

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

In the matter of:)
))
Baldwin Hardware Corporation)
19701 Da Vinci)
Lake Forest, CA 92610)
))
and)
))
SBD Property Holdings, LLC)
6161 East 75th Street)
Indianapolis, IN 46250,)
))
RESPONDENTS.)
))
841 East Wyomissing Boulevard)
Reading, PA 19611)
))
FACILITY.)

Docket No. RCRA-03-2015-0243

**Administrative Complaint and Notice
of Opportunity for Hearing Under
Section 3008(a) and (g) of the
Resource Conservation and
Recovery Act, as amended,
42 U.S.C. § 6928(a) and (g)**

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COMPLAINT

I. PRELIMINARY STATEMENT

1. This Complaint and Notice of Opportunity for Hearing (“Complaint”) is issued pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as “RCRA”), 42 U.S.C. § 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22.
2. The Complainant is the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“Complainant”), who has been duly delegated the authority to bring this action.
3. The Respondents are Baldwin Hardware Corporation (“Baldwin”), which is a subsidiary of Spectrum Brands Inc., and SBD Property Holdings, LLC (“SBD”), which is an affiliate of Stanley Security Solutions, Inc. (collectively, “Respondents”).

4. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes the U.S. Environmental Protection Agency (“EPA” or the “Agency”) to initiate an enforcement action whenever it is determined that any person is in violation of any requirement of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, EPA’s regulations thereunder, or any regulation of a state hazardous waste program which has been authorized by EPA.
5. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil monetary penalty against any person who violates any requirement of RCRA Subtitle C, EPA’s regulations thereunder, or any regulation of a state hazardous waste program which has been authorized by EPA, of not more than \$25,000.00 for each day of violation. This amount has been adjusted upward, to \$37,500.00 for each day of violation by the Civil Monetary Penalty Inflation Adjustment Rule. 40 C.F.R. Part 19.
6. 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 Regulations were authorized by EPA pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A. The Commonwealth of Pennsylvania has revised, and EPA has re-authorized, the Commonwealth of Pennsylvania Hazardous Waste Regulations several times subsequent to this original authorization, with the most recent authorized (revised) regulations becoming effective on June 29, 2009 (74 Fed. Reg. 19453). The provisions of the current authorized (revised) Commonwealth of Pennsylvania Hazardous Waste Regulations, codified at 25 Pa. Code Chapters 260a-266a, 266b, and 268a-270a (“PaHWR”), have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
7. Respondents are hereby notified of EPA’s determination that each Respondent has violated RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and requirements of the PaHWR at their former door, bathroom and lighting hardware manufacturing facility located at 841 Wyomissing Boulevard, Reading, PA 19611 (the “Facility”) and that Complainant is herein seeking the assessment of civil monetary penalties against the Respondents for such violations.
8. EPA has given the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (“PADEP”), prior notice of the issuance of this Complaint in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
9. 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10, defines “generator” as any person whose act or process produces hazardous waste identified or listed in 40 C.F.R. Part 261 or whose act first causes a hazardous waste to become subject to regulation.
10. 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10, defines “owner” as the person who owns a facility or part of a facility.

11. 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10, defines “operator” as the person responsible for the overall operation of a facility.
12. 25 Pa. Code § 260a.10 defines “person” as, *inter alia*, a corporation.
13. 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10, defines “hazardous waste” as that term is defined in 40 C.F.R. § 261.3.
14. 25 Pa. Code § 260a.10 defines “facility” as “the land, structures and other appurtenances or improvements where municipal or residual waste disposal or processing is permitted or takes place, or where hazardous waste is treated, stored, or disposed.”
15. 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10, defines “pile” as any non-containerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage and that is not in a containment building.
16. 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10, defines “containment building” as a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of Subpart DD of 40 C.F.R. Parts 264 or 265.

II. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW

17. Respondent Baldwin is, and at all times relevant to the allegations set forth against it in this Complaint was, a Pennsylvania corporation and a “person,” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 25 Pa. Code § 260a.10.
18. Respondent SBD is, and at all times relevant to the allegations set forth against it in this Complaint was, a Delaware corporation and a “person,” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 25 Pa. Code § 260a.10.
19. From at least 1987 through December 16, 2012, Respondent Baldwin was the “owner” and “operator” of the Facility, as those terms are defined in 25 Pa. Code § 260a.1, which incorporates by reference the definitions of those terms as set forth in 40 C.F.R. § 260.10.
20. On information and belief, from December 17, 2012 through early June 2015, Respondent SBD was the “owner” and Respondent Baldwin was the “operator” of the Facility, as those terms are defined in 25 Pa. Code § 260a.1, which incorporates by reference the definitions of those terms as set forth in 40 C.F.R. § 260.10. Upon information and belief, during this time period, Respondent SBD also acted as an “operator” of the Facility because its employees participated in decisions and activities related to hazardous waste management at the Facility.
21. Production operations at the Facility included limited brass article and parts forging, polishing and plating, along with associated assembly, packaging and shipping operations at the Facility (collectively, “production operations”). During brass article and parts

forging, polishing and plating operations (hereinafter, "manufacturing operations"), Respondents used conveyor belts to transport brass hardware parts into small rooms known as "buff houses," where polishing occurred at each of the Facility's Automatic Polishing Machines that remained in service and operation at the Facility until on or about July 2012.

22. Until on or about March 1, 2012, five Automatic Polishing Machines that remained in service and operation at the Facility were connected to a Dust Collector located at the Facility's Building 12 Annex. The Building 12 Annex Dust Collector was employed to capture and contain lead-containing hazardous waste dust (EPA Hazardous Waste No. D008), generated during polishing operations, for subsequent containerization and off-site disposal.
23. The Facility's Building 12 Annex Dust Collector did not capture all of the D008 hazardous waste dust generated during polishing operations conducted at the Facility. At times, small amounts of the D008 lead-containing hazardous waste dust spilled from the polishing machine conveyor belts, located outside of the buff houses, onto the factory floor where, if not cleaned on or about a regular daily schedule, the waste would accumulate in small piles. Additionally, larger amounts of lead-contaminated D008 hazardous waste dust generated during polishing operations routinely spilled from the equipment inside the buff houses onto each of the buff house floors where, if not cleaned on or about a regular daily schedule, the waste would accumulate in larger piles.
24. Prior to September 26, 2008, Respondent Baldwin ran production operations at the Facility during three operating shifts.
25. Respondent Baldwin decreased the number of operating shifts during which Facility production operations were conducted on the dates, and as described, immediately below:
 - a. on September 26, 2008, Respondent Baldwin reduced its Facility production operations from three shifts to two shifts; and
 - b. on April 1, 2009, Respondent Baldwin further reduced its Facility production operations from two shifts to one shift.
26. Prior to September 26, 2008, when Respondent Baldwin ran its Facility production operations in three operating shifts, it utilized third shift employees with the title, "machine cleaners," to clean the polishing machines by removing and containerizing the D008 lead-containing hazardous waste dust on and around the machines, and to pick up and containerize the D008 lead-containing hazardous waste dust that had spilled from the conveyor belts and equipment on the buff house floors.
27. Upon information and belief, prior to September 26, 2008, Facility machine cleaners cleaned Facility equipment and picked up D008 lead-containing hazardous waste dust from the buff house floors of the Facility, for containerization and storage, until disposal, on a daily basis.

28. From on or about September 26, 2008 through March 31, 2009, Respondent Baldwin continued to use machine cleaners to clean the production equipment and to pick up and containerize the D008 lead-containing hazardous waste dust that spilled from the conveyor belts and equipment onto the buff house floors; however, on information and belief, such activities then occurred during the second shift operations at the Facility and with a one to two day varying frequency.
29. On or about April 1, 2009, when Respondent Baldwin reduced its production operations at the Facility from two shifts to one shift, it eliminated the job category of "machine cleaner." Respondent Baldwin transferred from machine cleaners to employees with the title "machine operators" the responsibility for cleaning and containerizing D008 lead-containing hazardous waste dust from the production equipment and from the buff house floors.
30. When machine operators took over the responsibility of cleaning and containerizing D008 lead-containing hazardous waste dust from the production equipment and from the buff house floors on and after April 1, 2009, such activities were only then performed by them once every week, by which time D008 lead-containing hazardous waste dust from weekly manufacturing operations had already accumulated in piles on the buff house floors.
31. Upon information and belief, manufacturing operations at the Facility conducted subsequent to April 1, 2009 routinely resulted in week-long accumulations of spilled and non-containerized D008 lead-containing hazardous waste dust piles on the buff house floors of the Facility.
32. As Respondent Baldwin reduced the number of production shifts at the Facility, it also began to disconnect and remove some of the Facility's Automatic Polishing Machines from operation and service.
33. On information and belief, three of the Facility's five Automatic Polishing Machines, all previously identified in paragraphs 21 and 22, above, remained attached to the Facility's Building 12 Annex Dust Collector and continued in service and operation at that location of the Facility until they were disconnected, dismantled and removed from service and operation on or before March 1, 2012.
34. On information and belief, one of the Facility's Automatic Polishing Machines, previously identified in paragraphs 21 and 22, above, was disconnected from the Building 12 Annex Dust Collector in March 2012, moved to Facility Building 3A, and continued in service and operation at that new Facility location until July 2012.
35. On information and belief, the last one of the Facility's five Automatic Polishing Machines, previously identified in paragraphs 21 and 22, above, that remained in service and operation at the Facility were disconnected from the Building 12 Annex Dust Collector in June 2011, moved to Facility Building 7, and continued in service and

- operation at that new Facility location until July 2012. Upon information and belief, this was the last of the Facility's Automatic Polishing Machines to be disconnected and dismantled.
36. On information and belief, Respondent Baldwin ceased all polishing operations at the Facility by the end of July 2012, when it dismantled the remaining two Automatic Polishing Machines at Building 3A and Building 7 of the Facility.
 37. On or about October 31, 2012, Respondent Baldwin removed the Saturn 5 Anderson Dust Collector from service at the Facility which, on information and belief, was the final dust collector to be taken out of service at the Facility.
 38. Representatives of EPA conducted a Compliance Evaluation Inspection at the Facility on July 18 and 20, 2012 (the "2012 Inspection") to examine and assess Respondent Baldwin's compliance with the federally-authorized PaHWR requirements at the Facility.
 39. Representatives of EPA conducted another Compliance Evaluation Inspection at the Facility on June 5, 2013 (the "2013 Inspection") to examine and assess Respondent Baldwin's and Respondent SBDs' compliance with the federally-authorized PaHWR requirements at the Facility.
 40. After each of the above-referenced inspections (*i.e.*, the 2012 Inspection and the 2013 Inspection; collectively, the "Inspections"), EPA representatives prepared separate reports summarizing their observations and findings during each of the respective Inspections (collectively, the "EPA Inspection Reports").
 41. At the time of the 2012 Inspection, Respondent Baldwin was in the process of shutting down its manufacturing operations at the Facility but was still conducting limited production activities, including packaging and shipping operations.
 42. By the time of EPA's 2013 Inspection on June 5, 2013, Respondents had ceased performing manufacturing operations (e.g., forging, polishing and plating operations) at the Facility, were engaged only in limited assembly operations, and were no longer generating any new D008 lead-containing hazardous waste at the Facility.
 43. Each Respondent, at all times relevant to the allegations set forth against it in this Complaint, was a "generator" of "solid waste" and "hazardous waste" at the Facility, as these terms are defined in 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
 44. Each Respondent, at all times relevant to the allegations set forth against it in this Complaint, was engaged in the "storage" of "solid waste" and of "hazardous waste" in "container[s]" at the Facility, as the term "storage" is defined in 25 Pa. Code § 260a.10, and as the remaining terms are defined in 25 Pa. Code § 260a.1, which incorporates by reference the definitions of those terms as set forth in 40 C.F.R. § 260.10.

45. Each Respondent, at all times relevant to the allegations set forth against it in this Complaint, was engaged in the storage of non-containerized D008 lead-contaminated hazardous waste “piles,” at the Facility, as this term is defined in 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
46. Neither the Respondents’ Facility, nor any portion of it, met the requirements of 40 C.F.R. Part 264 or 265, Subpart DD at any time relevant to the allegations set forth herein, and neither the Respondents’ Facility, nor any portion of it, was a “containment building,” as this term is defined in 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
47. Each Respondent, at all times relevant to the allegations set forth against it in this Complaint, engaged in the “disposal” of “solid waste” and “hazardous waste,” as the term “disposal” is defined in 25 Pa. Code Section 260a.10, and as the remaining terms are defined in 25 Pa. Code § 260a.1, which incorporates by reference the definitions of those terms as set forth in 40 C.F.R. § 260.10.
48. The Facility was, at all times relevant to the allegations set forth in this Complaint, a hazardous waste storage and disposal “facility” as that term is defined in 25 Pa. Code § 260a.10.
49. Pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), EPA sent Respondents and/or their corporate affiliates information request letters (“IRLs”) seeking information about their corporate relationships and about the ownership and operation of the Facility on April 1, 2013, September 25, 2013, October 28, 2014 and August 5, 2015, respectively.
50. Respondent Baldwin responded to each of these IRLs by submissions dated June 6, 2013, October 18, 2013, December 2, 2014, and September 3, 2015, respectively.
51. On May 6, 2014, EPA sent a Request to Show Cause and Request for Information (“Show Cause letter”) to the Respondents advising them of EPA’s preliminary findings of PaHWR violations at the Facility and offering the Respondents an opportunity to provide such additional information as they believed the Agency should review and consider before reaching any final conclusions as to the Respondents’ PaHWR compliance at the Facility.
52. In response to EPA’s May 6, 2014 Show Cause letter, Respondents provided additional information to EPA in several meetings and in subsequent correspondence.

COUNT I

(Respondent Baldwin’s Operation of a Hazardous Waste Storage Facility Without a Permit or Interim Status)

53. The allegations of each of the preceding paragraphs are incorporated herein by reference as though fully set forth at length.

54. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), no person may own or operate a facility for the treatment, storage or disposal of hazardous waste without first obtaining a permit or interim status for such facility.
55. At all times relevant hereto, neither of the Respondents had a permit, pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), or 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. Part 270, for the storage or disposal of hazardous waste at the Facility, and neither of the Respondents had interim status, pursuant to Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), or 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.70.
56. Pursuant to 25 Pa. Code § 262a.10, which incorporates by reference the requirements of 40 C.F.R. § 262.34(a), generators of hazardous waste may accumulate hazardous waste in containers, tanks, drip pads, or containment buildings on-site for less than 90 days and remain exempt from the requirement to obtain a permit for such accumulation, so long as the hazardous waste is stored in accordance with a number of conditions set forth in that section, including, *inter alia*:
- a. the condition set forth at 40 C.F.R. § 262.34(a)(1)(i), which requires, in relevant and applicable part, that when hazardous waste is placed in containers, the generator must comply “with the applicable requirements of Subpart[] I ... of 40 C.F.R. Part 265[,]” including the 40 C.F.R. Part 265, Subpart I requirement in 40 C.F.R. § 265.173(a) (pertaining to the “[m]anagement of containers”) which provides that “[a] container holding hazardous waste must always be kept closed during storage, except when it is necessary to add or remove waste[;]”
 - b. the condition set forth at 40 C.F.R. § 262.34(a)(1)(ii), which requires, in relevant and applicable part, that when hazardous waste is placed in tanks, the generator must comply “with the applicable requirements of Subparts J, AA, BB and CC of 40 C.F.R. Part 265;”
 - c. the condition set forth at 40 C.F.R. § 262.34(a)(1), which requires, in relevant and applicable part, that hazardous waste must be placed in containers, in tanks, on drip pads, or in containment buildings;
 - d. the condition set forth at 40 C.F.R. § 262.34(a)(2), which requires that “[t]he date upon which each period of accumulation begins is clearly marked and visible for inspection on each container[;]”
 - e. the condition set forth at 40 C.F.R. § 262.34(a)(3), which requires that “[w]hile being accumulated on-site, each container and tank is labeled or marked clearly with the words, “Hazardous Waste[;]”

- f. the condition set forth at 40 C.F.R. § 262.34(a)(4), which requires, in relevant and applicable part, that “[t]he generator complies with the requirements for owners or operators in Subpart[] C . . . in 40 CFR Part 265. . . .[,]” including the 40 C.F.R. Part 265, Subpart C, requirement in 40 C.F.R. § 265.31 (entitled “Maintenance and operation of facility”), that “[f]acilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment[;]” and
57. Each Respondent, at all times relevant to the allegations set forth against it in this Complaint, was a “generator” of “hazardous waste,” as these terms are defined in 25 Pa. Code § 260a.1, which incorporates by reference the definitions of those terms as set forth in 40 C.F.R. § 260.10, having EPA Hazardous Waste Numbers that include, but which are not necessarily limited to, D001, D002, D005, D008 and F006, as specified in 40 C.F.R. §§ 261.24 and 261.31 and incorporated by reference in 25 Pa. Code § 261a.1.
58. On February 4, 2010, Respondent Baldwin shipped 10,000 pounds (“lbs”) of D008 lead-containing hazardous waste off-site from the Facility for disposal under Uniform Hazardous Waste Manifest No. 002701419 FLE.
59. From on or about February 5, 2010 until on or about August 6, 2010, Respondent Baldwin generated D008 lead-containing hazardous waste from Facility manufacturing operations on a daily basis, and accumulated and stored that hazardous waste on-site at the Facility.
60. On August 6, 2010, Respondent Baldwin shipped off-site from the Facility for disposal, under Uniform Hazardous Waste Manifest No. 002701320 FLE, 15,000 lbs of D008 lead-containing hazardous waste that it had generated and stored at the Facility prior to such off-site shipment.
61. On July 18, 2012, during the 2012 Inspection, Respondent Baldwin was storing D008 lead-containing hazardous waste in six hoppers at the Facility.
62. On information and belief, Respondent Baldwin generated the D008 lead-containing hazardous waste identified in the preceding paragraph on or before March 1, 2012, during its operation of the three Automatic Polishing Machines referenced in Paragraph 33, above, which were removed from service and operation on or before March 1, 2012.
63. On August 28, 2012, Respondent Baldwin shipped off-site from the Facility for disposal, under Uniform Hazardous Waste Manifest No. 005201841 FLE, 16,000 lbs of D008 lead-containing hazardous waste that, on information and belief, Respondent Baldwin generated during manufacturing operations that it conducted at the Facility while operating the Automatic Polishing Machines attached to the Building 12 Annex Dust Collector.

64. From on or about March 1, 2012 until August 28, 2012, Respondent Baldwin stored D008 lead-containing hazardous waste that it had generated during prior operation of the Automatic Polishing Machines attached to the Building 12 Annex Dust Collector at the Facility.
65. On July 18 and 20, 2012, at the time of the 2012 Inspection, Respondent Baldwin was:
- a. storing D008 (lead) hazardous waste polishing dust at the Baghouse 1/Cyclone 1 and 2 Area of the Facility in: (i) three 55-gallon drum containers-that were not marked so that the date upon which each period of accumulation began was clearly visible for inspection, and (ii) one 55-gallon drum container which was not labeled with the words "hazardous waste;"
 - b. storing D008 (lead) hazardous waste polishing dust at the Saturn 5 Anderson Dust Collector Area of the Facility in two 1-cubic yard bin containers that were: (i) not being kept closed at a time when it was not necessary to add or remove waste from either container; and (ii) not marked so that the date upon which each period of accumulation began was clearly visible for inspection;
 - c. storing D008 (lead) hazardous waste polishing dust at the Building 12 Annex – Dust Collector Area of the Facility in six metal bin containers that were not marked so that the date upon which each period of accumulation began was clearly visible for inspection;
 - d. storing F006 (mixed material) hazardous waste at the Waste Treatment Area of the Facility in two 1-cubic yard metal hopper containers that were: (i) not being kept closed at a time when it was not necessary to add or remove waste from either container; (ii) not labeled with the words "Hazardous Waste;" and (iii) not marked so that the date upon which each period of accumulation began was clearly visible for inspection;
 - e. storing D008 (lead) hazardous waste polishing dust: (i) in piles on the concrete floor of the baghouses and cyclone enclosures, and around the perimeter of the two 1-cubic yard bins, located in the Saturn 5 Anderson Dust Collector Area of the Facility, which was caused by deteriorating boots and a dust conveying auger associated with the Saturn 5 Anderson Dust Collector; (ii) in metal bin containers connected to dust collector hoppers by rubber boots which did not form complete seals due to cracks and/or holes in the boots in the Building 12 Annex Dust Collector Area of the Facility; (iii) in piles on the floor, in the vicinity of the conveyer and metal bin used to manage fines generated by the Hammond flat wet sander, in the Estate Cell Area of the Facility; and (iv) in thick layers upon the enclosures housing the Facility's Automatic Polishing Machines, and in piles on the floor of, that area of the Facility;
 - f. storing D008 (lead) hazardous waste at the Estate Cell Area of the Facility in a 5-gallon metal bin container that was (i) not marked with the words "Hazardous

Waste” and (ii) not being kept closed at a time when it was not necessary to add or remove waste from the bin.

66. Respondent-Baldwin stored D008 lead-containing hazardous waste at the Facility in excess of the 90-day permit exemption limit set forth at 25 Pa. Code § 262a.10, which incorporates by reference the requirements of 40 C.F.R. § 262.34(a), during at least each of the following time periods:
- a. from on or about May 6, 2010 (91 days after its February 5, 2010 off-site shipment of D008 lead-containing hazardous waste from the Facility) until August 6, 2010; and
 - b. from June 1, 2012 (91 days after the March 1, 2012 shutdown and dismantling of the Automatic Polishing Machines attached to the Building 12 Annex Dust Collector at the Facility) until August 28, 2012.
67. At the time of the 2012 Inspection, Respondent Baldwin additionally failed to comply with the permit exemption conditions, set forth at 40 C.F.R. § 262.34(a), for the temporary (*i.e.*, 90 days or less) accumulation of hazardous waste by a generator, by:
- a. storing D008 (lead) hazardous waste polishing dust at the Baghouse 1/Cyclone 1 and 2 Area of the Facility in: (i) three 55-gallon drum containers that were not marked so that the date upon which each period of accumulation began was clearly visible for inspection, in accordance with 40 C.F.R. § 262.34(a)(2), and (ii) one 55-gallon drum container which was not labeled with the words “hazardous waste,” in accordance with 40 C.F.R. § 262.34(a)(3);
 - b. storing D008 (lead) hazardous waste polishing dust at the Saturn 5 Anderson Dust Collector Area of the Facility in two 1-cubic yard bin containers that were: (i) not being kept closed at a time when it was not necessary to add or remove waste from either container, in accordance with the requirements of 40 C.F.R. § 262.34(a)(1)(i) and (ii) not marked so that the date upon which each period of accumulation began was clearly visible for inspection, in accordance with 40 C.F.R. § 262.34(a)(2);
 - c. storing D008 (lead) hazardous waste polishing dust at the Building 12 Annex Dust Collector Area of the Facility in six metal bin containers that were not marked so that the date upon which each period of accumulation began was clearly visible for inspection, in accordance with 40 C.F.R. § 262.34(a)(2);
 - d. storing F006 (mixed material) hazardous waste at the Waste Treatment Area of the Facility in two 1-cubic yard metal hopper containers that were: (i) not being kept closed at a time when it was not necessary to add or remove waste from either container, in accordance with the requirements of 40 C.F.R. § 262.34(a)(1)(i); (ii) not labeled with the words “Hazardous Waste,” in accordance with 40 C.F.R. § 262.34(a)(3); and (iii) not marked so that the date

upon which each period of accumulation began was clearly visible for inspection, in accordance with 40 C.F.R. § 262.34(a)(2);

- e. storing D008 (lead) hazardous waste polishing dust: (i) in piles on the concrete floor of the baghouses and cyclone enclosures, and around the perimeter of the two 1-cubic yard bins, located in the Saturn 5 Anderson Dust Collector Area of the Facility, which was caused by deteriorating boots, and a dust conveying auger associated with the Saturn 5 Anderson Dust Collector; (ii) in metal bin containers connected to dust collector hoppers by rubber boots which did not form complete seals due to cracks and/or holes in the boots in the Building 12 Annex Dust Collector Area of the Facility; (iii) in piles on the floor, in the vicinity of the conveyer and metal bin used to manage fines generated by the Hammond flat wet sander, in the Estate Cell Area and Anderson Cell Area of the Facility; and (iv) in thick layers upon the enclosures housing each of the Facility's Automatic Polishing Machines, and in piles on the floor of each of those areas of the Facility, in such a manner that the Facility was not then being maintained and operated by the Respondents so as to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents from these areas of the Facility to air, soil, or surface water which could threaten human health or the environment, in accordance with 40 C.F.R. § 262.34(a)(4) requirements;
 - f. storing D008 (lead) hazardous waste polishing dust at each of the areas identified in Paragraph 65.e.(i), (iii) and (iv), above, in a manner other than in a "container," "tank," "drip pad," or "containment building," in accordance with 40 C.F.R. § 262.34(a)(1) requirements; and
 - g. storing D008 (lead) hazardous waste at the Estate Cell Area of the Facility in a 5-gallon metal bin container that was (i) not marked with the words "Hazardous Waste," in accordance with 40 C.F.R. § 262.34(a)(3), and (ii) not being kept closed at a time when it was not necessary to add or remove waste from the bin, in accordance with the requirements of 40 C.F.R. § 262.34(a)(1)(i).
68. For each of the reasons set forth in Paragraphs 66 and 67, immediately above, Respondent Baldwin failed to satisfy and comply with the conditions set forth in 40 C.F.R. § 262.34(a), (a)(1)(i), (a)(2), (a)(3) and (a)(4) applicable to generator accumulation of hazardous waste in containers and, therefore, failed to qualify for the "less than 90-day" hazardous waste generator accumulation exemption of 25 Pa. Code Section 262a.10 and the Facility, therefore, is a hazardous waste treatment, storage or disposal "[f]acility," as that term is defined by 25 Pa. Code Section 260a.10, that was required to have a permit or interim status for its described storage activities.
69. Respondent Baldwin violated 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. §§ 270.1(b) and 270.70) and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), by operating a hazardous waste storage facility without a permit, interim status or valid exemption to the applicable permitting/interim status requirements

during each of the dates and time periods set forth in Paragraphs 66 and 67, above.

COUNT II
***(Respondents Baldwin's and SBD's Operation of a Hazardous Waste
Storage Facility Without a Permit or Interim Status)***

70. The allegations of each of the preceding paragraphs are incorporated herein by reference as though fully set forth at length.
71. On June 5, 2013, at the time of the 2013 Inspection, Respondents were storing D008 lead-containing hazardous waste dust generated at the Facility during the prior operation of the Saturn 5 Anderson Dust Collector in a one 1-cubic yard metal hopper at the Facility.
72. Respondent Baldwin had removed the Saturn 5 Anderson Dust Collector from service at the Facility on or before October 31, 2012.
73. On or about August 22, 2013, Respondents shipped offsite from the Facility for disposal, under Uniform Hazardous Waste Manifest No. 006112600 FLE, approximately 1,000 lbs of D008 lead-containing hazardous waste dust generated at the Facility during the prior operation of the Saturn 5 Anderson Dust Collector at the Facility.
74. From on or about November 1, 2012 until at least August 22, 2013, Respondents stored D008 lead-containing hazardous waste generated during manufacturing operations conducted on or before October 31, 2012 at the Facility, when the Saturn 5 Anderson Dust Collector was removed from service.
75. Subsequent to the cessation of all manufacturing operations at the Facility, Respondents shipped D008 lead-containing hazardous waste off-site from the Facility for disposal on each of the dates, in each of the amounts and under each of the Uniform Hazardous Waste Manifest Numbers set forth below:

SHIPMENT DATE	VOLUME OF D008 WASTE	UNIFORM WASTE MANIFEST NUMBER
August 22, 2013	1,000 lbs	006112600 FLE
December 6, 2013	5 cubic yards	010333191 JJK
December 6, 2013	6 cubic yards	010333192 JJK
February 20, 2014	4 tons (8,000 lbs)	010334266 JJK
July 1, 2014	10 cubic yards	012007830 JJK
July 1, 2014	10 cubic yards	012007829 JJK
July 30, 2014	25 cubic yards	012012642 JJK
August 15, 2014	20 cubic yards	007077071 FLE
August 19, 2014	25 cubic yards	007077072 FLE
August 19, 2014	20 cubic yards	013390972 JJK
August 19, 2014	10,000 lbs	007077073 FLE
October 6, 2014	8,000 lbs	013382623 JJK

November 3, 2014	5 cubic yards	007815946 FLE
March 3, 2015	1350 lbs	007815892 FLE
April 22, 2015	100 lbs	007809963 FLE
June 2, 2015	10 lbs	007809744 FLE

76. From at least June 5, 2013 until June 2, 2015, Respondents stored D008 lead-containing hazardous waste at the Facility.
77. On June 5, 2013, at the time of the 2013 Inspection, Respondents Baldwin and SBD were each:
- a. storing D008 (lead) hazardous waste polishing dust at the Saturn 5 Anderson Dust Collector (Saturn 5) Area of the Facility in a 1-cubic yard bin container that was: (i) not being kept closed at a time when it was not necessary to add or remove waste from the container; and (ii) not marked so that the date upon which each period of accumulation began was clearly visible for inspection; and
 - b. storing approximately 2,840 gallons of used hazardous waste plating solution (D002, D003, F007) at Building #9 of the Facility in a container that was: (i) not marked with the words "Hazardous Waste;" and (ii) not marked so that the date upon which each period of accumulation began was clearly visible for inspection.
78. Respondents Baldwin and SBD each stored D008 lead-containing hazardous waste at the Facility in excess of the 90-day permit exemption limit set forth at 25 Pa. Code § 262a.10, which incorporates by reference the requirements of 40 C.F.R. § 262.34(a), during at least each of the following time periods:
- a. from on or about January 30, 2013 (91 days after the Saturn 5 Anderson Dust Collector ceased operations on or about October 31, 2012) until August 22, 2013; and
 - b. from on or about September 6, 2013 (91 days after the waste was observed during EPA's 2013 Inspection) until June 2, 2015.
79. Respondents Baldwin and SBD each failed to comply with the permit exemption conditions, set forth at 40 C.F.R. § 262.34(a), for the temporary (*i.e.*, 90 days or less) accumulation of hazardous waste by a generator, set forth at 40 C.F.R. § 262.34(a), by:
- a. storing D008 (lead) hazardous waste polishing dust at the Saturn 5 Anderson Dust Collector Area of the Facility in a 1-cubic yard bin container that was: (i) not being kept closed at a time when it was not necessary to add or remove waste from the container, in accordance with the requirements of 40 C.F.R. § 262.34(a)(1)(i); and (ii) not marked so that the date upon which each period of accumulation began was clearly visible for inspection, in accordance with the requirements of 40 C.F.R. § 262.34(a)(2); and

- b. storing approximately 2,840 gallons of used hazardous waste plating solution (D002, D003, F007) at Building #9 of the Facility in a container that was: (i) not marked with the words “Hazardous Waste” or with other words that identified the content of the container, in accordance with 40 C.F.R. § 262.34(3), and; (ii) not marked so that the date upon which each period of accumulation began was clearly visible for inspection, in accordance with the requirements of 40 C.F.R. § 262.34(a)(2).
80. For each of the reasons and during each of the times set forth in Paragraphs 77 through 79, above, Respondents Baldwin and SBD each failed to comply with the conditions for the temporary storage (*i.e.*, 90 days or less) by a generator that are required pursuant to 40 C.F.R. § 262.34(a), as incorporated by reference in 25 Pa. Code § 262a.10, and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such section.
81. Respondents Baldwin and SBD violated 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. §§ 270.1(b) and 270.70) and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), by operating a hazardous waste storage facility without a permit, interim status or valid exemption to the applicable permitting/interim status requirements during each of the dates and time periods set forth in Paragraphs 77 through 79, above.

COUNT III

(Respondent Baldwin’s Failure to Have Adequate Inspection Schedule)

82. The allegations of each of the preceding paragraphs are incorporated herein by reference as though fully set forth at length.
83. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.15, provides the following inspection schedule requirements for owners and operators of hazardous waste treatment, storage and disposal facilities (“TSDs”):
- a. 40 C.F.R. § 264.15(b)(1) requires that “[t]he owner or operator must develop and follow a written schedule for inspecting monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards.”
 - b. 40 C.F.R. § 264.15(b)(2) requires the owner or operator “. . . keep this schedule at the facility.”
 - c. 40 C.F.R. § 264.15(b)(3) requires that “[t]he schedule must identify the types of problems (e.g., malfunctions or deterioration) which are to be looked for during the inspection (e.g., inoperative sump pump, leaking fitting, eroding dike, etc.).

- d. 40 C.F.R. § 264.15(b)(4) provides, in relevant and applicable part, that “[t]he frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use At a minimum, the inspection schedule must include the items and frequencies called for in §§ 264.174, 264.193, 264.195, 264.226, 264.254, 264.278, 264.303, 264.347, 264.602, 264.1033, 264.1052, 264.1053, 264.1058, and 264.1083 through 264.1089 of this part, where applicable.”
84. At the time of the 2012 Inspection, Respondent Baldwin had not developed, and did not maintain at the Facility, a written schedule or plan for inspecting monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment important to preventing, detecting, or responding to environmental or human health hazards that contained the level of care and detail, and the specified inspection frequencies, necessary to identify malfunctions, deterioration or operator error at each such piece of equipment at the Facility.
85. At the time of the 2012 Inspection, Respondent Baldwin was in violation the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.15(b)(1) – (4), by its failure to develop and maintain at the Facility a written schedule for inspecting monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment that are important to preventing, detecting, or responding to environmental or human health hazards, including the types of problems to be looked for during each inspection and the frequency of inspection for the items to be inspected.

COUNT IV

(Respondent Baldwin’s Failure to Perform Adequate Inspections)

86. The allegations of each of the preceding paragraphs are incorporated herein by reference as though fully set forth at length.
87. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.15 (entitled “General inspection requirements”) provides, at 40 C.F.R. § 264.15(a), that “[t]he owner or operator must inspect his facility for malfunctions and deterioration, operator errors, and discharges which may be causing—or may lead to—(1) release of hazardous waste constituents to the environment or (2) a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.”
88. Respondents have maintained Facility inspection records for the period from January 8, 2010 through October 3, 2013, which indicate that Facility personnel performed weekly inspections of certain operating, safety and other equipment and at certain Facility

hazardous waste storage areas and at certain areas of the Facility where hazardous waste discharges or releases of hazardous waste constituents to the environment might occur.

89. Respondents' inspection records during the period from January 8, 2010 through October 3, 2013, also indicate that the Respondents failed to conduct regular or routine inspections at those areas of the Facility where D008 lead-containing hazardous waste dust spilled daily from the polishing machine conveyor belts onto the buff house floors, where it often remained for periods up to one week, in accumulated piles.
90. The manner in which D008 (lead) hazardous waste polishing dust was being stored in accumulated piles on the concrete floor of the Facility baghouses and cyclone enclosures, in the Saturn 5 Anderson Dust Collector Area of the Facility, in the vicinity of the conveyer and metal bin used to manage fines generated by the Hammond flat wet sander, in the Estate Cell Area of the Facility and upon the Automatic Polishing Machines, as described in Paragraph 65.e., above, also evidenced uncorrected problems and conditions that could cause or lead to the release of hazardous waste constituents to the environment at the Facility at the time of the 2012 Inspection.
91. The condition of the buff house floors, as identified and described in Paragraph 30, above, after each week of manufacturing operation activities, and the conditions observed during the 2012 Inspection at each of the Facility areas identified in Paragraph 65.e, above, indicate that Respondent Baldwin failed, from at least October 1, 2010 until December 14, 2012, to inspect the Facility for malfunctions and deterioration, operator error, and discharges of D008 (lead) hazardous waste polishing dust which could cause or lead to a release of hazardous waste constituents into the environment, and/or to a threat to human health, with the frequency necessary to identify those problems, and in time to correct them, before they harmed human health or the environment.
92. From on and before October 1, 2010 until December 14, 2012, Respondent Baldwin did not conduct inspections often enough to identify problems that could cause or lead to the release of hazardous waste constituents to the environment, and/or to a threat to human health, with the frequency necessary to identify those problems, and in time to correct them, before they harmed human health or the environment.
93. Respondent Baldwin violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.15, from at least October 1, 2010 until December 14, 2012, by failing to inspect the Facility adequately, and with sufficient frequency, for operator errors and discharges which might cause or lead to a release(s) of hazardous waste constituents to the environment and/or a threat to human health, so as to identify and correct problems before they harmed human health or the environment.

COUNT V

(Respondents Baldwin's and SBD's Failure to Perform Adequate Inspections)

94. The allegations of each of the preceding paragraphs are incorporated herein by reference as though fully set forth at length.
95. The conditions of the Facility, as described in Paragraphs 31, 77, and 78, above, and the Respondents' failure to produce any facility inspection records beyond the date October 3, 2013, further indicate that Respondents Baldwin and SBD failed, from at least December 20, 2012 until June 2, 2015, to inspect the Facility for malfunctions and deterioration, operator error, and discharges of D008 (lead) hazardous waste polishing dust which could cause or lead to a release of hazardous waste constituents into the environment or to a threat to human health with the frequency necessary to identify those problems, and in time to correct them, before they harmed human health or the environment.
96. From on and before December 20, 2012 until June 2, 2015, Respondents Baldwin and SBD did not conduct inspections often enough to identify problems that could cause or lead to the release of hazardous waste constituents to the environment in time to correct them before they led to conditions which might cause a release of hazardous waste constituents to the environment, or a threat harm to human health.
97. Respondents Baldwin and SBD violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.15, from at least December 20, 2012 until June 2, 2015, by failing to inspect the Facility adequately, and with sufficient frequency, for operator errors and discharges which might cause or lead to a release(s) of hazardous waste constituents to the environment or a threat to human health, so as to identify and correct problems before they harmed human health or the environment.

COUNT VI

(Respondent Baldwin's Failure to Remedy Equipment Deterioration or Malfunction)

98. The allegations of each of the preceding paragraphs are incorporated herein by reference as though fully set forth at length.
99. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.15, provides, at 40 C.F.R. § 264.15(c), that "[t]he owner or operator must remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately."
100. At the time of the 2012 Inspection, Respondent Baldwin maintained weekly inspection checklists, but was not keeping records of Facility equipment malfunctions, deterioration, operator error, or general Facility conditions.

101. At the time of the 2012 Inspection, Respondent Baldwin was not keeping records of any Facility equipment repairs.
102. At the time of the 2012 Inspection, uncorrected equipment deterioration was observed by the EPA Inspectors in the Building 12 Annex Dust Collector Area of the Facility, as identified in Subparagraph 65.e.(ii), above, in the form of rubber boot connectors which did not form complete seals between dust collector hoppers and metal bin containers due to cracks and/or holes in the boots.
103. At the time of the 2012 Inspection, Respondent Baldwin violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.15(c), by failing to remedy the deterioration of equipment at the Facility on a schedule that ensured that the problem(s) did not lead to an environmental or human health hazard.

COUNT VII

(Respondent Baldwin's Failure to Maintain Adequate Inspection Records)

104. The allegations of each of the preceding paragraphs are incorporated herein by reference as though fully set forth at length.
105. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.15, provides, at 40 C.F.R. § 264.15(d), that “[t]he owner or operator must record inspections in an inspection log or summary. He must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.”
106. Facility Inspection records provided by Respondents in response to an EPA IRL showed that, from January 8, 2010 through October 3, 2013, Respondents were not maintaining inspection records at the Facility that included a notation of the observations made during each inspection or the date and nature of any repairs or other remedial actions.
107. From October 1, 2010 through December 14, 2012, Respondent Baldwin violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.15(d), by failing to properly record in, and to maintain at the Facility, an inspection log or summary that included each of the minimum requirements set forth at 40 C.F.R. § 264.15(d).

COUNT VIII

(Respondents Baldwin's and SBD's Failure to Maintain Adequate Inspection Records)

108. The allegations of each of the preceding paragraphs are incorporated herein by reference as though fully set forth at length.

109. Facility Inspection records provided by Respondents in response to an EPA IRL showed that, from December 20, 2012 through October 3, 2013, Respondents Baldwin and SBD were not maintaining inspection records at the Facility that included a notation of the observations made during each inspection or the date and nature of any repairs or other remedial actions. Respondents provided no Facility inspection records for the time period October 4, 2013 through June 2, 2015, despite their continued storage of D008 hazardous waste at the Facility during that time period.
110. From December 20, 2012 through June 2, 2015, Respondents Baldwin and SBD violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.15(d), by failing to properly record in, and to maintain at the Facility, an inspection log or summary that included each of the minimum requirements set forth at 40 C.F.R. § 264.15(d).

COUNT IX
***(Respondent Baldwin's Failure to Keep Containers
of Hazardous Waste Closed During Storage)***

111. The allegations of each of the preceding paragraphs are incorporated herein by reference as though fully set forth at length.
112. 25 Pa. Code Section 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), provides, in relevant part and with exceptions not herein applicable that “[a] container holding hazardous waste must always be kept closed during storage, except when it is necessary to add or remove waste.”
113. At the time of the 2012 Inspection, and as previously identified and described in Subparagraphs 65(b), (d), (e) and (f), above, Respondent Baldwin was storing at the Facility: two 1-cubic yard bin containers of D008 (lead) hazardous waste (consisting of polishing dust), two 1-cubic yard hopper containers of F006 hazardous waste (consisting of mixed material), D008 (lead) hazardous waste in metal bin containers connected to the Building 12 Annex Dust Collector with boots which did not form complete seals due to cracks in the boots, and D008 (lead) hazardous waste in a 5-gallon metal bin container in the Estate Cell area in a that were not kept closed at times when it was not necessary to add or remove waste from any of the containers.
114. At the time of the 2012 Inspection, Respondent Baldwin violated 25 Pa. Code § 264a.1, which incorporates by reference the requirements of 40 C.F.R. § 264.173(a), by holding hazardous waste in containers that were not kept closed during storage, when it was not necessary to add or remove waste from those containers.

COUNT X

(Respondents Baldwin's and SBD's Failure to Keep Containers of Hazardous Waste Closed During Storage)

115. The allegations of each of the preceding paragraphs are incorporated herein by reference as though fully set forth at length.
116. At the time of the 2013 Inspection, and as previously identified and described in Paragraph 77(a) above, Respondents Baldwin and SBD were storing D008 (lead) hazardous waste (consisting of polishing dust) at the Facility in a one 1-cubic yard bin container that was not kept closed at times when it was not necessary to add or remove waste from that container.
117. At the time of the 2013 Inspection, Respondents Baldwin and SBD violated 25 Pa. Code § 264a.1, which incorporates by reference the requirements of 40 C.F.R. § 264.173(a), by holding hazardous waste in a container that was not kept closed during storage, when it was not necessary to add or remove waste from that container.

COUNT XI

(Respondent Baldwin's Failure to Maintain and Operate Facility to Minimize Risk of Release)

118. The allegations of each of the preceding paragraphs are incorporated herein by reference as though fully set forth at length.
119. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.31 (entitled "Design and operation of facility"), provides that "[f]acilities must be designed, constructed, maintained, and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment."
120. At the time of the 2012 Inspection, and as identified and described in Paragraph 65.e., above, the manner in which D008 (lead) hazardous waste polishing dust was being stored, in piles, on the floor at various areas of the Facility indicates that Respondent Baldwin was then failing to maintain and operate the Facility so as to minimize the possibility of unplanned sudden or non-sudden release of D008 (lead) hazardous waste polishing dust, or constituents thereof, from these areas of the Facility to air, soil, or surface water which could threaten human health or the environment.
121. At the time of the 2012 Inspection, Respondent Baldwin was in violation of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.31, by failing to maintain and operate the Facility so as to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents from these areas of the Facility to air, soil, or surface water which could threaten human health or the environment.

COUNT XII

(Respondent Baldwin's Failure to Properly Manage Universal Waste Lamps)

122. The allegations of each of the preceding paragraphs are incorporated herein by reference as though fully set forth at length.
123. 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.13(d)(1), requires, among other things, that a small quantity handler of universal waste lamps contain such lamps in structurally-sound containers or packages that remain closed and lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
124. At all times relevant to the allegations set forth herein, Respondents were small quantity handlers of universal waste lamps at the Facility.
125. At the time of the 2012 Inspection, Respondent Baldwin was storing universal waste lamps in four cardboard boxes in the Waste Treatment Area of the Facility and three of those boxes were open.
126. At the time of the 2012 Inspection, Respondent Baldwin violated 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.13(d)(1), by failing to store universal waste lamps in containers or packages that remained closed.

V. PROPOSED PENALTY

127. Pursuant to Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. § 6982(a)(3) and (g), and the Federal Civil Penalties Inflation Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701 and 40 C.F.R. Part 19, any person who violates any requirements of Subtitle C of RCRA, 42 U.S.C. §§ 6982 shall be liable to the United States for civil penalty in an amount not to exceed \$37,500 per day of noncompliance. The Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, increased the maximum amount of civil penalties which can be assessed by EPA for each day of a violation of RCRA Subtitle C occurring on or after January 30, 1997 and on or before March 15, 2004 from \$25,000 to \$27,000, after March 15, 2004 and on or before January 12, 2009 to \$32,500, and after January 12, 2009, to \$37,500. Civil penalties under Section 3008 of RCRA may be assessed by administrative order.
128. On the basis of the violations described above, Complainant has determined that Respondents are subject to civil penalties under RCRA Section 3008, 42 U.S.C. § 6982. Accordingly, Complainant proposes to assess penalties based on the considerations described below.
129. Complainant will also consider, among other factors, Respondents' inability to pay a civil penalty. The burden of raising and demonstrating an inability to pay rests with each Respondent.

130. In addition, to the extent that the facts and circumstances unknown to Complainant at the time of the issuance of the Complaint become known after the Complaint is issued, such facts and circumstances may also be considered as a basis for increasing or decreasing the civil penalty, as appropriate.
131. For the purpose of determining the amount of a civil penalty to be assessed under RCRA, RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3), requires EPA to take into account the seriousness of the violation and any good faith efforts by each Respondent to comply with applicable requirements (i.e., the “statutory factors”). In developing a civil penalty, Complainant will take into account the particular facts and circumstances of this case with specific reference to the aforementioned statutory factors and EPA’s June 2003 “RCRA Civil Penalty Policy” (“RCRA Penalty Policy”), a copy of which is enclosed with this Complaint (Enclosure A). This RCRA Penalty Policy provides a rational, consistent and equitable methodology for applying the statutory factors enumerated above to particular cases. Based on the foregoing allegations, and pursuant to the authority of Section 3008(a)(1) and (3) and (g) of RCRA, 42 U.S.C. § 6928(a)(1) and (3), and (g), Complainant proposes the assessment a civil penalty against each Respondent per day of non-compliance for each violation.
132. The proposed penalty does not constitute a “demand” as that term is defined in the Equal Access to Justice Act, 28 U.S.C. § 2412. Pursuant to Section 22.14(a)(4)(ii) of the Consolidated Rules of Practice, an explanation of the number and severity of violations is given below concerning the aforesaid Counts alleged in this Complaint.
133. Pursuant to 40 C.F.R. § 22.14(a)(4)(ii), Complainant is not proposing a specific penalty at this time, but will do so at a later date after an exchange of information has occurred. *See* 40 C.F.R. § 22.19(a)(4).

COUNT I & II: Respondents’ Operation of a TSD without a permit

Potential for Harm: The potential for harm arising from Respondent Baldwin’s (Count I) and Respondents Baldwin’s and SBD’s (Count II) storage of hazardous waste without a permit is “major.” Respondents’ failure to comply with the permitting requirements of RCRA and the authorized PaHWR constitutes a major potential for harm to human health, the environment and the RCRA program. The permitting process is the backbone of the RCRA program and ensures that facilities that manage hazardous wastes handle them in a manner so as to minimize their risk to human health and the environment. Failure to obtain a permit or interim status prior to the treatment, storage and/or disposal of hazardous waste is evidence indicating that a facility is not instituting those practices and procedures required by RCRA for the safe management and handling of these waste, thereby, posing a risk to human health and the environment. Failure to obtain a permit and interim status also impedes EPA’s ability to regulate hazardous waste activities by members of the regulated community, like Respondent, due to the fact that the RCRA regulatory program and Complainant rely upon the self-reporting of members of the regulated community. The gravity of this violation will be reflected in a multi-day component added to the penalty.

Deviation from Regulatory Requirement: Respondent's deviation from the regulatory requirements presented by its activities is "major." Respondents failed to meet many of the conditions it needed to meet in order to be exempt from permitting requirements. Furthermore, Respondents stored hazardous waste at the Facility for several periods of time which were greater than the 90-day limit allowed by the permit exemption.

Economic Benefit of Non-compliance: In addition to a gravity-based penalty for Count I and II, Complainant shall also seek assessment of a penalty that takes into account the economic benefit of non-compliance gained by Respondents as a result of their failure to obtain a permit or interim status prior to storing hazardous waste at the Facility, as well as their failure to schedule hazardous waste shipments offsite with a frequency to meet the 90-day permit exemption condition.

COUNT III: Respondent Baldwin's Failure to Have Adequate Inspection Schedule

Potential for Harm: The potential for harm posed by this violation is "moderate." The failure to prepare a written schedule, which sets forth the equipment and conditions to be examined would likely lead to the performance of inadequate inspections. The potential for harm from not having an adequate inspection schedule will be reflected.

Deviation from Regulatory Requirement: Respondent's deviation from the regulatory requirements presented by its lack of a detailed inspection schedule is "moderate." Respondent did have a checklist which listed pieces of equipment. However, the schedule did not specify the conditions to be examined. An important item not included on the inspection schedule was the Respondent's inspection of the Facility buff houses, where buffing dust was regularly spilled, during manufacturing operations, on the buff house floors and where the buffing dust was observed to have accumulated in piles. However, the applicable inspection regulation states that areas subject to spills must be inspected daily when they are in use. During the time that Respondent Baldwin operated one shift and cleaned the buff houses weekly, hazardous waste that regularly spilled onto the buff house floors accumulated in piles that Respondent allowed to remain on each buff house floor for approximately a week. The buff house floors should have been inspected with a frequency that allowed Respondent to address the spills and correct the conditions at the buff houses before such hazardous waste was allowed to accumulate and be stored, in non-containerized piles, on the buff house floors.

Economic Benefit of Non-compliance: Complainant shall also seek assessment of a penalty that takes into account the economic benefit of non-compliance gained by Respondent as a result of its failure to have a more detailed and frequent inspection schedule.

COUNT IV & V: Respondent Baldwin's and Respondents' (Baldwin's and SBD's) Failure to Perform Adequate Inspections

Potential for Harm: The potential for harm posed by this violation is "major." A failure to regularly inspect the equipment that conveys hazardous waste and the areas where it is stored and allowed to accumulate in non-containerized piles at the Facility means that deterioration of

equipment and releases could occur and go undiscovered. Releases of lead-contaminated D008 polishing dust would pose a significant risk to human health and environmental receptors. The potential for harm, and the periodic nature of this violation, will be reflected in a multi-day component added to the gravity-based penalty.

Deviation from Regulatory Requirement: Respondent's deviation from the regulatory requirements presented by the performance of inadequate and insufficiently frequent inspections at some, but not all areas of the facility where inspections should have been performed is "moderate." Respondent's staff filled in an inspection chart with checkmarks. Such casual, non-specific observations fail to satisfy the requirement that the inspection identify specific types of problems at the Facility.

Economic Benefit of Non-compliance: Complainant shall also seek assessment of a penalty that takes into account the economic benefit of non-compliance gained by Respondent as a result of its failure to conduct and document regular and comprehensive inspections of the hazardous waste storage areas at the Facility.

COUNT VI: Respondent Baldwin's Failure to Remedy Equipment Deterioration or Malfunction

Potential for Harm: The potential for harm posed by this violations is "moderate." Respondent had several pieces of equipment in a state of deterioration. The resulting non-containerized waste, and significant harm to human health and the environment. This specific behavior resulted in a moderate risk to human health and the environment.

Deviation from Regulatory Requirement: Respondent's deviation from the regulatory requirements presented by its lack of repairs is "moderate." Several boots had small tears, but were not completely disintegrated.

Economic Benefit of Non-compliance: Complainant shall also seek assessment of a penalty that takes into account the economic benefit of non-compliance gained by Respondent as a result of its failure to remedy deteriorating equipment and malfunctions.

COUNTS VII & VIII: Respondent Baldwin's Failure to Maintain Adequate Inspection Records

Potential for Harm: The potential for harm posed by this violation is "moderate." Respondent performed some inspections, although the schedule and recordkeeping were inadequate.

Deviation from Regulatory Requirement: Respondent's deviation from the regulatory requirements presented by its lack of inspection schedule and documentation is "moderate." Respondent's staff filled in an inspection chart with checkmarks. However, such casual, non-specific observations failed to satisfy the requirement that the schedule identify the types of problems to be looked for during the inspection (e.g., malfunctions or deterioration), and Respondent failed to create the detailed written record that the applicable regulations require.

Economic Benefit of Non-compliance: Complainant shall also seek assessment of a penalty that takes into account the economic benefit of non-compliance gained by Respondent as a result of its failure to create an adequate inspection schedule and properly document comprehensive inspections of the hazardous waste storage areas at the Facility.

COUNTS IX and X: Respondents' Failure to Keep Containers of Hazardous Waste Closed During Storage

Potential for Harm: The potential for harm posed by these violations, observed during the Facility Inspections conducted by EPA in 2012 and 2013, is "moderate." The lack of lids on several containers posed a moderate risk that dust would fly out and impact employees. This lack of lids on several containers allowed some of the D008 polishing dust to fall on the floor, where it remained un-containerized and presented a significant threat of harm to human health and the environment.

Deviation from Regulatory Requirement: Respondents' deviation from the regulatory requirements presented by its failure to keep containers closed is "major." Several containers had no lids.

Economic Benefit of Non-compliance: Complainant shall also seek assessment of a penalty that takes into account the economic benefit of non-compliance gained by Respondents as a result of their failure to remedy deteriorating equipment and malfunctions.

COUNT XI: Respondent Baldwin's Failure to Maintain and Operate Facility to Minimize Risk of Release

Potential for Harm: The potential for harm arising from Respondent Baldwin's failure to minimize the risk of releases from the Facility presents a "major" risk to human health and the environment. There were several piles of lead-contaminated D008 hazardous waste accumulating on floors of the buff houses and in other areas of the Facility. The threats of release, resulting from sloppy housekeeping, persisted for many days. There was a risk that dust falling off of the conveyor belts associated with the buff houses could impact the human health of employees, as well as the surrounding community and environmental receptors. The gravity of this violation will be reflected in a multi-day component added to the penalty.

Deviation from Regulatory Requirement: Respondent's deviation from the regulatory requirements presented by its activities is "major." Respondent's non-containerized waste and deteriorating equipment violated several RCRA prevention requirements.

Economic Benefit of Non-compliance: Complainant shall also seek assessment of a penalty that takes into account the economic benefit of non-compliance gained by Respondent as a result of its failure to minimize the risk of releases of hazardous waste at the Facility.

COUNT XII: Respondent Baldwin's Failure to Properly Manage Universal Waste Lamps

Potential for Harm: The potential for harm posed by this violation is "moderate." The universal waste lamps were in boxes which were labelled. However, three of the four boxes were open, posing a risk of breakage. Broken lamps could lead to a release of mercury, which would impact human health and environmental receptors.

Deviation from Regulatory Requirement: Respondent's deviation from the regulatory requirements presented by its failure to keep containers closed is "minor," because the lamps were in boxes which were labeled.

Economic Benefit of Non-compliance: Complainant shall also seek assessment of a penalty that takes into account the economic benefit of non-compliance gained by Respondent as a result of its failure to remedy deteriorating equipment and malfunctions.

VI. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

134. Respondents may request, within thirty (30) days of receipt of this Complaint, a hearing before an EPA Administrative Law Judge and at such hearing may contest any material fact, conclusion of law and/or the appropriateness of any penalty amount proposed to be assessed for the violations alleged in this Complaint. At such hearing, Respondents may contest any material fact and the appropriateness of any penalty amount. To request a hearing, Respondents must file a written answer ("Answer") within thirty (30) days of receipt of this Complaint. The Answer should clearly and directly admit, deny or explain each of the factual allegations contained in this Complaint of which Respondent has any knowledge. Where Respondents have no knowledge of a particular factual allegation, the Answer should so state. Such a statement is deemed to be a denial of the allegation. The Answer should contain: (1) the circumstances or arguments which are alleged to constitute the grounds of any defense; (2) a concise statement of the facts which Respondent disputes and intends to place at issue in any hearing; (3) the basis for opposing any proposed relief; and (4) a statement of whether a hearing is requested. All material facts not denied in the Answer will be considered to be admitted. The denial of any material fact or the raising of any affirmative defense shall be construed as a request for a hearing.
135. If Respondents fail to file a written Answer within thirty (30) days of receipt of this Complaint, such failure shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to a hearing. Failure to file an Answer shall result in the filing of a Motion for Default Order and the possible issuance of a Default Order imposing the penalties proposed herein without further proceedings.
136. Any hearing requested by Respondents will be conducted in accordance with EPA's Consolidated Rules of Practice, 40 C.F.R. Part 22, a copy of which is enclosed. Respondents must send any Answer(s) and request(s) for a hearing to:

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

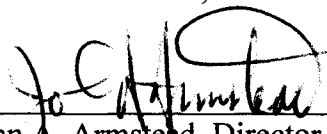
VII. SETTLEMENT CONFERENCE

137. Whether or not Respondents request a hearing, an informal conference may be requested in order to discuss the facts of this case and to attempt to arrive at a settlement. To request an informal settlement conference, please contact Natalie Katz (3RC30), Senior Assistant Regional Counsel, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, telephone (215) 814-2615.
138. Please note that a request for an informal settlement conference does not extend the thirty (30) day period during which a written Answer and request for hearing must be submitted as set forth above. The informal settlement conference procedure, however, may be pursued simultaneously with the adjudicatory hearing procedure.
139. EPA encourages all parties against whom a civil penalty is proposed to pursue the possibilities of settlement in an informal conference. In the event settlement is reached, its terms shall be expressed in a written Consent Agreement prepared by Complainant, signed by the parties, and incorporated into a Final Order signed by the Regional Administrator or his designee, the Regional Judicial Officer. Settlement conferences shall not affect the requirement to file a timely Answer to the Complaint.

VIII. SEPARATION OF FUNCTIONS AND EX PARTE COMMUNICATIONS

140. The following Agency offices, and the staffs thereof, are designated as the trial staff to represent the Agency as a party in this case: the Region III Office of Regional Counsel, the Region III Land and Chemicals Division, the Office of the EPA Assistant Administrator for the Office of Solid Waste and Emergency Response, and the Office of the EPA Assistant Administrator for Office of Enforcement and Compliance Assurance. From the date of this Complaint until the final agency decision in this case, neither the Administrator, members of the Environmental Appeals Board, Presiding Officer, Regional Administrator, nor the Regional Judicial Officer, may have an ex parte communication with the trial staff on the merits of any issue involved in this proceeding. Please be advised that the Consolidated Rules of Practice, 40 C.F.R. Part 22, prohibit any unilateral discussion or ex parte communication of the merits of a case with the Administrator, members of the Environmental Appeals Board, Presiding Officer, Regional Administrator, or the Regional Judicial Officer, after issuance of a Complaint.

Dated: 9.30.15



John A. Armstead, Director
Land and Chemicals Division

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

In the matter of:)
)
Baldwin Hardware Corporation)
19701 Da Vinci)
Lake Forest, CA 92610)
)
and)
)
SBD Property Holdings, LLC)
6161 East 75th Street)
Indianapolis, IN 46250,)
)
RESPONDENTS.)
)
841 East Wyomissing Boulevard)
Reading, PA 19611)
)
FACILITY.)

Docket No. RCRA-03-2015-0243

**Administrative Complaint and Notice
 of Opportunity for Hearing Under
 Section 3008(a) and (g) of the
 Resource Conservation and
 Recovery Act, as amended,
 42 U.S.C. § 6928(a) and (g)**

REGIONAL HEARING CLERK
 EPA REGION III, PHILA. PA

2015 SEP 30 PM 1:03

RECEIVED

CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent by UPS Next Day Delivery, a copy of the following documents to the addressee(s) listed below:

David Lumley, CEO
 Baldwin Hardware Corporation
 19701 Da Vinci
 Lake Forest, CA 92610

Counsel for the Parties:
 Stephen Axtell
 Thompson Hine
 Austin Landing I - Suite 400
 10050 Innovation Drive
 Dayton, OH 45342-4934

Scott Stoner and the CEO
 SBD Property Holdings, LLC, and
 Stanley Security Solutions
 6161 East 75th Street
 Indianapolis, IN 46250

Jim Skaggs
 EHS Corporate Director
 EHS, Maintenance & Purchasing
 Spectrum Brands
 2600 N. Hwy 91
 Denison, Texas 75020

Justin Boswell, President
 Corporation Service Company for
 Baldwin Hardware Corporation
 1000 Stanley Drive
 New Britain, CT 06053-1675

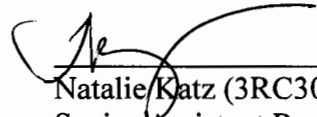
Documents:

Complaint

- A. Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and Revocation or Suspension of Permits, 40 C.F.R. Part 22
- B. EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003
- C. SEC Notice
- D. Small Business Information Sheet

The original and one copy of this Complaint were hand-delivered to, and filed with, the Regional Hearing Clerk, U.S. EPA Region III.

Dated: 9/20/15



Natalie Katz (3RC30)
Senior Assistant Regional Counsel
EPA Region III
1650 Arch Street
Philadelphia, PA 19103