



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG - 9 2017

REPLY TO THE ATTENTION OF:

Mr. Kenneth J. Matheis, Jr.
President
Complete Metal Finishing, Inc.
Post Office Box 416
Lake Orion, Michigan 48361

Re: Consent Agreement and Final Order
Complete Metal Finishing, Inc.
Docket No: **RCRA-05-2017-0021**

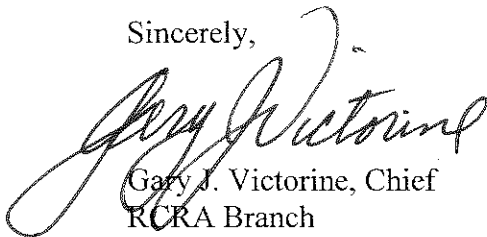
Dear Mr. Matheis, Jr.:

Enclosed please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The original was filed on August 9, 2017, with the Regional Hearing Clerk (RHC).

Please pay the civil penalty in the amount of \$ 30,000 in the manner prescribed in paragraph(s) 134 of the CAFO, and reference all checks with the docket number **RCRA-05-2017-0021**. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Thank you for your cooperation in resolving this matter.

If you have any questions or concerns regarding this matter, please contact Bryan Gangwisch, of my staff, at 312-886-0989.

Sincerely,



Gary J. Victorine, Chief
RCRA Branch

Enclosures

cc: Jack Schinderle (schinderlei@michigan.gov) (w/CAFO)
Lonnie Lee (leel@michigan.gov) (w/CAFO)
Carrie Hardigan (hardiganc@michigan.gov) (w/CAFO)

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

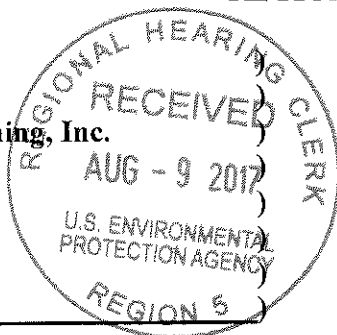
If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Complete Metal Finishing, Inc.
Kalamazoo, Michigan,

Respondent.



Docket No. RCRA-05-2017-0021

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

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. U.S. EPA provided notice of commencement of this action to the State of Michigan pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
4. Respondent is Complete Metal Finishing, Inc., a corporation doing business in the State of Michigan.
5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the

issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

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

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

Jurisdiction and Waiver of Right to Hearing

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

9. Respondent admits the jurisdictional allegations in this CAFO but neither admits nor denies the factual allegations or alleged violations in this CAFO or the statements of law which speak for themselves.

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

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

Statutory and Regulatory Background

12. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste, pursuant to Sections 3002, 3003, and 3004 of RCRA, 42 U.S.C. §§ 6922, 6923 and 6924.

13. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions.

Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Michigan final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective October 30, 1986. 51 Fed. Reg. 36804 (October 16, 1986).

15. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both.

16. The Administrator of U.S. EPA may assess a civil penalty of up to \$37,500 per day for each violation of Subtitle C of RCRA that occurred after January 12, 2009 through November 2, 2015, pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

17. Respondent was and is a "person" as defined by Michigan Administrative Code regulation ("MAC R.") 299.9106(i) and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

18. Respondent is an "owner" or "operator," as those terms are defined under MAC R. 299.9106(f) and (g) and 40 C.F.R. § 260.10, of a facility located at 4301 Manchester Road, Kalamazoo, Michigan (Facility).

19. Respondent's Facility consists of land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.

20. At all times relevant to this CAFO, Respondent used degreasers, alkaline cleaners, nitric acid, hydrofluoric acid, phosphoric acid, and sulfuric acid to conduct electropolishing and passivation operations.

21. Respondent's electropolishing and passivation operations generated waste water, spent bath liquid and decanted sludge, which Respondent collected in drums, totes and tanks and stored in the hazardous waste tank and container storage area, among other areas of the Facility.

22. At all times relevant to this CAFO, Respondent held waste electropolish and passivation decant sludge and acids, and electropolish and passivation waste water, which were discarded materials, for temporary periods in drums, totes and tanks before the material was shipped from the Facility for treatment, storage, disposal, burning or incineration elsewhere.

23. Respondent characterized its hazardous waste as D002 and D007.

24. Respondent stored, transported, disposed of, or otherwise handled its D002 and D007 in containers and tanks as those terms are defined under MAC R. 299.9102(q) and 299.9108(a) and 40 C.F.R. § 260.10.

25. At all times relevant to this CAFO, Respondent's D002 and D007 were "solid waste" as that term is defined under MAC R. 299.9202 and 40 C.F.R. § 261.2.

26. At all times relevant to this CAFO, Respondent's D002 and D007 were "hazardous waste" as that term is defined under MAC R. 299.9303 and 40 C.F.R. § 261.3.

27. At all times relevant to this CAFO, Respondent's holding of D002 and D007 in drums, totes and tanks constituted hazardous waste "storage," as that term is defined under MAC R. 299.9107(dd) and 40 C.F.R. § 260.10.

28. Respondent is a "generator," as that term is defined under MAC R. 299.9104(b) and 40 C.F.R. § 260.10.

29. On February 5, 2015, U.S. EPA conducted a Compliance Evaluation Inspection of the Facility (the inspection).

30. At all times relevant to this CAFO, the State of Michigan had not issued a license to Respondent to treat, store, or dispose of hazardous waste at its Facility.

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

32. On or about March 19, 2004, Respondent submitted a Hazardous Waste Notification, dated March 19, 2004, to U.S. EPA for the Facility.

33. In its Hazardous Waste Notification dated March 19, 2004, Respondent identified itself as a generator.

34. At all times relevant to this CAFO, Respondent generated during each calendar month more than 1,000 kg of hazardous waste at the Facility.

Count 1 - Storage of Hazardous Waste Without a License or Interim Status

35. Complainant incorporates paragraphs 1 through 34 of this CAFO as though set forth in this paragraph.

36. Pursuant to 3005(a) of RCRA, 42 U.S.C. § 6925(a) and the regulations at 40 C.F.R. Part 270, the treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a license is prohibited.

37. Pursuant to MAC R. 299.9306 [40 C.F.R. § 262.34], however, and subject to certain exceptions, a generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without having a license or interim status, provided that the generator complies with all applicable conditions set forth in MAC R. 299.9306 [40 C.F.R. § 262.34] including, but not limited to, requirements for owners and operators in MAC R. 299 Part 6, (Owners and Operators

of Hazardous Waste Treatment, Storage, and Disposal Facilities).

38. A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of MAC R. 299 Part 6, (Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities) and the license requirements of MAC R. 299.9502, 299.9508, 299.9510 unless the generator has been granted an extension to the 90-day period. Storage for more than 90 days subjects the generator of hazardous waste to the requirement to either obtain a license or achieve interim status.

39. At all times relevant to this CAFO, Respondent had not been granted an extension to accumulate hazardous waste for more than 90 days.

40. At all times relevant to this CAFO, Respondent accumulated hazardous waste for more than 90 days. Three 55-gallon drums containing electropolish acid were stored at the Facility from approximately June 2014, until June 9, 2015, for a total of approximately 345 days. One 55-gallon drum containing electropolish acid was stored at the Facility from some time in 2013 (approximately December 31, 2013) until March 5, 2015, for a total of at least 430 days. One 55-gallon drum containing electropolish sludge was stored at the Facility from January 9, 2013 until March 5, 2015, for a total of 786 days. One tank containing hazardous waste water (D002, D006 and D007) stored hazardous waste at the Facility from February 19, 2014 until January 6, 2015, for a total of 322 days.

41. Similarly, the failure to comply with any of the conditions of MAC R. 299.9306 subjects the generator of hazardous waste to the requirements of MAC R. 299 Part 6, (Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities) and the license requirements of MAC R. 299.9502, 299.9508, 299.9510.

42. In order for a generator of hazardous waste to maintain its exemption from the

requirement to have an operating license or interim status, it must, among other things, comply with the following requirements: (1) the date on which each period of accumulation begins and the hazardous waste number of the waste are clearly marked and visible for inspection on each container, as required by MAC R. 299.9306(1)(b); and (2) each container is labeled with the words "Hazardous Waste" while being accumulated on site, as required by MAC R. 299.9306(1)(c).

43. At the time of the inspection, the date on which the period of accumulation began was not clearly marked and visible for inspection on sixteen 55-gallon drums and five 275/330-gallon totes containing hazardous waste. Respondent therefore failed to comply with accumulation date requirements of MAC R. 299.9306(1)(b).

44. At the time of the inspection, the hazardous waste number was not clearly marked and visible for inspection on seventeen 55-gallon drums, six 275-gallon totes and six 330-gallon totes containing hazardous waste. Respondent therefore failed to comply with hazardous waste number requirements of MAC R. 299.9306(1)(b).

45. At the time of the inspection, waste was accumulated at the Facility in seventeen 55-gallon drums, six 275-gallon totes and six 330-gallon totes containing hazardous waste which were not labeled with the words "Hazardous Waste." Respondent therefore failed to comply with the labeling requirements of MAC R. 299.9306(1)(c).

46. Accordingly, Respondent failed to satisfy all of the conditions for maintaining its exemption from the requirement that it have an operating license or interim status.

47. As a result of Respondent's failure to meet all of the applicable conditions for the generator exemption provided by MAC R. 299.9306, Respondent became an operator of a hazardous waste treatment, storage, and disposal facility (TSDF).

48. Respondent's storage of hazardous waste without a license or interim status violated Section 3005(a) of RCRA, 42 U.S.C. § 6925(a) and the requirements of MAC R. 299.9502, 299.9508, 299.9510 [40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13].

**Count 2 – Failure to Make Hazardous Waste Determination
and Failure to Provide Land Disposal Restriction Notification**

49. Complainant incorporates paragraphs 1 through 34 of this CAFO as though set forth in this paragraph.

50. Pursuant to MAC R. 299.9302(1) [40 C.F.R. § 262.11], a person who generates solid waste, as defined in MAC R. 299.9202, must determine if that waste is a hazardous waste.

51. During the inspection, there were four 55-gallon drums that contained material for which Respondent had not made a waste determination of the contents that were subsequently determined by Respondent to contain hazardous waste (waste EP acid).

52. During the inspection, there was an open-top container that contained material for which Respondent had not made a waste determination of the contents that were subsequently determined by Respondent to contain hazardous waste (chromium/rain water).

53. During the inspection, there were four 55-gallon drums containing material for which Respondent had not made a waste determination of the contents that were subsequently determined by Respondent to contain hazardous waste (caustic soda, liquid chromium/cadmium/corrosive waste).

54. Pursuant to MAC R. 299.9307(1) [40 C.F.R. § 262.40(c)], a generator must keep records of any test results, waste analyses, or other determinations made pursuant to MAC R. 299.9302 for not less than three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

55. During the inspection of records, Respondent did not have documented waste

characterizations for the following waste streams: old electropolish fluid; sludge; decant electropolish; decant old; electropolish bath (sulfuric and phosphoric); and the other unknown waste contents observed during the inspection.

56. Pursuant to MAC R. 299.9311(1) [40 C.F.R. § 268.7(a)(1)-(2)], a generator of a hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in 40 C.F.R. §§ 268.40, 268.45, or 268.49. If the waste or contaminated soil does not meet the applicable treatment standard, then, the generator shall send a one-time written notice to each treatment or storage facility receiving the waste with the initial waste shipment, and shall place a copy in the generator's file.

57. Pursuant to MAC R. 299.9311(1) [40 C.F.R. § 268.7(a)(8)], a generator must retain on-site a copy of all notices, certifications, waste analysis data, and other documentation produced pursuant to 40 C.F.R. § 268.7 for at least three years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal.

58. EPA's review of Respondent's manifests and records during and after the inspection indicated that the Respondent failed to record or provide notice, to each treatment or storage facility receiving the Facility's hazardous wastewater stream with the initial waste shipment, of a determination providing notification of all appropriate treatment and applicable prohibitions for the hazardous wastewater stream before it could be land disposed. There was no Land Disposal Restriction notification available at the time of the inspection for the hazardous wastewater stream that included all applicable underlying hazardous constituents.

59. Respondent's failure to conduct hazardous waste determinations for old

electropolish fluid; sludge; decant electropolish; decant old; electropolish bath (sulfuric and phosphoric); and the other unknown waste contents (observed during inspection) prior to the inspection violated MAC R. 299.9302(1) [40 C.F.R. § 262.11].

60. Respondent's failure to keep records of any test results, waste analyses, or other determinations made pursuant to MAC R. 299.9302 for not less than three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal violated MAC R. 299.9307(1) [40 C.F.R. § 262.40(c)],

61. Respondent's failure to determine if the Facility's hazardous wastewater stream has to be treated before it can be land disposed and failure to retain on-site a copy of all notices, certifications, waste analysis data, and other documentation produced pursuant to 40 C.F.R. § 268.7 for at least three years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal, violated MAC R. 299.9311(1) [40 C.F.R. § 268.7(a)(1)-(2)] and MAC R. 299.9311(1) [40 C.F.R. § 268.7(a)(8)].

Count 3 – Failure to Comply with Reporting Requirements

62. Complainant incorporates paragraphs 1 through 34 of this CAFO as though set forth in this paragraph.

63. Pursuant to MAC R 299.9308(1), a generator of more than 1,000 kilograms of hazardous waste must provide to the Michigan Department of Environmental Quality's (MDEQ's) director or the director's designee, the data necessary for MDEQ to prepare and submit Michigan's hazardous waste report as required to the EPA. The data shall be submitted in a format specified by the director or the director's designee. The data shall be acquired from the information required in MAC R. 299.9308(2) and Parts 3 and 6 of the Michigan Hazardous

Waste Management rules, other reporting mechanisms used by the director to obtain the information specified in 40 C.F.R. §262.41(a)(1) to (8), and by the EPA as part of a federal information collection request published in conjunction with 40 C.F.R. §262.41(a).

64. Pursuant to 40 C.F.R. § 262.41(a), a generator who ships any hazardous waste off-site to a treatment, storage, or disposal facility within the United States must prepare and submit a single copy of a Biennial Report by March 1 of each even numbered year to EPA's Regional Administrator. The Biennial Report must be submitted on EPA Form 8700-13A, and must cover generator activities during the previous year.

65. Respondent did not submit Biennial Report for the years 2011 and 2013 by March 1, 2012 and March 1, 2014, respectively.

66. Respondent's failure to submit Biennial Reports by March 1, 2012 and March 1, 2014, violated the generator reporting requirements of MAC R 299.9308(1) and 40 C.F.R. § 262.41(a).

Count 4 – Failure to Comply with Containment Requirements

67. Complainant incorporates paragraphs 1 through 34 of this CAFO as though set forth in this paragraph.

68. Pursuant to MAC R 299.9306(3) and 40 C.F.R. § 262.34, a generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility.

69. Pursuant to MAC R 299.9306(1)(a)(i), 40 C.F.R. § 262.34(a)(1)(i), and 40 C.F.R. § 265.173(a), in order to retain the exemption from the requirement to obtain a hazardous waste storage license, a generator must ensure that a container holding hazardous waste must always be closed during storage, except when necessary to add or remove waste.

70. Pursuant to MAC R 299.9614(1)(a), MAC R 299.9601(1), (2)(g) [40 C.F.R.

§ 265.173(a), and 40 C.F.R. § 264.173(a)], an owner or operator of a hazardous waste storage facility must ensure that a container holding hazardous waste must always be closed during storage, except when necessary to add or remove waste.

71. During the inspection of the hazardous waste tank and container storage area, seven drums containing hazardous waste D002/D007 decant sludge were stored open.

72. At the time of the inspection, Respondent was not adding or removing hazardous waste from the drums.

73. During the inspection of the area adjacent to the hazardous waste tank and container storage area, there was a tote containing hazardous waste sulfuric and phosphoric acid stored open.

74. At the time of the inspection, Respondent was not adding or removing hazardous waste from the tote.

75. Respondent failed to ensure that a container holding hazardous waste was closed at all times during storage, except when necessary to add or remove waste.

76. Respondent, pursuant to MAC R 299.9306(1)(a)(i), 40 C.F.R. § 262.34(a)(1)(i), and 40 C.F.R. § 265.173(a), failed to meet one of the necessary conditions to retain the exemption from the requirement to obtain a hazardous waste storage license.

77. Respondent at the time of the inspection accumulated hazardous waste for more than 90 days.

78. Respondent is an operator of a storage facility pursuant to MAC R 299.9306(3) and 40 C.F.R. § 262.34.

79. Pursuant to MAC R 299.9306(1)(a)(i), in order to retain the exemption from the requirement to obtain a hazardous waste storage license, a generator must comply with the

containment requirements of 40 C.F.R. § 264.175.

80. Pursuant to MAC R 299.9614(1)(a) and MAC R 299.9601(1), (2)(g), owners or operators of hazardous waste storage facilities must comply with the containment requirements of 40 C.F.R. § 264.175.

81. Pursuant to 40 C.F.R. § 264.175(b), container storage areas must have a containment system designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation (also referred to as “secondary containment”), unless the containers are elevated or are otherwise protected from contact with accumulated liquids; the containment system must have sufficient capacity to contain 10% of the volume of containers or the volume of the largest container, whichever is greater; and run-on into the containment system must be prevented unless the collection system has sufficient excess capacity in addition to that required in 40 C.F.R. § 264.175(b)(3), to contain any run-on which might enter the system.

82. During the inspection of the area adjacent to the hazardous waste tank and container storage area, EPA observed a tote containing hazardous waste that was stored in an area without secondary containment.

83. During the inspection of the area adjacent to the Glass Bead room, EPA observed eight drums containing hazardous waste on pallets without secondary containment.

84. During the inspection, EPA observed 11 totes containing hazardous waste in the area identified as Suite C, which were not situated in secondary containment nor otherwise elevated or protected from contact with any accumulated liquid.

85. Respondent failed to ensure that the totes and drums containing hazardous waste identified in Paragraphs 82-84 were in containment systems designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or

are otherwise protected from contact with accumulated liquids; and that the containment system must have sufficient capacity to contain 10% of the volume of containers or the volume of the largest container, whichever is greater; and run-on into the containment system must be prevented unless the collection system has sufficient excess capacity in addition to that required in 40 C.F.R. § 264.175(b)(3), to contain any run-on which might enter the system.

86. Respondent, pursuant to MAC R 299.9306(1)(a)(i) and 40 C.F.R. § 264.175, failed to meet one of the necessary conditions to retain the exemption from the requirement to obtain a hazardous waste storage license.

87. Respondent's failure to ensure that the totes and drums containing hazardous waste as identified in Paragraphs 82-84 above, were in containment systems designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers were elevated or otherwise protected from contact with accumulated liquids; and that the containment system must have sufficient capacity to contain 10% of the volume of containers or the volume of the largest container, whichever is greater; and run-on into the containment system must be prevented unless the collection system has sufficient excess capacity in addition to that required in 40 C.F.R. § 264.175(b)(3), to contain any run-on which might enter the system violated MAC R 299.9614(1)(a), MAC R 299.9601(1), (2)(g), and 40 C.F.R. § 264.175.

88. Respondent's failure to ensure that a container holding hazardous waste was closed at all times during storage, except when necessary to add or remove waste violated MAC R 299.9614(1)(a), MAC R 299.9601(1), (2)(g), and 40 C.F.R. § 264.173(a).

Count 5 – Failure to Comply with Training Requirements

89. Complainant incorporates paragraphs 1 through 34 of this CAFO as though set forth in this paragraph.

90. Pursuant to MAC R 299.9306(3) and 40 C.F.R. § 262.34, a generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility.

91. Pursuant to MAC R 299.9306(1)(d), 40 C.F.R. § 265.16(c), (d)(4), and 40 C.F.R. § 262.32(a)(4), in order to retain the exemption from the requirement to obtain a hazardous waste storage license, a generator must ensure that facility personnel with hazardous waste management responsibilities successfully complete an initial hazardous waste training program which teaches facility personnel hazardous waste management procedures including contingency plan implementation. Additionally, a generator must ensure that facility personnel with hazardous waste management responsibilities receive annual review training thereafter.

92. Pursuant to MAC R 299.9601(3) and 40 C.F.R. § 265.16(c) and (d), owners and operators of hazardous waste storage facilities must ensure that facility personnel with hazardous waste management responsibilities successfully complete an initial hazardous waste training program which teaches facility personnel hazardous waste management procedures including contingency plan implementation. Additionally, owners and operators of hazardous waste storage facilities must ensure that facility personnel with hazardous waste management responsibilities receive annual review training thereafter.

93. At the time of the inspection, Respondent did not have a RCRA hazardous waste management training program in place at the Facility.

94. At the time of the inspection, Respondent did not have a list of each position at the Facility related to hazardous waste management and the name of the employee filling such position or positions.

95. At the time of the inspection, Respondent did not have a written description for each position related to hazardous waste management at the Facility.

96. At the time of the inspection, Respondent did not have a written description of the type and amount of introductory and continuing training given to employees with duties related to hazardous waste management.

97. Respondent failed to ensure that facility personnel with hazardous waste management responsibilities successfully completed an initial hazardous waste training program which teaches facility personnel hazardous waste management procedures including contingency plan implementation.

98. Respondent failed ensure that facility personnel with hazardous waste management responsibilities successfully received annual review training thereafter.

99. Respondent, pursuant to MAC R 299.9306(1)(d), 40 C.F.R. § 265.16(c) and (d)(4), and 40 C.F.R. § 262.32(a)(4), failed to comply with the requirement that generators ensure facility personnel with hazardous waste management responsibilities successfully complete an initial hazardous waste training program which teaches facility personnel hazardous waste management procedures.

100. Respondent, pursuant to MAC R 299.9306(1)(d), 40 C.F.R. § 265.16(c) and (d)(4), and 40 C.F.R. § 262.32(a)(4), failed to comply with the condition that generators ensure facility personnel with hazardous waste management responsibilities successfully receive annual review training thereafter.

101. Respondent violated the requirements for owners or operators of hazardous waste storage facilities to ensure that facility personnel with hazardous waste management responsibilities successfully complete an initial hazardous waste training program which teaches facility personnel hazardous waste management procedures including contingency plan implementation.

102. Respondent violated the requirement for owners or operators of hazardous waste storage facilities to ensure facility personnel with hazardous waste management responsibilities successfully receive annual review training thereafter.

103. Respondent's failure to ensure required training violated MAC R 299.9601(3) and 40 C.F.R. § 265.16(c) and (d).

Count 6 – Failure to Comply with Contingency Plan Requirements

104. Complainant incorporates paragraphs 1 through 34 of this CAFO as though set forth in this paragraph.

105. Pursuant to MAC R 299.9306(1)(d), 40 C.F.R. §265.52(d) and 40 C.F.R. § 262.34(a)(4), in order to retain the exemption from the requirement to obtain a hazardous waste storage license, a generator must list in a contingency plan, the name, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, including alternates. This list must be kept up to date and when more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

106. Pursuant to MAC R 299.9601(2)(b), MAC R 299.9607(1), and 40 C.F.R. § 264.52(d), owners and operators of hazardous waste storage facilities must list in a contingency plan, the name, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, including alternates. This list must be kept up to date and when more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

107. Inspection of Respondent's records revealed that there were no descriptions of arrangements with local authorities in the contingency plan.

108. Respondent's contingency plan listed an employee as alternate emergency coordinator who had left the company in September 2014.

109. Respondent's contingency plan did not include documentation that the plan was submitted to the local police department, fire department and hospital.

110. Respondent, pursuant to MAC R 299.9306(1)(d), 40 C.F.R. §265.265.52(d), and 40 C.F.R. § 262.34(a)(4), failed to comply with contingency plan conditions for a storage license exemption.

111. Respondent's failure to comply with contingency plan requirements described above in paragraphs 107-110 violated MAC R 299.9601(2)(b), MAC R 299.9607(1), and 40 C.F.R. § 264.52(d).

Count 7 – Failure to Conduct Weekly Inspections

112. Complainant incorporates paragraphs 1 through 34 of this CAFO as though set forth in this paragraph.

113. In order for a generator of hazardous waste to maintain its exemption from the requirement to have an operating license or interim status, it must comply with the inspection requirements in 40 C.F.R. § 265.174, as required by MAC R. 299.9306(1)(a).

114. Respondent failed to conduct or document any weekly inspections of the hazardous waste container storage areas for the period of January 9, 2013 through January 31, 2015.

115. Respondent therefore failed to comply with the inspection requirements in 40 C.F.R. § 265.174, as required by MAC R. 299.9306(1)(a).

Count 8 – Failure to Maintain Adequate Aisle Space

116. Complainant incorporates paragraphs 1 through 34 of this CAFO as though set

forth in this paragraph.

117. Pursuant to MAC R 299.9306(1)(d), 40 C.F.R. § 262.34(a)(4) and 40 C.F.R. § 265.35, owners and operators of facilities that treat, store or dispose of hazardous waste 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, unless aisle space is not needed for any of those purposes.

118. During the inspection of Respondent's hazardous waste tank and container storage area, there was insufficient 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, in the area of the seven hazardous waste drums.

119. During the inspection of Respondent's area adjacent to the Glass Bead Room, there was insufficient 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, in the area of the eight 55-gallon drums containing hazardous waste decant sludge.

120. During the inspection of Respondent's Suite C area, there was insufficient 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, in the area of the five 275-gallon totes and five 330-gallon totes containing hazardous waste electropolish liquid decant.

121. Respondent's failure to 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 violated MAC R 299.9306(1)(d), 40 C.F.R.

§ 262.34(a)(4) and 40 C.F.R. § 265.35.

Count 9 –Failure to Use Appropriate Controls to Prevent Spills

122. Complainant incorporates paragraphs 1 through 34 of this CAFO as though set forth in this paragraph.

123. Owners and operators of a hazardous waste tank system must use appropriate controls and practices to prevent spills and overflows from tank or secondary containment systems. These include at a minimum: (1) spill prevention controls (e.g. check valves, dry disconnect couplings); (2) overfill prevention controls (e.g. level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank); and (3) maintenance of sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation. MAC R. 299.9306(1)(a)(ii); 40 C.F.R. Part 265 Subpart J [40 C.F.R. §§ 262.34(a)(1)(ii) and 265.194(b)(1) – (3)]; MAC R 299.9615 and 40 C.F.R. § 264.194(b)(1)-(3).

124. A large quantity generator that owns or operates a new hazardous waste tank system must obtain a written assessment, reviewed and certified by an independent registered professional engineer, attesting that the system has sufficient structural integrity and is acceptable for storing hazardous waste. MAC R. 299.9306(1)(a)(ii) and 299.9615; 40 C.F.R. Part 265, Subpart J [40 C.F.R. §§ 262.34(a)(1)(ii) and 265.192(a), (b), (d) and (g)]; and 40 C.F.R. § 264.192(a), (b), (d) and (g).

125. Respondent failed to use appropriate controls and practices to prevent spills and overflows from tank or secondary containment systems.

126. At the time of the inspection, Respondent had not obtained a written assessment, reviewed and certified by an independent registered professional engineer, attesting that the system has sufficient structural integrity and is acceptable for storing hazardous waste.

127. Respondent's failure to use appropriate controls and practices to prevent spills and overflows from tank or secondary containment systems violated MAC R. 299.9306(1)(a)(ii); 40 C.F.R. Part 265 Subpart J [40 C.F.R. §§ 262.34(a)(1)(ii) and 265.194(b)(1) – (3)]; MAC R 299.9615 and 40 C.F.R. § 264.194(b)(1)-(3).

128. Respondent's failure to obtain the written assessment described in paragraph 126 above, violated MAC R. 299.9306(1)(a)(ii) and 299.9615; 40 C.F.R. Part 265, Subpart J [40 C.F.R. §§ 262.34(a)(1)(ii) and 265.192(a), (b), (d) and (g)]; and 40 C.F.R. § 264.192(a), (b), (d) and (g).

**Count 10 – Failure to Conduct Daily Inspections
of Monitoring and Leak Detection Equipment**

129. Complainant incorporates paragraphs 1 through 34 of this CAFO as though set forth in this paragraph.

130. Except as noted in 40 C.F.R. § 265.195(c), the owner or operator must inspect at least once per operating day: (1) overflow/spill control equipment (e.g. waste-feed cutoff systems, bypass systems and drainage systems) to ensure that it is in good working order; (2) above ground portions of the tank system, if any to detect corrosion or releases of waste; and (3) the construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment structures (e.g. dikes) to detect erosion or signs of releases of hazardous waste (e.g. wet spots, dead vegetation). MAC R. 299.9306(1)(a)(ii), 299.11003(1)(p) and (q).

131. Respondent failed to inspect, where present, at least once each operating day, data gathered from monitoring and leak-detection equipment (e.g. pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design.

132. Respondent's failure to inspect, where present, at least once each operating day,

data gathered from monitoring and leak-detection equipment to ensure that the tank system is being operated according to its design since June 2013, violated MAC R. 299.9306(1)(a)(ii), MAC R. 299.11003(1)(p) and (q), 40 C.F.R. § 262.34(a)(1)(ii) and 40 C.F.R. § 265.195(a).

Civil Penalty

133. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$30,000. In determining the penalty amount, Complainant took into account the seriousness of the violations, Respondent's good faith efforts to comply with the applicable requirements and Respondent's ability to pay a civil penalty. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

134. Within 30 days after the effective date of this CAFO, Respondent must pay a \$30,000 civil penalty for the RCRA violations by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

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

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

for checks sent by express mail

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

The check must state "In the matter of Complete Metal Finishing, Inc." and the docket number of this CAFO.

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

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

Bryan Gangwisch (LR-17J)
RCRA Branch
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

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

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

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

General Provisions

139. Consistent with the “Standing Order Authorizing E-Mail Service of Order and Other Documents Issued by the Regional Administrator or Regional Judicial Officer Under the Consolidated Rules,” dated March 27, 2015, the parties consent to service of this CAFO by email at the following e-mail addresses: carlson.deboraha@epa.gov (for Complainant) and dchapman@troylawfirm.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

140. This CAFO resolves only Respondent’s liability for federal civil penalties for the violations and facts alleged in the CAFO.

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

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

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

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

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


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

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

In the Matter of:
Complete Metal Finishing, Inc.
Docket No. RCRA-05-2017-0021

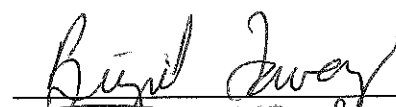
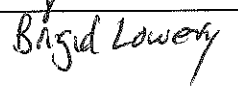
Complete Metal Finishing, Inc. Respondent

6-26-17
Date


Kenneth J. Matheis, Jr.
President
Complete Metal Finishing, Inc.

United States Environmental Protection Agency, Complainant

7/20/17
Date

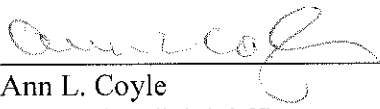


Ignacio L. Arrazola
Acting Director
Land and Chemicals Division

In the Matter of:
Complete Metal Finishing, Inc.
Docket No.
RCRA-05-2017-0021

Final Order

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

August 4, 2017
Date



Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

In the matter of: Complete Metal Finishing, Inc.
EPA ID Number: MIK143439735
Docket Number: **RCRA-05-2017-0021**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, Docket Number **RCRA-05-2017-0021**, which was filed on August 9, 2017, in the following manner to the addressees:

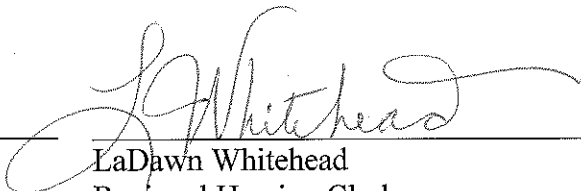
Copy by e-mail to
Attorney for Respondent: Daniel E. Chapman
dchapman@troylawfirm.com

Copy by e-mail to
Attorney for Complainant: Deborah Carlson
carlson.deboraha@epa.gov

Copy by e-mail to
Case Assignee: Bryan Gangwisch
gangwisch.bryan@epa.gov

Copy by e-mail to
Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: August 9, 2017



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