action with emergency vehicles.
59. At the time of EPA's CEI on September 5, 2007, Respondent failed to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to the Powder Room operation at the Facility in the event of an emergency.

60. Based on the activities described in Paragraph 58 of this CAFO, above, Respondent violated 25 Pa. Code § 264a.173(3).
61. Based on the activities described in Paragraph 59 of this CAFO, above, Respondent violated 40 C.F.R. § 264.

COUNT IV

(Failure to conduct weekly inspections)

62. The allegations of Paragraphs 1 through 61 of this CAFO are incorporated herein by reference as though fully set forth at length herein.
63. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. Part 264, Subpart I, including 40 C.F.R. § 264.174, provides that the owner or operator of a hazardous waste facility must inspect at least weekly areas where containers of hazardous waste are stored at the facility.
64. Based on the activities described in Paragraph 36 of this CAFO, above, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. Part 264, Subpart I, including 40 C.F.R. § 264.174, by failing to inspect at least weekly the containers of hazardous waste stored in the Powder Building at the Facility from at least September 1, 2007 through April 30, 2008.

COUNT V

(Failure to keep containers closed)

65. The allegations of Paragraphs 1 through 64 of this CAFO are incorporated herein by reference as though fully set forth at length herein.
66. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), provides that the owner or operator must always keep containers holding hazardous waste closed during storage, except when it is necessary to add or remove waste.
67. Based on the activities described in Paragraph 31 of this CAFO, above, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), by failing to keep a hazardous waste container closed during storage at the Facility while it was not necessary to add or remove waste from the hazardous waste container.

COUNT VI

(Failure to separate incompatible hazardous waste)

68. The allegations of Paragraphs 1 through 67 of this CAFO are incorporated herein by reference as though fully set forth at length herein.
69. 40 C.F.R. Part 265, Subpart I, including 40 C.F.R. § 264.177(c), provides that the owner or operator of a hazardous waste facility must separate containers holding a hazardous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments by means of a dike, berm, wall, or other device.
70. Based on the activities described in Paragraph 37 of this CAFO, above, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.177(c), by failing to separate containers holding hazardous waste that were incompatible with waste or other materials stored nearby in other containers by means of a dike, berm, wall, or other device.

COUNT VII

(Failure to Comply with Tank System Design/Installation Requirements)

71. The allegations of Paragraphs 1 through 70 of this CAFO are incorporated herein by reference as though fully set forth at length.
72. 25 PA Code Section 264a.1., which incorporates by reference the requirements of 40 C.F.R. § 264.192(a), provides, in relevant part and with exceptions not herein applicable, that "[o]wners or operators of new tank systems or components must obtain. . . a written assessment reviewed and certified by a qualified Professional Engineer, in accordance with [40 C.F.R.] § 270.11(d) . . . , attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. The assessment must show that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection so that it will not collapse, rupture, or fail. This assessment . . . must include, at a minimum, the following information: (1) Design standard(s) according to which the tank(s) and/or the ancillary equipment are constructed; (2) Hazardous characteristics of the waste(s) to be handled; * * * (5) Design considerations to ensure that: (i) Tank foundations will maintain the load of a full tank; * * * (iii) Tank systems will withstand the effects of frost heave."
73. As of September 7, 2007, Respondent had not obtained a written structural integrity assessment that had been reviewed and certified by a qualified Professional Engineer in

accordance with 40 C.F.R. § 270.11(d), or that included the relevant and applicable information required pursuant to 40 C.F.R. § 264.192(a)(1), (2) and (5), for the KilnDirect tank system (which is a “new tank system” as that term is defined at 25 Pa. Code 260.10) or its components.

74. Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference the requirements of 40 C.F.R. § 264.192(a)(1), (2) and (5), by failing to obtain a written structural integrity assessment, reviewed and certified by a qualified Professional Engineer in accordance with 40 C.F.R. § 270.11(d), that included the information required pursuant to 40 C.F.R. § 264.192(a)(1), (2) and (5).

COUNT VIII

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

75. The allegations of Paragraphs 1 through 74, above, are incorporated herein by reference as though fully set forth at length.
76. 25 PA Code Section 264a.1 incorporates by reference the “Applicability” requirements of 40 C.F.R. § 264.1050, which include the following provisions:
- a. 40 C.F.R. § 264.1050(a) provides, with exceptions and exclusions not herein applicable, that the regulations in 40 C.F.R. Part 264, Subpart BB, “apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes”;
 - b. 40 C.F.R. § 264.1050(b) provides, in relevant part and with exceptions and exclusions not herein applicable, that 40 C.F.R. Part 264, Subpart BB, “applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following: (1) A unit that is subject to the permitting requirements of 40 CFR part 270, or . . . (3) A unit that is exempt from permitting under the provisions of 40 CFR 262.34(a) (i.e., a “90-day” tank or container) and is not a recycling unit under the provisions of 40 CFR 261.6.”; and
 - c. 40 C.F.R. § 264.1050(d) provides that “[e]ach piece of equipment to which this subpart applies shall be marked in such a manner that it can be distinguished readily from other pieces of equipment.”
77. 25 PA Code Section 264a.1. incorporates by reference the “Definitions” of 40 C.F.R. § 264.1051, which provide, in relevant part, that: “[a]s used in this [40 C.F.R. Part 264] subpart [BB], all terms shall have the meaning given them in [40 C.F.R.]

§ 264.1031 . . .”, which section defines the term “*equipment*” to mean and include “each valve, pump, . . . or flange or other connector”

78. From at least September 7, 2007 through April 21, 2008, and as alleged in Paragraph 30, above, the Respondent engaged in the storage of hazardous waste with an organic concentration of at least 10 percent by weight in the KilnDirect tank and tank systems. Such tank and tank systems were subject to the permitting requirements of 40 C.F.R. Part 270 because of the Respondent's failure to comply with the conditions that are identified in Paragraph 19, above, for temporary (*i.e.*, 90 days or less) accumulation of hazardous waste by a generator that are required pursuant to 40 C.F.R. § 262.34(a), as incorporated by reference into 25 Pa. Code § 262a.10.
79. At all times relevant to this CAFO, the KilnDirect tank included a pump, valves, flanges and/or other connectors in light liquid service, which equipment was not in vacuum service and routinely contained or contacted hazardous waste with organic concentrations that equaled or exceeded 10 percent by weight for periods in excess of 300 hours per calendar year.
80. From at least September 7, 2007 through April 21, 2008, the equipment (*i.e.*, the pump, valves, flanges and/or other connectors) associated with the KilnDirect tank was not marked in such a manner that it could be distinguished readily from other pieces of equipment.
81. Respondent violated 25 Pa. Code § 264a.1., which incorporates by reference the requirements of 40 C.F.R. § 264.1050(d), by failing to mark equipment (*i.e.*, the pump, valves, flanges and/or other connectors associated with the KilnDirect tank that was subject to the air emission standards for equipment leaks of 40 C.F.R. Part 264, Subpart BB) in a manner by which they could be distinguished readily from other pieces of equipment.

COUNT IX

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

82. The allegations of Paragraphs 1 through 81 of this CAFO are incorporated herein by reference as though fully set forth at length.
83. 25 Pa. Code § 264a.1 incorporates by reference the “Standards: Pumps in light liquid service” of 40 C.F.R. Part 264, Subpart BB, which requirements are set forth at 40 C.F.R. § 264.1052 and provide, in pertinent part, as follows:
 - a. 40 C.F.R. § 264.1052(a)(1) provides, with exceptions and exclusions (including those of 40 C.F.R. § 264.1050(e), (f) and (g) pertaining to *equipment* in vacuum

service, *equipment* that contains or contacts hazardous waste with an organic concentration of 10 percent by weight for less than 300 hours per calendar year and pharmaceutical manufacturing facilities) not herein applicable, that "[e]ach pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in [40 C.F.R.] § 264.1063(b) . . .".

- b. 40 C.F.R. § 264.1052(a)(2) provides that "[e]ach pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal."
84. 25 Pa. Code § 264a.1. incorporates by reference the "Test methods and procedures" of 40 C.F.R. Part 264, Subpart BB, which requirements are set forth at 40 C.F.R. § 264.1063 and, provide, in pertinent part, as follows:
- a. 40 C.F.R. § 264.1063(b)(1) provides that "[l]eak detection monitoring, as required in [40 C.F.R.] §§ 264.1052 – 264.1062, shall comply with . . . Reference Method 21 in 40 CFR Part 60."
 - b. 40 C.F.R. § 264.1063(d)(1) through (3) provides that "[i]n accordance with the waste analysis plan required by [40 C.F.R.] § 264.13(b), an owner or operator of a facility must determine, for each piece of equipment, whether the equipment contains or contacts a hazardous waste with organic concentration that equals or exceeds 10 percent by weight using the following: (1) Methods described in ASTM Methods D 2267–88, E 169–87, E 168–88, E 260–85 . . . ; (2) Method 9060A . . . SW-846 . . . ; or (3) Application of the knowledge of the nature of the hazardous waste stream or the process by which it was produced [with required] [d]ocumentation of a waste determination [made] by knowledge. . . ."
85. At all times relevant to the allegations in this CAFO, the KilnDirect tank system included a pump in light liquid service, within the meaning and definition of 40 C.F.R. § 264.1051, as incorporated by referenced in 25 Pa. Code § 264a.1, which equipment routinely contained and/or contacted hazardous wastes with organic concentrations of at least 10 percent by weight and was not subject to any exemption from the requirements of 40 C.F.R. Part 264, Subpart BB, as incorporated by reference in 25 Pa. Code § 264a.1.
86. From at least September 7, 2007 through April 21, 2008, the pump in light liquid service associated with the KilnDirect tank system was neither "monitored monthly to detect leaks" by the Respondent pursuant to the methods specified in 40 C.F.R. § 264.1063, in accordance with the applicable requirements of 40 C.F.R. § 264.1052(a)(1), nor "checked by visual inspection each calendar week for indications of liquid dripping from the pump

seal" by the Respondent in accordance with the applicable requirements of 40 C.F.R. § 264.1052(a)(2).

87. Respondent violated 25 Pa. Code § 264a.1., which incorporates by reference the requirements of 40 C.F.R. § 264.1052(a)(1) and (2), by failing to monitor the pump in light liquid service associated with the KilnDirect tank system at the Facility monthly, by the methods specified in 40 C.F.R. § 264.1063, to detect leaks and to check the pump by visual inspection each calendar week for indications of liquid dripping from the pump seal.

COUNT X

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

88. The allegations of Paragraphs 1 through 87 of this CAFO are incorporated herein by reference as though fully set forth at length.
89. 25 Pa. Code § 264a.1 incorporates by reference the "Standards: Valves in gas/vapor service or in light liquid service" of 40 C.F.R. Part 264, Subpart BB, which requirements are set forth at 40 C.F.R. § 264.1057 and provide, in pertinent part, as follows:
- a. 40 C.F.R. § 264.1057(a) provides, in relevant part, with exceptions not herein applicable, that "[e]ach valve in . . . light liquid service shall be monitored monthly to detect leaks by the methods specified in [40 C.F.R.] § 264.1063(b). . . ."
90. 25 Pa. Code § 264a.1 incorporates by reference the requirements of 40 C.F.R. § 264.1061(a), which provides that "an owner or operator subject to the requirements of 40 C.F.R. § 264.1057 may elect to have all valves within a hazardous waste management unit comply with an alternative standard that allows no greater than 2 percent of valves to leak", as described further in 40 C.F.R. § 264.1061(b) and (c);
91. 25 Pa. Code § 264a.1 incorporates by reference the requirements of 40 C.F.R. § 264.1062(a), which provides that an owner or operator subject to the requirements of 40 C.F.R. § 264.1057 may elect for all valves within a hazardous waste management unit to comply with one of the alternative work practices specified in 40 C.F.R. § 264.1062(b)(2) and (3).
92. From at least September 7, 2007 through April 21, 2008, each of the valves in light liquid service associated with the KilnDirect tank system were not monitored monthly by the Respondent to detect leaks in accordance with: the methods specified in 40 C.F.R. § 264.1063(b), as required pursuant to 40 C.F.R. § 264.1057(a); one of the alternative standards described in 40 C.F.R. § 264.1061(b) and (c), as required pursuant to 40 C.F.R.

§ 264.1061(a); or one of the alternative work practices specified in 40 C.F.R. § 264.1062(b)(2) and (3), as required pursuant to 40 C.F.R. § 264.1062(a).

93. Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference the requirements of 40 C.F.R. §§ 264.1057(a), 264.1061(b) and (c), and 264.1062(a), by failing to comply with any of the standards therein, for the valves in light liquid service associated with the KilnDirect tank system at the Facility.

COUNT XI

(Failure to Comply with Air Emission Standards for Pressure Relief Devices in Gas/Vapor Service)

94. The allegations of Paragraphs 1 through 93 of this CAFO are incorporated herein by reference as though fully set forth at length.
95. 25 Pa. Code § 264a.1, which incorporates by reference the requirements of 40 C.F.R. § 264.1054(a), provides, in pertinent part, that each pressure relief device in gas/vapor service shall be operated with no detectable emissions, as indicated by an instrument reading of less than 500 parts per million (“ppm”) above background.
96. 25 Pa. Code § 264a.1, which incorporates by reference the requirements of 40 C.F.R. § 264.1054(b)(1), provides, in pertinent part, that after each pressure release, the pressure release device shall be returned to a condition of no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as soon as practicable, but no later than 5 calendar days after each pressure release.
97. 25 Pa. Code § 264a.1, which incorporates by reference the requirements of 40 C.F.R. § 264.1054(b)(2), provides, in pertinent part, that no later than 5 calendar days after the pressure release, the pressure relief device shall be monitored to confirm the condition of no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background.
98. From at least September 7, 2007 through April 21, 2008, the pressure relief device in gas/vapor service located on Respondent’s KilnDirect tank was not operated with no detectable emissions as indicated by an instrument reading of less than 500 parts per million (“ppm”) above background, as required by 40 C.F.R. § 264.1054(a).
99. From at least September 7, 2007 through April 21, 2008, Respondent failed to monitor the pressure relief device located on Respondent’s KilnDirect tank no later than 5 calendar days after each pressure release to confirm the condition of no detectable emissions as indicated by an instrument reading of less than 500 ppm above background

as required by 25 Pa. Code § 264a.1, which incorporates by reference the requirements of 40 C.F.R. § 264.1054(b)(2).

100. Based on the activities described in Paragraphs 98 and 99 of this CAFO, above, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference the requirements of 40 C.F.R. §§ 264.1054(a), (b)(1) and (2).

COUNT XII

(Failure to Comply with Air Emission Standards (for Equipment Leaks) Recordkeeping Requirements)

101. The allegations of paragraphs 1 through 100 of this CAFO are incorporated herein by reference as though fully set forth at length.
102. Pa. Code § 264a.1, which incorporates by reference the “Recordkeeping requirements” of 40 C.F.R. Part 264, Subpart BB, which requirements are set forth at 40 C.F.R. § 264.1064 and provide, in pertinent part, as follows:
- a. 40 C.F.R. § 265.1064(b)(1) provides that owners and operators must record in the facility operating record, for each piece of equipment to which 40 C.F.R. Part 264, Subpart BB applies, the following information: “(i) Equipment identification number and hazardous waste management unit identification. (ii) Approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan). (iii) Type of equipment (e.g., a pump or pipeline valve). (iv) Percent-by-weight total organics in the hazardous waste stream at the equipment. (v) Hazardous waste state at the equipment (e.g., gas/vapor or liquid). (vi) Method of compliance with the standard (e.g., “monthly leak detection and repair” or “equipped with dual mechanical seals”).”
 - b. 40 C.F.R. § 265.1064(g) provides that the following information pertaining to all equipment subject to the requirements in 40 C.F.R. §§ 265.1052 through 265.1060 shall be recorded in a log that is kept in the facility operating record: “(1) A list of identification numbers for equipment (except welded fittings) subject to the requirements of this subpart. (2)(i) A list of identification numbers for equipment that the owner or operator elects to designate for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, under the provisions of §§ 264.1052(e), 264.1053(i), and 264.1057(f). (ii) The designation of this equipment as subject to the requirements of §§ 264.1052(e), 264.1053(i), or 264.1057(f) shall be signed by the owner or operator. (3) A list of equipment identification numbers for pressure relief devices required to comply with § 264.1054(a). (4)(i) The dates of each

compliance test required in §§ 264.1052(e), 264.1053(i), 264.1054, and 264.1057(f). (ii) The background level measured during each compliance test. (iii) The maximum instrument reading measured at the equipment during each compliance test. (5) A list of identification numbers for equipment in vacuum service. (6) Identification, either by list or location (area or group) of equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year.”

103. At the time of the September 7, 2007 CEI, the Facility’s operating record did not contain or include a log with any of the information identified in the preceding paragraph, for the pump, two valves and pressure relief device associated with the KilnDirect tank at the Facility, as required pursuant to Pa. Code § 264a.1, which incorporates by reference the requirements of 40 C.F.R. § 264.1064(b)(1) and (g).
104. Respondent violated Pa. Code § 264a.1, which incorporates by reference the requirements of 40 C.F.R. § 264.1064(b)(1) and (g), by failing to record in the Facility operating record, or in any log maintained therein, the information identified in paragraph 103, above, for the pump and valves in light liquid service and for the pressure relief device in gas/vapor service associated with the KilnDirect tank at the Facility.

COUNT XIII

(Failure to Comply with Air Emission Standard Recordkeeping Requirements for Tanks)

105. The allegations of paragraphs 1 through 104 of this CAFO are incorporated herein by reference as though fully set forth at length.
106. Pa. Code § 264a.1, which incorporates by reference the requirements of 40 C.F.R. Part 264, Subpart CC [entitled “Air Emission Standards for Tanks, Surface Impoundments, and Containers”], which requirements provide, in pertinent part, as follows:
 - a. 40 C.F.R. § 264.1080(a) provides, with exceptions not herein applicable, that the requirements of 40 C.F.R. Part 264, Subpart CC, “apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers subject to either subpart I, J, or K of this [40 C.F.R.] part [264]. . .”.
 - b. 40 C.F.R. § 264.1082(b) provides, in relevant part and with exceptions not herein applicable, that “[t]he owner or operator shall control air pollution emissions from each hazardous waste management unit in accordance with the standards specified in [40 C.F.R.] §§ 264.1084 through 264.1087 . . . as applicable to the management of the hazardous waste management unit.”

- c. 40 C.F.R. § 264.1084(b)(1) provides, in relevant part, that for a tank which meets all of the conditions specified in 40 C.F.R. § 264.1084(b)(1)(i) through (iii), “the owner or operator shall control air pollution emissions from the tank in accordance with the Tank Level 1 controls specified in [40 C.F.R. § 264.1084(c)]. . . .”
- d. 40 C.F.R. § 264.1084(c) provides that “[o]wners and operators controlling air pollutant emissions from a tank using Tank Level 1 controls shall meet the requirements specified in paragraphs (c)(1) through (c)(4) of [40 C.F.R. § 264.1084].” 40 C.F.R. § 264.1084(c)(4) thereafter provides, in relevant part, that: “[t]he owner or operator shall inspect the air emission control equipment in accordance with the following requirements. (i) The fixed roof and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. . . . (ii) The owner or operator shall perform an initial inspection of the fixed roof and its closure devices on or before the date that the tank becomes subject to this section. Thereafter, the owner or operator shall perform the inspections at least once every year. . . . (iii) In the event that a defect is detected, the owner or operator shall repair the defect . . . (iv) The owner or operator shall maintain a record of the inspection in accordance with the requirements specified in § 264.1089(b) of this subpart.”
- e. 40 C.F.R. § 264.1089(b) provides, in relevant part, that: “[t]he owner or operator of a tank using air emission controls in accordance with the requirements of § 264.1084 of this [Part 264] subpart [CC] shall prepare and maintain records for the tank” , which information includes, but is not limited to: “(ii) A record for each inspection required by [40 C.F.R.] § 264.1084 of this subpart . . .”.

- 107. At all times relevant to the allegations in this CAFO, the KilnDirect tank at the Facility was equipped with a fixed roof and closure devices, met all of the conditions specified in 40 C.F.R. § 264.1084(b)(1)(i) through (iii), was using Tank Level 1 controls, and was subject to, and not otherwise excepted from, Tank Level 1 air emission control requirements pursuant to Pa. Code § 264a.1, which incorporates by reference the requirements of 40 C.F.R. Part 264, Subpart CC, including the requirements set forth at 40 C.F.R. §§ 264.1083(b), 264.1084(b)(1) and (c)(4), and the associated recordkeeping requirements of 40 C.F.R. § 264.1089(b), as identified and set forth in the preceding paragraph.
- 108. From at least July 1, 2005 through September 7, 2007, Respondent did not prepare and did not maintain records of the initial and annual tank fixed roof and closure device emission control visual inspections required pursuant to Pa. Code § 264a.1, which

incorporates by reference the requirements of 40 C.F.R. §§ 264.1084(c)(4) and 264.1089(b)(1)(ii).

109. Respondent violated Pa. Code § 264a.1, which incorporates by reference the recordkeeping requirements of 40 C.F.R. § 264.1089(b)(1)(ii), by failing to maintain records of the initial and annual fixed roof and closure device emission control visual inspections performed on the KilnDirect tank at the Facility.

COUNT XIV

(Improper management of universal waste)

110. The allegations of Paragraphs 1 through 109 of this CAFO are incorporated herein by reference as though fully set forth at length herein.
111. 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(a) provides, in pertinent part, that a small quantity handler of universal waste batteries must label or mark clearly each battery or a container or package in which such batteries are contained with the words "Universal Waste-Battery(ies)", or "Waste Battery(ies)", or "Used Battery(ies)."
112. During the September 7, 2007 CEI, Respondent was storing at the Facility used batteries that were not labeled with the words "Universal Waste-Battery(ies)", or "Waste Battery(ies)", or "Used Battery(ies)".
113. Respondent is the "generator" of the used "batteries" described above, and such batteries are and were, at the time of the September 7, 2007 CEI, "universal waste" as these terms are defined in 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.9.
114. Respondent is and was, at the time of the September 7, 2007 CEI, a "small quantity handler of universal waste" as this term is defined in 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.9.
115. Based on the activities described in Paragraphs 112 through 114, above, Respondent violated 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(a) and (e), by accumulating universal waste batteries unlabeled without the words "Universal Waste-Battery(ies)", or "Waste Battery(ies), or "Used Battery(ies)."

COUNT XV

(Unlawful storage of land disposal restricted wastes)

116. The allegations of Paragraphs 1 through 115 of this CAFO are incorporated herein by reference as though fully set forth at length herein.

117. 25 Pa. Code § 268a.1, which incorporates by reference 40 C.F.R. § 268.50, provides that storage of hazardous waste restricted from land disposal under 40 C.F.R. Part 268 or RCRA § 3004 is prohibited unless the following conditions, inter alia, are met:
- (A) A generator stores such wastes in tanks or containers for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements in 40 C.F.R. § 262.34 and 40 C.F.R. Parts 264 and 265.
 - (B) An owner/operator of a hazardous waste treatment, storage, or disposal facility stores such wastes in tanks or containers for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and:
 - (i) Each container is clearly marked to identify its contents and the date each period of accumulation begins;
 - (ii) Each tank is clearly marked with a description of its contents, the quantity of each hazardous waste received, and the date each period of accumulation begins, or such information for each tank is recorded and maintained in the operating record at that facility. Regardless of whether the tank itself is marked, an owner/operator must comply with the operating record requirements specified in 40 C.F.R. § 264.73 or § 265.73.
118. The hazardous wastes referred to in Paragraphs 29 through 34, above, are “land disposal restricted wastes” within the meaning of 25 Pa. Code § 268a.1, which incorporates by reference 40 C.F.R. §§ 268.34 and 268.40.
119. Respondent stored land disposal restricted waste in a tank and containers at the Facility as described in Paragraphs 29 through 34, above, as further described in Count 1, without complying with the requirements of 40 C.F.R. § 262.34(a), as required by 25 Pa. Code § 268a.1, which incorporates by reference 40 C.F.R. § 268.50(a)(1) and/or (2).
120. The land disposal restricted wastes stored in a tank and containers as described in Paragraphs 29 through 34, above, did not meet applicable treatment standards or prohibition levels, as described in 25 Pa. Code § 268a.1, which incorporates by reference 40 C.F.R. § 268.40, and were not otherwise exempt or excluded from regulation under 25 Pa. Code § 268a.1, which incorporates by reference 40 C.F.R. Part 268, with exceptions not relevant to this CAFO.

121. Respondent violated 25 Pa. Code § 268a.1, which incorporates by reference 40 C.F.R. § 268.50(a)(1) and (2), by storing hazardous waste restricted from land disposal in a tank and containers without meeting the conditions for such storage set forth therein.

IV. COMPLIANCE ORDER

122. Respondent shall perform each of the following Compliance Tasks within the time periods specified. "Days" as used herein shall mean calendar days unless specified otherwise.
- a. Immediately cease the storage of hazardous wastes (in containers, tanks or in any other type of unit or at any location) at the Facility except in accordance with: a valid permit issued pursuant to 25 Pa. Code § 270a.1. and/or EPA's hazardous waste management regulations, 40 C.F.R. Part 270, as applicable, or a valid exemption or exclusion allowed by RCRA, EPA's regulations thereunder, and/or the federally-authorized PaHWR, as applicable.
 - b. Immediately manage universal waste batteries at the Facility in accordance with 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(a).
 - c. Cease the storage of land disposal restricted wastes at the Facility except as provided in 40 C.F.R. § 268.50
123. Within thirty (30) days after the Effective Date of the CA, Respondent shall certify to Complainant, in writing, that Respondent currently is in compliance with all relevant provisions of the authorized Pennsylvania Hazardous Waste Management Program and RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e for which violations are alleged in this Consent Agreement at the Facility. Such certification, and any other notice, certification, data presentation, or document submitted by Respondent pursuant to this Section IV ("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.

124. Any certification submitted by Respondent pursuant to this Section IV ("Compliance Order") 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: _____

125. Any certification, notice, data presentation, or document submitted by Respondent pursuant to this Section IV ("Compliance Order") shall be sent to the attention of:

Jenna R. Henry
Environmental Engineer
U.S. EPA, Region III
Land and Chemicals Division (3LC70)
1650 Arch Street
Philadelphia, PA 19103-2029.

V. CIVIL PENALTIES

126. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty of Eighty Seven Thousand Five Hundred Dollars (\$87,500.00), which Respondent agrees to pay in accordance with the terms set forth below.

127. The civil penalty of Eighty Seven Thousand Five Hundred Dollars (\$87,500.00) set forth in Paragraph 126, above, shall be paid in four (4) installments with interest at the rate of one percent (1%) per annum on the outstanding principal balance in accordance with the following schedule:
- a. 1st Payment: The first payment in the amount of Twenty-One Thousand Eight Hundred Seventy-Five Dollars (\$21,875.00), consisting of a principal payment of \$21,875.00 and an interest payment of \$0.00, shall be paid within thirty (30) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
 - b. 2nd Payment: The second payment in the amount of Twenty-Two Thousand Ninety Dollars and Seventy-Five Cents (\$22,090.75), consisting of a principal payment of \$21,875.00 and an interest payment of \$215.75, shall be paid within one hundred twenty (120) days on which this CAFO is mailed or hand-delivered to Respondent;
 - c. 3rd Payment: The third payment in the amount of Twenty One Thousand Nine Hundred Eighty-Two Dollars and Eighty-Eight Cents (\$21,982.88), consisting of a principal payment of \$21,875.00 and an interest payment of \$107.88, shall be paid within two hundred ten (210) days of the date on which this CAFO is mailed or hand-delivered to Respondent; and
 - d. 4th Payment: The fourth and final payment in the amount of Twenty One Thousand Nine Hundred Twenty-Eight Dollars and Ninety-Four Cents (\$21,928.94), consisting of a principal payment of \$21,875.00 and an interest payment of \$53.94, shall be paid within three hundred (300) days of the date on which this CAFO is mailed or hand-delivered to Respondent.
128. Pursuant to the above schedule, Respondent will remit total principal payments for the civil penalty in the amount of Eighty Seven Thousand Five Hundred Dollars (\$87,500.00) and total interest payments in the amount of Three Hundred Seventy-Seven Dollars and Fifty-Seven Cents (\$377.57).
129. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in paragraph 127, above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall *immediately* pay the entire remaining principal balance of the civil penalty along

Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described below in the event of any such failure or default.

130. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth in Paragraph 127, above, Respondent may pay the entire civil penalty of Eighty-Seven Thousand Five Hundred Dollars (\$87,500.00) within thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a) as calculated in Paragraph 127, above, and as described in Paragraph 128. In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.
131. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors set forth in RCRA § 3008(a)(3) and (g), 42 U.S.C. § 6928(a)(3) and (g), and EPA's *RCRA Civil Penalty Policy* (June 2003) ("*Penalty Policy*").
132. Respondent shall remit each installment payment for the civil penalty and interest, pursuant to Paragraph 127, above, and/or the full penalty pursuant to Paragraph 130, above, and/or any administrative fees and late payment penalties, in accordance with Paragraphs 134 through 136, below, by electronic funds transfer ("EFT"), as described below, or by sending a corporate check or certified check, in the following manner:
 - a. All payments by the Respondent shall include Respondent's full name and address and the EPA Docket Number of this Consent Agreement (RCRA-03-2010-0131).
 - b. All checks shall be made payable to "**United States Treasury**";
 - c. All payments made by check and sent by regular mail shall be addressed to:

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

Contact: Eric Volck 513-487-2105
 - d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact 314-418-1028

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

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

- f. All payments by electronic funds transfer (“EFT”) shall be directed to:

Federal Reserve Bank of New York
ABA No. 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 payments made through the automatic clearinghouse (“ACH”), also known as Remittance Express (“REX”), shall be directed to:

U.S. Treasury REX/Cashlink ACH Receiver
ABA No. 051036706
Account 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking

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

Contact, Jesse White, 301-887-6548 or REX, 1-866-234-5681

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.epa.gov/ocfo/finservices/make_a_payment.htm

133. At the time of payment, Respondent shall send a notice of such payment, including a copy of the check or EFT authorization, as applicable, to:

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

and

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

134. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.

135. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a Consent Agreement and Final Order begins to accrue on the date that a copy of the Consent Agreement and Final Order is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

136. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b).

Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

137. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
138. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

VI. OTHER APPLICABLE LAWS

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

VII. RESERVATION OF RIGHTS

140. This CAFO resolves only EPA's claims for civil penalties for the specific violations which are alleged in this Consent Agreement. Nothing in this CAFO shall be construed as limiting the authority of EPA to undertake action against any person, including the Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the *Consolidated Rules of Practice*. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO following its filing with the Regional Hearing Clerk.

VIII. FULL AND FINAL SATISFACTION

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

IX. PARTIES BOUND

142. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind the Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

X. EFFECTIVE DATE


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

XI. ENTIRE AGREEMENT

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

For: Ranbar Electrical Materials, Inc.

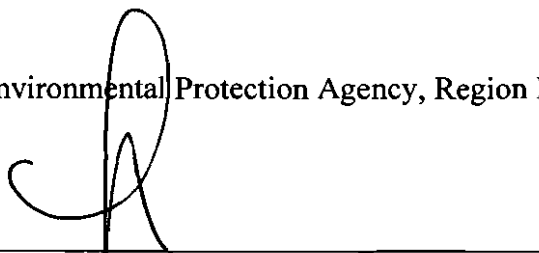
Date: May 17, 2010

By: 
Randall L. Russell, Jr.
President

For the Complainant:

U.S. Environmental Protection Agency, Region III

Date: 5/22/2010

By: 
Louis F. Ramalho
Sr. Assistant Regional Counsel

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

In the Matter of:	:	
Ranbar Electrical Materials, Inc.	:	
Route 993	:	U.S. EPA Docket Number
Manor, PA 15665	:	RCRA-03-2010-0131
Respondent,	:	
Ranbar Electrical Materials, Inc.	:	
Route 993	:	
Manor, PA 15665	:	
EPA ID. No. PAD0050000591	:	
Facility.	:	
	:	

FINAL ORDER

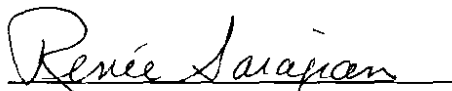
Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Ranbar Electrical Materials, Inc., have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of 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. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the *Consolidated Rules*

of Practice and Section 3008(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a) ("RCRA"), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section 3008(a)(3) and (g), 42 U.S.C. § 6928(a)(3) and (g), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of Eighty Seven Thousand Five Hundred Dollars (\$87,500.00) in accordance with the terms and conditions of the Consent Agreement, perform the tasks set forth in the Compliance Order, and comply with each of the additional terms and conditions as specified in the attached Consent Agreement.

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

Date: 6/10/10



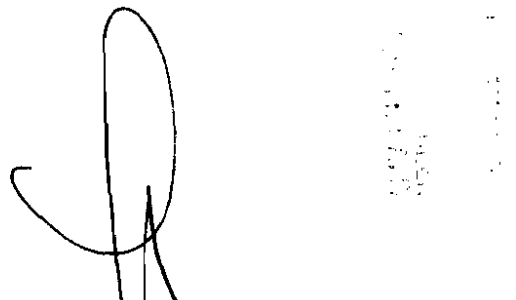
Renée Sarajian
Regional Judicial Officer
U.S. EPA, Region III

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date listed below, the original of the foregoing Consent Agreement and Final Order, Docket No. **RCRA-03-2010-0131** was filed with the Regional Hearing Clerk, U.S. EPA - Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and that a true and correct copy was sent to the following party:

Joseph R. Brendel
Thorp Reed & Armstrong, LLP
One Oxford Centre
301 Grant Street, 14th Floor
Pittsburgh, PA 15219-1425

6/10/10
Date



Louis F. Ramalho
Sr. Assistant Regional Counsel
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029