

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

In the Matter of: :
: :
Hard Chrome Specialists, Inc. :
: :
Respondent, :
: :
Hard Chrome Specialists, Inc. :
41 Leigh Drive :
York, PA 17406 :
: :
Facility. :

EPA Docket No. RCRA-03-2014-0029

Proceeding under Section 3008(a)
of the Resource Conservation and
Recovery Act, as amended, 42 U.S.C.
Section 6928(a)

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I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("EPA", "Agency" or "Complainant") and Hard Chrome Specialists ("Respondent") pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act ("RCRA") of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. § 6928(a) and (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, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
2. This Consent Agreement ("CA") and the accompanying Final Order ("FO") address alleged violations by Respondent of RCRA and the federally authorized Pennsylvania Hazardous Waste Management Regulations ("PaHWMR"), codified at 25 Pa. Code Chapters 260a – 266c, 266b, and 268c – 270a. Effective January 30, 1986, the PaHWMR was authorized by the EPA pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A and thereby became requirements of RCRA Subtitle C and enforceable by EPA pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a). See 5/

Fed. Reg. 1791 (January 15, 1986), *65 Fed. Reg. 57734* (September 26, 2000), *69 Fed. Reg. 2674* (January 20, 2004) and *74 Fed. Reg. 19453* (April 29, 2009). The PaHWMR incorporate, with certain exceptions, specific provisions of Title 40 of the 1999 Code of Federal Regulations by reference. See 25 Pa. Code § 260a. 3(e).

3. Pursuant to § 22.13(b) of the Consolidated Rules of Practice, this CA and the attached FO (hereinafter jointly referred to as this "CAFO") simultaneously commence and conclude an administrative proceeding against Respondent, brought under Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g) to resolve alleged violations of RCRA at Respondent's facility at 41 Leigh Drive, York, Pennsylvania, 17046 (the Facility").
4. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
5. For purposes of this proceeding, Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CA, except as provided in Paragraph 4, above.
6. For the purposes of this proceeding only, Respondent agrees not to contest EPA's jurisdiction with respect to the execution and issuance of this CAFO, or the enforcement of the CAFO.
7. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CA and any right to appeal the accompanying FO.
8. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
9. Each party shall bear its own costs and attorneys fees in connection with this proceeding.

Notice of Action to the Commonwealth of Pennsylvania

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

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

11. Respondent is, and was at the time of the violations alleged herein, a corporation of the Commonwealth of Pennsylvania, and is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and as defined in 25 Pa. Code § 260a.10.

12. Respondent is, and has been at all times relevant to this Consent Agreement, the “owner” and “operator” of a “facility”, described below, as those terms are defined in 25 Pa. Code § 260a.10, which, with the exception, among others, of the term “facility”, incorporates by reference 40 C.F.R. § 260.10.
13. The facility referred to in Paragraph 12, above, including all of its associated equipment and structures (hereinafter a “Facility”), is a manufacturing facility located at 41 Leigh Road, York, Pennsylvania, 17046.
14. Respondent generates more than 1,000 kilograms of hazardous waste per month. Respondent is assigned EPA ID No. PAD987394350.
15. Respondent is and, at all times relevant to this CAFO, has been a “generator” of, and has engaged in the “storage” in “containers” and “tanks” at the Facility of materials described below that are “solid wastes” and “hazardous wastes”, as those terms are defined in 25 Pa. Code § 260a.10, which with the exception, among others, of “storage” incorporates by reference 40 C.F.R. § 260.10.
16. On December 8, 2011, representatives of EPA and the PaDEP conducted a RCRA Compliance Evaluation Inspection (“RCRA CEI”) at the Facility.
17. On December 8, 2011, “hazardous wastes” generated by Respondent were in “storage” at the Facility as those terms are defined by 25 Pa. § 260a.10, which incorporates by reference 40 C.F.R. § 260.10 with the exception of “storage.”
18. Respondent generates waste chromium at the Facility. Waste chromium is a hazardous waste (D007) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.24, because it exhibits the characteristic for toxicity.
19. Respondent generates waste cadmium at the Facility. Waste cadmium is a hazardous waste (D006) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.24, because it exhibits the characteristic for toxicity.
20. Respondent generates waste lead at the Facility. Waste lead is a hazardous waste (D008) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.24, because it exhibits the characteristic for toxicity.
21. Respondent generates Electroless Nickel waste at the Facility. Electroless Nickel waste is a hazardous waste (D002/D007) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.22 and § 261.24 because it exhibits the characteristics for corrosivity and toxicity for chromium.

COUNT I

(Operating Without Qualifying for a Permit Exemption or Obtaining Interim Status or a Permit)

22. The preceding paragraphs are incorporated by reference.
23. 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), provide, in pertinent part, that a person may not own or operate a facility for the treatment, storage or disposal of hazardous waste unless such person has first obtained a permit for such facility or has qualified for interim status for the facility.
24. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(ii) provides, in pertinent part, that a generator may accumulate hazardous waste in tanks on-site for 90 days or less without a permit or having interim status provided that, among other things, while being stored on-site, the generator complies with the applicable requirements of 40 C.F.R. Part 265, Subpart J, with exceptions not relevant to this matter. 40 C.F.R. Part 265, Subpart J, at § 265.195(a), provides that the owner or operator of the tank must inspect, where present, data gathered from monitoring and leak detection equipment at least once each operating day to ensure the tank system is being operated according to its design.
25. At the time of the December 8, 2011 RCRA CEI, Respondent had not conducted daily inspections of data gathered from monitoring and leak detection equipment associated with tanks and tank systems containing the hazardous waste referenced in Paragraph 21 as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(ii), for operating days February 22 – 25, February 28, March 1 – 4, March 7, March 16 – 18, 21 - 25, 28 - 31, April 1, 4, 14 -15, 18 - 22, 25 - 29, May 2, May 9 - 10, May 13, October 17 - 21, October 24 - 28 and October 31, 2011.
26. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(ii), provides, in pertinent part, that a generator may accumulate hazardous waste in tanks on-site for 90 days or less without a permit or having interim status provided that, among other things, the generator complies with the applicable requirements of 40 C.F.R. Part 265, Subpart J, with exceptions not relative to this matter. 40 C.F.R. Part 265, Subpart J at § 265.193(a) provides that such tanks must have secondary containment as further described in 40 C.F.R. § 265.193.
27. At the time of the December 8, 2011 RCRA CEI, Respondent stored the hazardous waste referenced in Paragraph 21 in a tank at the Facility where a portion of the secondary containment wall was deteriorated and no longer was secondary containment free from crack sand gaps as required by 40 C.F.R. §265.193(e)(1)(iii).

28. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4), provides, in pertinent part, that a generator may accumulate hazardous waste in containers and tanks on-site for 90 days or less without a permit or having interim status provided that, among other things, the generator complies with the requirements of 40 C.F.R. Part 265, Subpart D. 40 C.F.R. Part 265, Subpart D at § 265.52(d) requires the maintenance of an up-to-date Contingency Plan which lists the names of the person(s) qualified to act as the emergency coordinator.
29. At the time of the December 8, 2011 RCRA CEI, Respondent did not maintain an up-to-date Contingency Plan with the current names of the person(s) qualified to act as emergency coordinator.
30. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. Part 262.34(a)(4), provides, in pertinent part, that a generator may accumulate hazardous waste in containers and tanks on-site for 90 days or less without a permit or having interim status provided that, among other things, the generator complies with the requirements in 40 C.F.R. § 265.16. 40 C.F.R. § 265.16(c) provides that facility personnel must take part in an annual review of the initial hazardous waste training described in 40 C.F.R. § 265.16(a).
31. At the time of the December 8, 2011 RCRA CEI, three employees in 2011 and one employee in 2010 had not taken part in an annual review of the initial hazardous waste training required by 40 C.F.R. § 265.16(a).
32. 25 Pa. Code § 262a.10, which incorporates 40 C.F.R. § 262.34(a)(4) by reference, provides, in pertinent part, that a generator may accumulate hazardous waste in containers and tanks on-site for 90 days or less without a permit or having interim status provided that, among other things, the generator complies with the requirements in 40 C.F.R. § 265.16. 40 C.F.R. § 265.16(d)(1) requires that records documenting the job title for each position at the Facility related to hazardous waste management, and the name of each employee filling each job, be maintained at the facility. 40 C.F.R. § 265.16(d)(2) requires a written job description for each position listed pursuant to 40 C.F.R. § 264.16(d)(1).
33. At the time of the December 8, 2011 RCRA CEI, Respondent did not maintain at the Facility: 1) the job title for each position at the Facility related to hazardous waste management, and the name of each employee filling each job; 2) a written job description for each position listed pursuant to 40 C.F.R. § 264.16(d)(1); and 3) a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed pursuant to 40 C.F.R. § 264.16(d)(1).

34. 25 Pa. Code § 262a.10, which incorporates 40 C.F.R. § 262.34(a)(3) by reference, provides that a generator may accumulate hazardous waste in containers on-site for 90 days or less without a permit or interim status provided that, while being accumulated on-site, each container is labeled or clearly marked with the words "Hazardous Waste."
35. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(c)(1)(ii), provides, in pertinent part, that a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste without a permit or interim status provided that, among other things, containers being used to accumulate such hazardous waste are labeled with the words "Hazardous Waste" or other words that identify the contents of the containers.
36. At the time of the December 8, 2011 RCRA CEI, Respondent accumulated the hazardous waste described in Paragraphs 19 - 20, above, in containers at or near the point of generation at the Facility where wastes initially accumulate under the control of the operator of the process generating the waste without labeling the containers being used to accumulate such hazardous waste with the words "Hazardous Waste" or other words that identify the contents of the containers, as provided by 40 C.F.R. § 262.34(a)(3) and (c)(1)(ii).
37. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i), provides that a generator may accumulate hazardous waste in containers on-site for 90 days or less without a permit or interim status provided that the generator complies with, among other things, 40 C.F.R. Part 265, Subpart I. 40 C.F.R. Part 265, Subpart I, at § 265.173(a), provides that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
38. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(c)(1)(i), which references 40 C.F.R. § 265.173(a), provides in pertinent part, that a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste without a permit or interim status provided that, among other things, containers being used to accumulate hazardous waste are kept closed during storage, except when necessary to add or remove waste.
39. At the time of the December 8, 2011 RCRA CEI, Respondent accumulated the hazardous waste described in Paragraphs 19 - 20 above, in containers at the Facility at or near the point of generation under the control of the operator of the process generating the waste without keeping such containers closed during storage, except when necessary to add or remove waste as provided by 40 C.F.R. § 262.34(a)(1)(i) and (c)(1)(i).

40. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(c)(1)(i), which references 40 C.F.R. § 265.173(a), provides in pertinent part, that a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste without a permit or interim status provided that, among other things, no more than 55 gallons of hazardous waste or no more than one quart of acutely hazardous waste listed in 40 C.F.R. § 261.31 or 261.33(e) is accumulated in containers at or near the point of generation.
41. At the time of the December 8, 2011 RCRA CEI, Respondent accumulated over 55 gallons of the hazardous waste described in Paragraphs 19 - 20 above, in containers at or near the point of generation where wastes initially accumulate under the control of the operator of the process generating the waste.
42. Respondent failed to qualify for the “less than 90-day” generator accumulation exemption of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), by failing to satisfy the conditions for such exemptions as set forth in 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), referred to in Paragraphs 24, 26, 28, 30, 32, 34, 35, 37, 38 and 40, as described in Paragraphs 25, 27, 29, 31, 33, 36, 39 and 41, above.
43. Respondent failed to qualify for the generator satellite accumulation exemption of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(c), by failing to satisfy the conditions for such exemptions as set forth in 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(c), referred to in Paragraphs 34, 35, 37, 38 and 40, above.
44. By failing to meet the criteria for an exemption from permitting or interim status under 40 C.F.R. § 262.34(a) and/or (c), the Facility became a hazardous waste treatment, storage or disposal “facility”, as that term is defined by 25 Pa. Code § 260a.10.
45. Respondent does not have, and never had, a permit or interim status pursuant to 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), or Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), for the storage of hazardous waste at the Facility.
46. Respondent was required by 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), to obtain a permit for its hazardous waste storage activities described in this count.
47. Respondent violated 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by operating a hazardous waste storage facility without a permit or interim status or valid exemption.

COUNT II
(Hazardous Waste Determinations)

48. The preceding paragraphs are incorporated by reference.
49. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11 with exceptions not relevant here, provides that a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste using the following methods:
- (a) He should first determine if the waste is excluded from regulation under 40 C.F.R. § 261.4.
- (b) He must then determine if the waste is listed as a hazardous waste in subpart D of 40 C.F.R. Part 261.
- (c) For purposes of compliance with 40 C.F.R. Part 268, or if the waste is not listed in subpart D of 40 C.F.R. Part 261, the generator must then determine whether the waste is identified in subpart C of 40 C.F.R. Part 261 by either:
- (1) Testing the waste according to the methods set forth in subpart C of 40 CFR part 261, or according to an equivalent method approved by the Administrator under 40 CFR 260.21; or
- (2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.
50. At the time of the December 8, 2011 RCRA CEI, Respondent had failed to conduct hazardous waste determinations as described in Paragraph 49, above, on spent aerosol cans generated at the Facility, a “solid waste” as defined at 25 Pa. Code § 261a.2, which incorporates by reference 40 C.F.R. § 261.2.
51. At the time of the December 8, 2011 RCRA CEI, Respondent disposed of used aerosol cans in the trash without first making a hazardous waste determination of the used aerosol cans.
52. The wastes referred to in Paragraph 51, above, are and were at the time of the alleged violations “solid wastes” as this term is defined in 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.2, with exceptions not relevant here.
53. Respondent violated 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11, by failing to conduct hazardous waste determinations on solid waste generated at the Facility.

COUNT III
(Container Management)

54. The preceding paragraphs are incorporated by reference.
55. Pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173 (a), Respondent is required to keep containers of hazardous waste closed during storage except when it is necessary to add or remove waste.
56. At the time of the December 8, 2011 RCRA CEI, Respondent failed to keep containers of the hazardous waste described in Paragraphs 19 - 20, above, closed at all times except when adding or removing waste as required by 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a).
57. Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), by failing to keep containers of the hazardous waste referred to in Paragraphs 19 - 20, above, closed during storage except when necessary to add or remove waste.

COUNT IV
(Daily Hazardous Waste Tank Inspections)

58. The preceding paragraphs are incorporated by reference.
59. Pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.195(a), Respondent is required to inspect at least once each operating day the data gathered from monitoring and leak detection equipment of tank systems at the Facility containing hazardous waste to ensure the tank system is being operated according to its design.
60. Respondent did not inspect the tank systems at the Facility containing the hazardous waste referenced in Paragraph 21, above, on the following operating days: February 22 - 25, February 28, March 1 - 4, March 7, March 16 - 18, 21 - 25, 28-31, April 1, 4, 14 -15, 18 - 22, 25 - 29, May 2, May 9 - 10, May 13, October 17 - 21, October 24 - 28 and October 31, 2011.
61. On February 22 - 25, February 28, March 1 - 4, March 7, March 16 - 18, 21 - 25, 28 - 31, April 1, 4, 14 -15, 18 - 22, 25 - 29, May 2, May 9 - 10, May 13, October 17 - 21, October 24 - 28 and October 31, 2011, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.195(a), by failing to inspect the tank systems at the Facility containing the hazardous waste referenced in Paragraph 21, above.

COUNT V
(Secondary Containment)

62. The preceding paragraphs are incorporated by reference.
63. Pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.193, Respondent is required to have secondary containment around each tank system used to store hazardous waste at the Facility.
64. At the time of the December 8, 2011 RCRA CEI, Respondent stored the hazardous waste referenced in Paragraph 21, above, in a tank system at the Facility where the secondary containment wall had deteriorated and was no longer secondary containment free from crack and gaps as required by 40 C.F.R. 265 § 193(e)(1)(iii).
65. Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 265.193, by failing to have secondary containment for a tank used to store the hazardous waste referenced on Paragraph 21, above.

COUNT VI
(Contingency Plan)

66. The preceding paragraphs are incorporated by reference.
67. Pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.52(d), Respondent is required to have an up-to-date Contingency Plan listing the names, addresses, and phone numbers of all person qualified to act as emergency coordinator and such list must be kept up to date.
68. At the time of the December 8, 2011 RCRA CEI, Respondent did not maintain an up-to-date Contingency Plan with the current names of the person(s) qualified to act as emergency coordinator.
69. Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.52(d) by failing to maintain an up to date Contingency Plan for the Facility.

COUNT VII
(Annual Hazardous Waste Refresher Training)

70. The preceding paragraphs are incorporated by reference.

71. Pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c), Respondent was required to have facility personnel take part in an annual review of the initial hazardous waste training required by 40 C.F.R. § 264.16(a)(1) - (4).
72. At the time of the December 8, 2011 RCRA CEI, three employees in 2011 and one employee in 2010 at the Facility had not had an annual review of the initial hazardous waste training required by 40 C.F.R. § 264.16(a)(1) – (4) for calendar years 2010 and 2011.
73. Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c), by failing to have three employees in 2011 and one employee in 2010 at the Facility take part in an annual review of the initial hazardous waste training in 2011 and 2010 for calendar years 2010 and 2011.

COUNT VIII

(Employee and Training Documentation)

74. The preceding paragraphs are incorporated by reference.
75. Pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d) (1) - (3), Respondent must maintain at the Facility documentation of:
 - 1) the job title for each position at the Facility related to hazardous waste management, and the name of each employee filling each job (40 C.F.R. § 264.16(d)(1));
 - 2) a written job description for each position listed pursuant to 40 C.F.R. § 264.16(d)(1) (40 C.F.R. § 264.16(d)(2)); and,
 - 3) a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed pursuant to 40 C.F.R. § 264.16(d)(1) (40 C.F.R. § 264.16(d)(3)).
76. At the time of the December 8, 2011 RCRA CEI, Respondent did not maintain at the Facility: 1) the job title for each position at the Facility related to hazardous waste management, and the name of each employee filling each job; 2) a written job description for each position listed pursuant 40 C.F.R. § 264.16(d)(1); and 3) a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed pursuant to 40 C.F.R. § 264.16(d)(1).
77. Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d)(1) - (3), by failing to maintain at the Facility the documentation required by 40 C.F.R. § 264.16(d)(1) - (3).

III. CIVIL PENALTIES

78. Respondent agrees to pay a civil penalty in the amount of **\$33,108** in settlement of the alleged violations, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of the executed and filed CAFO. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of the executed and filed CAFO is mailed or hand-delivered to Respondent.
79. Having determined that this Consent Agreement is in accordance with law and that the civil penalty amount was determined after consideration of the statutory factors set forth in Section 3008(a) of RCRA, 42 U.S.C. § 6928(a) which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements, EPA hereby agrees and acknowledges that payment of the civil penalty shall be in full and final satisfaction of all civil claims for penalties which Complainant may have under Section 3008(a) of RCRA for the violations alleged in this CAFO.
80. The Parties find and represent that the aforesaid settlement amount is reasonable and is based upon Complainant's consideration of a number of factors, including the penalty criteria set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 ("RCRA Penalty Policy"), which reflects the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g), the *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the November 16, 2009 Memorandum by EPA Office of Civil Enforcement, Waste and Chemical Enforcement Division Director Rosemarie A. Kelly, entitled *Adjusted Penalty Matrices based on the 2008 Civil Monetary Penalty Inflation Adjustment Rule*.
81. Respondent shall remit the full penalty pursuant to paragraphs 78, above, and/or any administrative fees and late payment penalties, by cashier's check, certified check or electronic wire transfer, in the following manner:
- A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2014-0029;
 - B. All checks shall be made payable to "**United States Treasury**";
 - C. All payments made by check and sent by regular mail shall be addressed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
Contact: Craig Steffen 513-487-2091

- D. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

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

Contact: 314-418-1028

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

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

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

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking
Physical location of U.S. Treasury facility:

5700 Rivertech Court
Riverdale, MD 20737
Contact: John Schmid 202-874-7026 or REX, 1-866-234-5681

- G. Additional payment guidance is available at <http://www2.epa.gov/financial>.

H. On-Line Payment Option: WWW.PAY.GOV/PAYGOV

82. At the time of payment, Respondent shall send a notice of such payment, including a copy of any check or electronic transfer, as appropriate, to:

Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Joyce A. Howell
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

83. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.
84. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment as specified in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
85. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of the executed and filed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
86. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty

remains unpaid. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

IV. EFFECT OF SETTLEMENT

87. Payment of the penalty specified in Paragraph 78 above, shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under RCRA Sections 3008(a) and (g), for the specific violations alleged in Counts I through VIII, above. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

V. RESERVATION OF RIGHTS

88. This CAFO resolves only EPA's claims for civil penalties for the specific violations alleged in the CAFO. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk. Respondent reserves all available rights and defenses it may have to defend itself in any such action.

VI. OTHER APPLICABLE LAWS

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

VII. CERTIFICATION OF COMPLIANCE

90. As to all relevant provisions of RCRA Subtitle C, 42 U.S.C. §§ 6901 *et seq.*, and the Commonwealth of Pennsylvania's federally authorized hazardous waste management program allegedly violated as set forth in at 25 Pa Code §§ 260a.1 *et seq.* Respondent certifies to EPA that, upon investigation, to the best of Respondent's knowledge and belief, Respondent is currently in compliance with all such relevant provisions and regulations.

VIII. PARTIES BOUND

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

IX. EFFECTIVE DATE

92. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Judicial Officer or Regional Administrator.

For Respondent, Hard Chrome Specialists, Inc.:

Date: 02/10/2014

By: _____

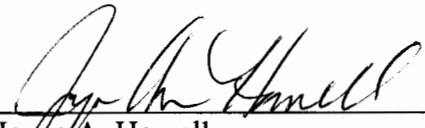
Name: Craig Kay

Title: President

Hard Chrome Specialists, Inc.

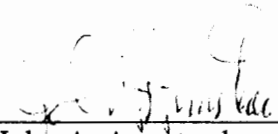
For Complainant, United States Environmental Protection Agency, Region III:

Date: 3/4/2014

By: 
Joyce A. Howell
Senior Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Director, Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

3.12.14
Date

By: 
John A. Armstead
Director
Land and Chemicals Division

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, PA 19103-2029**

In the Matter of:	:	
	:	
Hard Chrome Specialists, Inc.	:	
	:	
Respondent,	:	
	:	EPA Docket No. RCRA-03-2014-0029
Hard Chrome Specialists, Inc.	:	
41 Leigh Drive	:	
York, PA 17406	:	
	:	Proceeding under Section 3008(a)
	:	of the Resource Conservation and
	:	Recovery Act, as amended, 42 U.S.C.
	:	Section 6928(a)
Facility.	:	

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Hard Chrome Specialists, Inc., have executed a document entitled "Consent Agreement" which I ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are incorporated herein by reference.

NOW, THEREFORE, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a), and based upon the representations of the parties set forth in the Consent Agreement that the civil penalty amount agreed to by the parties in settlement of the above-captioned matter is based upon a consideration of the factors set forth in RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3), IT IS HEREBY ORDERED THAT Respondent shall pay a civil penalty in the amount of **\$33,108.00**, as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order is filed with the Regional Hearing Clerk of U.S. EPA, Region III.

Date: 3/19/14

By: Renée Sarajian
Renée Sarajian
Regional Judicial Officer

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

In the Matter of:

Hard Chrome Specialists, Inc.

Respondent,

Hard Chrome Specialists, Inc.
41 Leigh Drive
York, PA 17406

Facility.

EPA Docket No. RCRA-03-2014-0029

Proceeding under Section 3008(a)
of the Resource Conservation and
Recovery Act, as amended, 42 U.S.C.
Section 6928(a)

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EPA REGION III, PHILA. PA


CERTIFICATE OF SERVICE

I certify that I sent a copy of the Consent Agreement and Final Order to the addressees listed below. The original and one copy of the Complaint were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Via UPS, next day delivery:

Richard H. Friedman, Esq.
McNees, Wallace and Nurick, LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

Dated: 3/19/2014



Joyce A. Howell
Senior Assistant Regional Counsel
U.S. EPA - Region III