

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

<p>In the matter of:</p> <p>Rust-Oleum Corporation 16410 Industrial Lane Williamsport, MD 21795</p> <p style="padding-left: 40px;">Respondent,</p> <p>Rust-Oleum Corporation 16410 Industrial Lane Williamsport, MD 21795</p> <p style="padding-left: 40px;">Facility.</p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p>U.S. EPA Docket RCRA-03-2018-0130</p> <p>Proceeding under Section 3008(a) and (g) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6928(a) and (g)</p> <p style="text-align: right;">U.S. EPA-REGION 3-RHC <small>FILED-26SEP2018PM1:58</small></p>
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CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division (“Complainant”), U.S. Environmental Protection Agency, Region III (“EPA” or the “Agency”), and Rust-Oleum Corporation (“Respondent”), pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the 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, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

2. The *Consolidated Rules of Practice*, at 40 C.F.R. § 22.13(b), provide, in pertinent part, that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3). Pursuant thereto, this Consent Agreement and the accompanying Final Order simultaneously commence and conclude this administrative proceeding against the Respondent.

3. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, the State of Maryland has been granted final authorization to administer its hazardous waste management program, set forth at the Code of Maryland Regulations (“COMAR”), Title 10, Subtitle 51 *et seq.*, in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. The State of Maryland Hazardous Waste Management Regulations (“MdHWMR”) originally were authorized by EPA on February 11, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b). Revisions to the MdHWMR set forth at COMAR, Title 26, Subtitle 13, were authorized by EPA effective July 31, 2001 and September 24, 2004, and on October 31, 2016. The provisions of the revised federally-authorized program 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).
4. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes EPA to initiate an enforcement action whenever it is determined that a person is in violation of 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. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil penalty against any person who violates any requirement of Subtitle C of RCRA.
5. This Consent Agreement (“CA”) and the accompanying Final Order (“FO”) (collectively, the “CAFO”) address alleged violations by Respondent of Subtitle C of RCRA, 42 U.S.C. §§ 6921–6939g, certain federally-authorized Maryland hazardous waste regulations, set forth at COMAR, Title 26, Subtitle 13 *et seq.*, and certain of the federal hazardous waste regulations, set forth at 40 C.F.R. Parts 260–266 and 273, for which the State of Maryland has not been granted authorization to administer in lieu of the federal hazardous waste management program under HSWA, in connection with Respondent’s facility. Respondent’s facility is located at 16410 Industrial Lane, Williamsport, MD 21795 (“Facility”) and is further described below.
6. Factual allegations or legal conclusions in this CA that are based on provisions of federally-authorized MdHWMR cite those respective provisions as the authority for such allegations or conclusions.
7. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated November 14, 2017, EPA notified the Maryland Department of the Environment (“MDE”) of EPA’s intent to commence this administrative action against Respondent in response to the violations of RCRA Subtitle C that are alleged herein.

II. GENERAL PROVISIONS

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

9. Respondent neither admits nor denies the specific factual allegations or the conclusions of law contained in the CAFO, except as provided in Paragraph 8, above.
10. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
11. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
12. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
13. Respondent shall bear its own costs and attorney's fees.
14. This CAFO shall not relieve Respondent of its obligations to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit; nor does this CAFO constitute a waiver, suspension or modification of the requirements of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, or any regulations promulgated and/or authorized thereunder.

III. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW

15. In accordance with the *Consolidated Rules of Practice* at 40 C.F.R. §§22.13(b) and 22.18(b)(2) and (3), Complainant makes the following findings of fact and conclusions of law:
16. EPA has jurisdiction over this matter pursuant to RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g).
17. Respondent is a corporation incorporated in the State of Maryland. Respondent is now, and was at the time of the violations alleged herein, a "person" as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15), and COMAR 26.13.01.03B(61).
18. The Facility manufactures paints, both solvent and latex-based, primarily contained in the form of aerosol cans. The Facility uses a variety of mills and tanks to mix, grind, and thin the various types of paints it generates.
19. Respondent has operated at this location since 1978.
20. In February 2018, Respondent submitted its most recent Notification of Hazardous Waste Activity ("Notification") for the Facility to the Maryland Department of the Environment ("MDE"), pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, to EPA, Region III,

identifying the Facility as a generator of hazardous waste. The Facility has been assigned EPA I.D. Number MDD069390839. Respondent is currently classified as a Large Quantity Generator (“LQG”) of hazardous waste at this Facility. The Facility does not have a permit for the treatment, storage or disposal of hazardous wastes.

21. At all times relevant to the allegations set forth in this CA, Respondent is, and has been, the “operator” and the “owner” of the Facility, as those terms are defined in COMAR 26.13.01.03.B(58) and (59).
22. As described below, at all times relevant to the allegations set forth in this CA, Respondent is, and has been, a “generator” of “solid waste” and “hazardous waste” at the Facility, as these terms are defined in COMAR 26.13.01.03.B(29), (73) and (31). Respondent generates waste paint and waste solvents (EPA Waste Codes D001, D005, D035, F003, F005).
23. At all times relevant to the allegations set forth in this CA, and as described below, Respondent is, and has been, engaged in the temporary “storage” of “solid waste” and “hazardous waste” in “containers” at the Facility, as those terms are defined in COMAR 26.13.01.03.B(9), (31), (73), and (76).
24. On March 21, 2017, two duly-authorized representatives of EPA (“EPA Inspectors”) conducted a Compliance Evaluation Inspection (the “CEI” or “Inspection”) at the Facility, to examine the Respondent’s compliance with the federally-authorized MdHWMR and applicable federal hazardous waste regulations.
25. On April 19, 2018, EPA sent a Request to Show Cause (“Show Cause letter”) and Information Request Letter to Respondent advising it of EPA’s preliminary findings of violations at the Facility and offering the Respondent an opportunity to provide such additional information as it believed the Agency should review and consider before reaching any final conclusions as to the Respondent’s compliance with the MdHWMR and federal hazardous waste regulations at the Facility.
26. On the basis of EPA’s findings during the Inspection and Respondent’s response to EPA’s Show Cause letter, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, certain federally-authorized MdHWMR requirements promulgated thereunder, and certain applicable federal hazardous waste regulations.
27. At all times relevant to the allegations set forth in this CA, Respondent’s Facility is, and has been, a hazardous waste storage “facility” as that term is defined in COMAR 26.13.01.03.B(23).

COUNT I

(Operating a Treatment, Storage, and Disposal Facility without a Permit or Interim Status)

28. The information in the preceding Paragraphs is incorporated herein by reference, as though fully set forth at length.
29. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and COMAR 26.13.07.01A, with exceptions not relevant to this matter, 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.
30. Respondent has never had a permit or interim status, pursuant to COMAR 26.13.07.01 or Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), for the storage of hazardous waste at the Facility.

Generator Accumulation of Hazardous Waste (the "Generator Permit Exemption")

31. COMAR 26.13.03.05E(1) provides:
 - E. Accumulation Time.
 - (1) A generator may accumulate hazardous waste on-site without a permit or without holding interim status for 90 days or less if:
 - (a) The waste is shipped off-site within 90 days to a permitted facility or placed in an on-site permitted facility;
 - (b) The generator accumulates the waste:
 - (i) In containers,
 - (ii) In tanks, or
 - (iii) On drip pads, if the waste is drippage from a wood-preserving process, precipitation, or surface water run-on;
 - (iv) In a containment building;
 - (c) Containers used to accumulate the waste meet the standards of §A of this regulation;
 - (d) The generator accumulates the waste in containers in accordance with COMAR 26.13.05.09;
 - (e) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
 - (f) Each container is:

- (i) Properly labeled according to §§B and C of this regulation; and
 - (ii) Labeled or marked clearly with the words "Hazardous Waste", while being accumulated on site.
- (g) The generator complies with the requirements for owners or operators in COMAR 26.13.0S.02G [personnel training], .03 [preparedness and prevention], and .04 [contingency plan and emergency procedures];

Generator Permit Exemption: Satellite Accumulation

32. COMAR 26.13.03.05(E)(3), provides, "A generator may accumulate as much as 55 gallons of hazardous waste or 1 quart of acutely hazardous waste listed in COMAR 26.13.02.19E 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 and without complying with §E(1) provided the generator:
- (a) Complies with COMAR 26.13.05.09B—D; and
 - (b) Marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.
33. Although the provisions of COMAR 26.13.03.05E(1) provide hazardous waste generators with an exemption from the permitting requirements for the temporary accumulation (90 days or less) of hazardous waste generated by a facility (referred to here as the "90-day accumulation exemption"), Respondent failed to meet the conditions necessary to qualify for the exemption set forth in COMAR 26.13.03.05E(1).
34. At the time of the Inspection on March 21, 2017, the following acts or omissions prevented Respondent from meeting the regulatory permit exemption conditions in COMAR 26.13.03.05(E)(1):
- a. Respondent was storing the following hazardous waste in satellite accumulation containers that were not labeled with the words "hazardous waste" or other words to identify their contents as required by COMAR 26.13.03.05E(3)(b), and the applicable permit exemption condition set forth at COMAR 26.13.03.05.E(1)(f)(ii):
 - (1) An approximately 1-gallon container of "pot strainer waste" (EPA Waste Codes D001, D005, D035, F003, F005) located on the Main Milling Floor at the Bowers 1 Unit; and
 - (2) A 55-gallon container of spent solvent / waste paint (EPA Waste Codes D001, D035, F003, F005) located at the Pumping Station.
 - b. Respondent was storing the following hazardous waste in a 90-Day container that was not marked with a start accumulation date as required by COMAR

26.13.03.05E(1)(e): a 55-gallon drum of paint filters (EPA Waste Codes D001, D005, D035, F003, F005) located in the Aerosol Line 2 area.

- c. Respondent was storing the following waste lamps, in the Cold Storage Area, which were not marked or labeled with the words “hazardous waste” or other words to identify their contents, as required by the applicable permit exemption condition set forth at COMAR 26.13.03.05.E(1)(f)(ii):
 - (1) three loose waste lamps that were sitting on top of a lamp storage box;
 - (2) one bucket, of approximately 5-gallon capacity, containing 10 waste lamps; and
 - (3) a second bucket, of approximately 5-gallon capacity, containing 4 waste lamps.
- d. Respondent was storing one bucket of waste batteries, in the Cold Storage Area, which was not marked or labeled with words “hazardous waste” or other words to identify their contents, as required by the applicable permit exemption condition set forth at COMAR 26.13.03.05.E(1)(f)(ii).
- e. Respondent was storing three loose waste lamps, two buckets of waste lamps, and one bucket of waste batteries, in the Cold Storage Area, that were not marked with the date upon which each period of accumulation began, as required by COMAR 26.13.03.05.E(1)(e).
- f. Respondent failed to keep several hazardous waste containers closed except when it is necessary to add or remove waste, as further described in Count II, below, as required by COMAR 26.13.05.09D, and the applicable permit exemption condition set forth at COMAR 26.13.03.05E(1)(d).
- g. Respondent failed to maintain adequate aisle space in its main hazardous waste accumulation area, as required by COMAR 26.13.05.03F, as further described in Count III, below, and the applicable permit exemption condition set forth at COMAR 26.13.03.05E(1)(g).
- h. Respondent failed to maintain an adequate contingency plan, as further described in Count IV, below, as required by COMAR 26.13.05.04, and the applicable permit exemption condition set forth at COMAR 26.13.03.05E(1)(g).
- i. Respondent failed to document, in the operating record of the Facility, inspections of the above-ground storage tank which was storing hazardous waste at the Facility, as further described in Count V, below, as required by COMAR 26.13.05.10D(5), and the applicable permit exemption condition set forth at COMAR 26.13.03.05E(1)(h).

- j. Respondent failed to conduct weekly inspections of the Facility's hazardous waste accumulation areas, as required by COMAR 26.13.05.09E, and / or failed to maintain inspection logs of weekly inspections of hazardous waste accumulation areas, as further described in Count VI, below, as required by COMAR 26.13.05.02F(2) and (3), and the applicable permit exemption condition set forth at COMAR 26.13.03.05E(1)(k).
35. For each of the reasons and on the date identified in Paragraph 34, above, Respondent failed to comply with the permit exemption conditions set forth in COMAR 26.13.03.05E(1), as identified in Paragraphs 31 and 32, above, for temporary (*i.e.*, 90 days or less) and satellite accumulation of hazardous waste by a generator at the Facility, and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such sections.
36. On March 21, 2017, for each of the reasons identified in Paragraph 34, above, Respondent engaged in the operation of a hazardous waste storage facility (*i.e.*, the Facility) without having interim status or obtaining a permit for the Facility pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), or COMAR 26.13.07.01A.

COUNT II
**(Failure to Keep Hazardous Containers Closed
Except as Needed to Add or Remove Waste)**

37. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
38. The provisions of COMAR 26.13.05.09D, pertaining to the "Management of Containers," require that "[a] container holding hazardous waste shall always be kept closed during storage, except when it is necessary to add or remove waste, and the container may not be opened, handled, or stored in any manner which may rupture the container or cause it to leak."
39. At the time of the March 21, 2017 Inspection, the following containers were open at a time when waste was not being added or removed.
- a. A pot strainer waste container (a satellite container), located on main milling floor at the Bowers 1 unit, storing black viscous waste (EPA Hazardous Waste Codes D001, D005, D035, F003, F005).
 - b. A container of approximately 5-gallon capacity (a satellite container), located in the QC lab, storing paint waste (EPA Hazardous Waste Code D001).
 - c. A 55-gallon drum (a satellite container) storing oil based sludge from Aerosol Lines 1&2 (EPA Hazardous Waste Code D001, D005, D035, F003, F005).

- d. A 55-gallon drum (a 90-day storage container) storing distressed paint filled aerosol cans at Aerosol Lines 1&2 (EPA Hazardous Waste Codes D001, D035).
 - e. A 55-gallon drum (a 90-day storage container) storing paint cans at Aerosol Lines 1&2 (EPA Hazardous Waste Codes D001, D035), with a ground wire preventing the drum from closing.
 - f. A 55-gallon drum (a 90-day storage container) storing distressed cans in rear of Aerosol Lines 1&2, (EPA Hazardous Waste Codes D001, D035).
 - g. A 55-gallon drum (a satellite container) in the pumping station, storing spent solvent and paint waste (EPA Hazardous Waste Codes D001, D035, F003, F005).
40. At the time of the Inspection, Respondent was also storing three loose waste lamps, which were sitting on top of a box storing additional waste lamps, on a shelf in the Facility's main 90-day hazardous waste accumulation area, known as the "Cold Storage Area."
41. On March 21, 2017, Respondent violated the requirements of COMAR 26.13.05.09D by failing to hold hazardous waste in containers that are always kept closed during storage, except when it is necessary to add or remove waste.

COUNT III

(Failure to Maintain Adequate Aisle Space, as required by COMAR 26.13.05.03F and 26.13.05.02I)

42. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
43. COMAR 26.13.05.03F, pertaining to "Preparedness and Prevention," requires:
- Required Aisle Space. The owner or operator shall maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, and decontamination equipment to any area of facility operation in an emergency, unless it can be demonstrated to the Secretary that aisle space is not needed for any of these purposes.
44. COMAR 26.13.05.02I, pertaining to "General Facility Standards," provides:
- I. Aisle Space.
 - (1) The facility owner or operator shall provide sufficient aisle space to allow for:
 - (a) Inspections by the Department;
 - (b) Inspections under § F of this regulation; and
 - (c) Compliance with Regulation .03F of this regulation.
 - (2) At a minimum, the aisle space shall be no less than 2 feet in width.

45. At the time of the Inspection on March 21, 2017, in the Cold Storage Area, there were approximately twenty-five 300-gallon totes and eighty 55-gallon drums storing hazardous waste which were stacked closely together so that the EPA inspectors were unable to inspect each container. There were at least 13 containers that the inspectors were not able to fully view, including 10, 300-gallon totes and 3, 55-gallon drums.
46. Furthermore, at the time of the Inspection on March 21, 2017, due to the position of the containers, employees or emergency operators would be unable to walk between the containers to access each one, in order to inspect them or to respond to an emergency.
47. On March 21, 2017, Respondent violated the requirements of COMAR 26.13.05.03F by failing to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, and decontamination equipment to the hazardous waste storage areas of the Facility in an emergency.
48. On March 21, 2017, Respondent also violated the requirements of COMAR 26.13.05.02I by failing to provide sufficient aisle space, at a minimum of 2 feet in width, to allow for inspections of the Facility and compliance with COMAR 26.13.05.03F.

COUNT IV
(Failure to Maintain Adequate Contingency Plan)

49. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
50. The provisions of COMAR 26.13.05.04, pertaining to the “Contingency and Emergency Procedures,” provide as follows:
 - A. Applicability. This regulation applies to owners and operators of all hazardous waste facilities [with an exception not herein applicable].
 - B. Purpose and Implementation of Contingency Plan.
 - (1) Every owner or operator shall have a contingency plan for his facility . . . designed to minimize hazards to human health and the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water. . . .
 - C. Content of Contingency Plan.
 - (1) The contingency plan shall describe the actions facility personnel shall take . . . in response to fires, explosions, or any unplanned sudden or non-

sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility[;]

* * *

- (3) The plan shall describe the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services . . . [;]
- (4) The plan shall list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator . . . and this list shall be kept up to date[;]
- (5) The plan shall include a list of emergency equipment at the facility [; and]
- (6) The plan shall include an evacuation plan for facility personnel . . .” .

D. Copies of Contingency Plan. A copy of the contingency plan and all revisions to the plan shall be:

- (1) Maintained at the facility

- 51. At the time of the Inspection on March 21, 2017, the EPA Inspectors reviewed the Contingency Plan for the Facility, which was last updated on February 26, 2016. This Plan did not include a list of any emergency equipment or the location of such equipment. This version of the Contingency Plan listed an emergency coordinator who no longer worked at the Facility. Furthermore, the document did not describe the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services.
- 52. Thus, Respondent violated the requirements of COMAR 26.13.05.04C(3) by failing to describe the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services.
- 53. Respondent also violated COMAR 26.13.05.04C(4) by failing to keep its Contingency Plan for the Facility up to date and list names and phone numbers (office and home) of all persons currently qualified to act as emergency coordinator.
- 54. In addition, Respondent violated the requirements of COMAR 26.13.05.04C(5) by failing to include a list of emergency equipment at the Facility.
- 55. From February 26, 2016 to June 12, 2018, Respondent violated the requirements of COMAR 26.13.05.04C(3), (4) and (5), by failing to have a contingency plan that

included arrangements by local response organizations to coordinate emergency services, contact information for the emergency coordinators, or a list of emergency equipment and their locations.

COUNT V

(Failure to Document, in the Operating Record of the Facility, Daily Inspections of Above-Ground Storage Tank Which Was Storing Hazardous Waste)

- 56. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
- 57. COMAR 26.13.05.10D, pertaining to the “General Requirements for Hazardous Waste Management in Tanks,” requires:
 - D. Inspections. The owner or operator shall:
 - (1) Develop and follow a schedule and procedure for inspecting overfill controls;
 - (2) Inspect at least once each operating day:
 - (a) Data gathered from monitoring and leak detection equipment, such as pressure and temperature gauges and monitoring wells, to ensure that the tank system is being operated according to its design;
 - (b) For uncovered tanks, the level of waste in the tank to ensure compliance with §C(2)(b) of this regulation;
 - (c) Above-ground portions of the tank system to detect corrosion or releases of waste; and
 - (d) The construction materials of, and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system, to detect erosion or signs of releases of hazardous wastes, such as wet spots or dead vegetation;

* * *

- (4) Develop, as part of the inspection schedule required in Regulation .02F of this chapter, and in addition to the specific requirements of §D(1)-(3) of this regulation, a schedule and procedures for assessing the condition of the tank which meet the following requirements:
 - (a) The schedule and procedures shall be adequate to detect cracks, leaks, corrosion, or erosion which may prevent compliance with §C(1) of this regulation;
 - (b) The inspection procedure shall include procedures for emptying a tank to allow entry and inspection of the interior when tank entry is

- necessary to detect corrosion or erosion of the tank sides and bottom; and
- (c) The scheduled frequency of assessments shall be based on the material of construction of the tank, type of corrosion or erosion protection used, rate of corrosion or erosion observed during the previous inspections, and the characteristics of the waste being treated or stored;
- (5) Document, in the operating record of the facility, inspections of the items required to be made in §D(1)-(4) of this regulation.
58. At the Facility, there was a tank with the capacity to store 8,000 gallons, located outside of the main building (“Hazardous Waste Tank”).
59. At the time of the Inspection on March 21, 2017, this Hazardous Waste Tank was storing waste paint and waste solvent (EPA Hazardous Waste Nos. D001, F003, F005), generated from Facility operations including cleaning out process mills and tanks as well as other pieces of equipment.
60. During the Inspection, the EPA Inspectors requested three years of daily tank inspection records for this Hazardous Waste Tank. Respondent responded to this request in several communications, but was only able to provide records for the period of time running from April 2015 through March 2016. ROC was able to produce only 85 days of daily tank inspection records for the time period running from March 21, 2014 through March 31, 2015. Additionally, it could not produce daily tank inspection records meeting the requirements of COMAR 26.13.05.10D(5) for the time period starting April 1, 2016 through March 21, 2017.
61. During the following time periods, March 21, 2014 through March 31, 2015, and April 1, 2016 through March 21, 2017, for a total of 646 days, Respondent violated the requirements of COMAR 26.13.05.10D(5), by failing to document, in the operating record of the Facility, inspections of the Hazardous Waste Tank.

COUNT VI

(Failure to Conduct Weekly Inspections of Hazardous Waste Accumulation Areas, and / or Failure to Maintain Inspection Logs of Weekly Inspections of Hazardous Waste Accumulation Areas)

62. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
63. COMAR 26.13.05.09E, pertaining to the “Use and Management of Containers,” requires: “Inspections. The owner or operator shall inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration of containers and the containment system caused by corrosion or other factors.”

64. COMAR 26.13.05.02F, pertaining to “General Inspection Requirements,” provides:

F. General Inspection Requirements.

- (1) The owner or operator shall inspect his facility for malfunctions and deterioration, operator errors, and discharges which may be causing, or may lead to, a release of hazardous waste constituents to the environment or may be causing, or may lead to, a threat to human health. The owner or operator shall conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.
- (2) Development of Written Schedule.
 - (a) The owner or operator shall develop and follow a written schedule for inspecting all 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) The owner shall keep this schedule at the facility.
 - (c) The schedule shall identify the types of problems (for example, malfunctions or deterioration) which are to be looked for during the inspection (for example, inoperative sump pump, leaking fitting, eroding dike, etc.).
 - (d) The owner or operator:
 - (i) May develop an inspection schedule on which the frequency of inspection for the items on the schedule varies;
 - (ii) Shall base the frequency of inspection on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration or malfunction or any operator error goes undetected between inspections;
 - (iii) Shall inspect areas subject to spills, such as loading and unloading areas, daily when in use; and
 - (iv) Shall include in the inspection schedule, at a minimum, the items and frequencies called for in Regulations .09E [pertaining to hazardous waste storage areas], .10D, .10-4G, .11F, .12E, .13D, .14C, .16I, and .16-1C of this chapter.
- (3) The owner or operator shall 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. When a hazard is imminent or has already occurred, remedial action shall be taken immediately.

- (4) The owner or operator shall record inspections in an inspection log or summary. He shall keep these records for at least 3 years from the date of inspection. At a minimum, these records shall 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.
65. At the time of the Inspection on March 21, 2017, the EPA Inspectors requested to review three years' worth of inspection records which documented the inspections Respondent conducted of the Facility's hazardous waste accumulation areas ("HWAA's").
66. HWAA's at the Facility include:
- The Main Cold Storage 90-Day Area
 - The Aerosol Can 90-Day HWAA located on the Main Milling Floor
 - The Solid Paint Filter 90-Day HWAA located under thinning tanks in the 1st Floor Filling Area
 - The Aerosol Can 90-Day HWAA located next to production lines in the 1st Floor Filling Area
 - The Aerosol Line 2 ("AL2") 90-Day HWAA located next to AL2, and
 - The AL2 – Area 2 90-Day HWAA located in the rear of the AL2 area
67. In response to the EPA Inspectors' request, at the time of the Inspection and in subsequent correspondence, Respondent could not provide weekly inspection records for any of the HWAA's, including the Main Cold Storage 90-Day Area, for the following time periods:
- For the year 2014, inspection records were missing for the weeks of 3/16/14, 3/23/14, 5/19/14 through 10/19/14, and from 12/8/14 through end of year;
 - For the year 2015, inspection records were missing for the weeks of 1/26/15 through 3/23/15; and
 - For the year 2016, inspection records were missing for the weeks of 4/18/16 and 4/25/16.
68. Respondent was missing a total of 39 weeks of weekly inspection records for all of the Facility's HWAA's.
69. From March 2014 through April 2016, Respondent violated the requirements of COMAR 26.13.05.09E, by failing to inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration of containers and the containment system caused by corrosion or other factors.
70. In the alternative, from March 2014 through April 2016, Respondent violated the requirements of COMAR 26.13.05.02F(4) by failing to record inspections in an inspection log or summary, and/or keep these records for at least 3 years from the date of inspection.

COUNT VII**(Failure to Determine Whether Equipment Contains or Contacts a Hazardous Waste with 10% or More Organic Concentration)**

71. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
72. The State of Maryland has not been granted authorization to administer its hazardous waste management program *in lieu* of certain provisions of the Hazardous and Solid Waste Amendments (“HSWA”) enacted on November 8, 1984 (Pub. Law No. 98-616), which amended Subtitle C of RCRA. Consequently, pursuant to RCRA Section 3006(g), 42 U.S.C. § 6926(g), these provisions are enforceable in Maryland exclusively by EPA. The federal requirements of 40 C.F.R. Part 264, Subpart BB, which were promulgated pursuant to HSWA, are directly enforceable in Maryland by EPA.
73. The Hazardous Waste Treatment, Storage and Disposal Facilities – Organic Air Emission Standards for Process Vents and Equipment Leaks was promulgated under Section 3004 of the HSWA Amendments to RCRA. 55 Fed. Reg. 25454 (Jun. 21, 1990). Therefore, all affected facilities must comply with these requirements on the effective date of the rule, regardless of the authorization status of the state in which they are located in. *Id.* These air emission regulations which are set forth at 40 C.F.R. Part 264, Subpart BB are directly enforceable in Maryland by EPA.
74. 40 C.F.R. § 264.1063(d)(1) and (2) requires that “an owner or operator of a facility must determine, for each piece of equipment, whether the equipment contains or contacts a hazardous waste with an organic concentration that equals or exceeds 10% by weight.” This determination is made using a methodology specified in that section, or through “[a]pplication of knowledge of the nature of the hazardous waste stream or the process by which it was produced,” as specified in (d)(3) of that Section.
75. At the time of the Inspection on March 21, 2017, Respondent had general knowledge that its paint waste and waste solvent was a hazardous waste with 10% or more organic concentration.
76. At the time of the Inspection, Respondent had designated approximately 36 pieces of equipment as being subject to the regulations in 40 C.F.R. Part 264, Subpart BB.
77. However, at the time of the Inspection, Respondent failed to perform an accurate analysis on all of its lines and equipment to determine which pieces of equipment “contained” or “contacted” the waste, within the meaning of the regulations. Respondent should have made a determination on all of the valves, pumps and flanges used to transfer hazardous waste associated with the Milling Department, Filling Department, Thinning Tanks, Pumping Station, and Hazardous Waste Tank.
78. Respondent failed to identify approximately 193 pieces of equipment (valves, pumps, and flanges) that contained or contacted a hazardous waste with an organic concentration that

equals or exceeds 10% by weight. According to the EPA Inspector's observations and a subsequent Subpart BB review and determination made by the Respondent, 176 pieces of equipment located in the Filling Department are subject to BB regulations, and 53 pieces of equipment located at or near the Pumping Station and Hazardous Waste Tank are subject to BB regulations.

79. At the time of the Inspection and upon review of the Facility's records, only 36 of these pieces of equipment were identified as being subject to the Subpart BB regulations.
80. As a result, Respondent failed to determine, for approximately 193 pieces of equipment, whether the equipment contained or contacted a hazardous waste with 10% or more organic concentration, in violation of 40 C.F.R. § 264.1063(d).
81. On March 21, 2017, Respondent violated 40 C.F.R. § 264.1063(d) by failing to determine, for approximately 193 pieces of equipment, whether the equipment contained or contacted a hazardous waste with 10% or more organic concentration.

COUNT VIII

(Failure to Mark Each Pump, Valve and Flange Subject to Subpart BB of Part 264, so as to Distinguish it from Other Equipment)

82. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
83. 40 C.F.R. § 264.1050(d) of Subpart BB, requires that "[e]ach piece of equipment to which [Subpart BB] applies shall be marked in such a manner that it can be distinguished readily from other pieces of equipment."
84. At the time of the Inspection on March 21, 2017, Respondent had not included many of the equipment (pumps, valves or flanges) associated with the Filling Department, Pumping Station, or Hazardous Waste Tank in its BB program. Approximately 193 pieces of equipment at the Facility associated with these areas listed above were subject to 40 C.F.R. Part 264, Subpart BB, but were not marked or labeled in a such a manner that they could be distinguished readily from other pieces of equipment.
85. On March 21, 2017, Respondent violated the requirement of 40 C.F.R. § 264.1050(d) of Subpart BB by failing to mark approximately 193 pieces of equipment subject to 40 C.F.R. Part 264, Subpart BB in a manner such that they could be distinguished readily from other pieces of equipment.

COUNT IX

(Failure to Record Each Piece of Equipment Subject to Subpart BB of Part 264 in the Facility Operating Record)

86. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.

87. 40 C.F.R. § 264.1064(b) provides:
- (b) Owners and operators must record the following information in the facility operating record:
 - (1) for each piece of equipment to which Subpart BB of part 264 applies:
 - (i) Equipment identification number and hazardous waste management unit identification, among other information.
 - (ii) Approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan).
 - (iii) Type of equipment (e.g., a pump or pipeline valve).
 - (iv) Percent-by-weight total organics in the hazardous waste stream at the equipment.
 - (v) Hazardous waste state at the equipment (e.g., gas/vapor or liquid).
 - (vi) Method of compliance with the standard (e.g., “monthly leak detection and repair” or “equipped with dual mechanical seals”).
88. At the time of the Inspection on March 21, 2017, Respondent failed to record in the Facility operating record the identification numbers and the information specified above, for each piece of equipment containing or in contact with hazardous waste regulated under Subpart BB of 40 C.F.R. Part 264. Respondent had not included many of the pieces of equipment associated with the Filling Department, the Pumping Station, and the Hazardous Waste Tank in its BB program.
89. Approximately 193 pieces of equipment at the Facility which were subject to 40 C.F.R. Part 264, Subpart BB were not listed in the Facility operating record. The remaining pieces of equipment that were identified by the Facility to be subject to Subpart BB and recorded in the Facility’s operating record did not include percent-by-weight total organics in the hazardous waste stream at the equipment, the hazardous waste state at the equipment, or the method of compliance with the standard.
90. On March 21, 2017, Respondent violated the requirements of 40 C.F.R. § 264.1064(b) by failing to record in the Facility operating record the equipment identification numbers and other specified information for approximately 193 pieces of equipment at the Facility subject to Subpart BB of 40 C.F.R. Part 264.

COUNT X**(Failure to Monitor Monthly Pumps and Valves Subject to Subpart BB of Part 264)**

91. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
92. 40 C.F.R. § 264.1052(a), pertaining to “Pumps in light liquid service,” provides:
- (1) Each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in § 264.1063(b), except as provided in paragraphs (d), (e), and (f) of this section.
 - (2) Each pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal.
93. 40 C.F.R. § 264.1057(a), pertaining to “Standards: Valves in gas/vapor service or in light liquid service” provides:
- Each valve in gas/vapor or light liquid service shall be monitored monthly to detect leaks by the methods specified in § 264.1063(b) and shall comply with paragraphs (b) through (e) of this section, except as provided in paragraphs (f), (g), and (h) of this section, and §§ 264.1061 and 264.1062.
94. 40 C.F.R. § 264.1063, pertaining to “Test methods and procedures,” requires:
- (a) Each owner or operator subject to the provisions of this subpart shall comply with the test methods and procedures requirements provided in this section.
 - (b) Leak detection monitoring, as required in §§ 264.1052-264.1062, shall comply with the following requirements:
 - (1) Monitoring shall comply with Reference Method 21 in 40 CFR part 60.
 - (2) The detection instrument shall meet the performance criteria of Reference Method 21.
 - (3) The instrument shall be calibrated before use on each day of its use by the procedures specified in Reference Method 21.
 - (4) Calibration gases shall be:
 - (i) Zero air (less than 10 ppm of hydrocarbon in air).
 - (ii) A mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppm methane or n-hexane.
95. At the time of the Inspection on March 21, 2017, and as demonstrated through a review of Facility records, Respondent failed to monitor monthly each valve and pump in gas/vapor or light liquid service to detect leaks.

96. Respondent failed to monitor approximately 53 pumps and valves that it failed to identify, as described in Count VII, above.
97. At the time of the Inspection, Respondent did monitor equipment designated, with numbers 101 – 136, but failed to monitor that equipment on a monthly basis. Respondent failed to perform monthly monitoring of its previously identified equipment subject to the Subpart BB regulations during the following months:
- In 2015: January, February, March, May, June, August
In 2016: January, May, June, August, September, October, November
In 2017: February
98. From January 2015 to March 21, 2017, Respondent violated the requirements of 40 C.F.R. §§ 264.1052(a) and 264.1057(a) by failing to monitor monthly 30 previously identified pumps and valves subject to Part 264, Subpart BB, for approximately 14 months, since January 2015.
99. From January 2015 to March 21, 2017, Respondent violated the requirements of 40 C.F.R. §§ 264.1052(a) and 264.1057(a) by failing to monitor monthly approximately 53 previously unidentified pumps and valves subject to Part 264, Subpart BB, for approximately 27 months.
100. From January 21015 to March 21, 2017, Respondent violated the requirements of 40 C.F.R. §§ 264.1052(a) and 264.1057(a) by failing to monitor monthly approximately 83 pumps and valves subject to Part 264, Subpart BB for a total of 41 months.

COUNT XI

(Failure to Equip Open-Ended Valve Subject to Subpart BB of 40 C.F.R. Part 264, with Cap, Blind Flange, Plug or Second Valve)

101. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
102. The provisions of 40 C.F.R. § 264.1056(a), pertaining to “Standards: Open-ended valves or lines,” provides:
- (1) Each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve.
 - (2) The cap, blind flange, plug, or second valve shall seal the open end at all times except during operations requiring hazardous waste stream flow through the open-ended valve or line.
103. In the Bowers 3 system, during the cleaning process, spent solvent is transferred from the holding tank to 55-gallon drums, which are taken to the pumping station so that the spent solvent can be pumped to the Hazardous Waste Tank located outside.

104. During the Inspection on March 21, 2017, the end of the piping, where spent solvent exits the Bowers 3 system, was uncapped.
105. On March 21, 2017, Respondent violated the requirements of 40 C.F.R. § 264.1056(a) by failing to equip an open-ended line, subject to Subpart BB of 40 C.F.R. Part 264, with a cap, blind flange, plug, or a second valve.

IV. CIVIL PENALTIES

106. Respondent agrees to pay a civil penalty in the amount of **\$168,000.00 (ONE HUNDRED SIXTY-EIGHT THOUSAND DOLLARS)** in full and final settlement and satisfaction of all civil claims for penalties which Complainant may have concerning the violations and facts alleged and set forth in Section III (“EPA Findings of Fact and Conclusions of Law”) of this Consent Agreement. Such civil penalty shall become due and payable immediately upon Respondent’s receipt of a true and correct copy of this CAFO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent.
107. The civil penalty settlement amount set forth in Paragraph 106, immediately above, was determined after consideration of the statutory factors 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 reflect the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g). Complainant has also considered the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, and the January 11, 2018 Memorandum by EPA Assistant Administrator, Susan Parker Bodine, entitled, “Amendments to EPA’s Civil Penalty Policies to Account for Inflation (effective January 15, 2018) and Transmittal of the 2018 Civil Monetary Penalty Inflation Adjustment Rule.” The settlement in this proceeding is consistent with the provisions and objectives of Section 3008 of RCRA, and its implementing regulations.
108. Payment of the civil penalty set forth in Paragraph 106 above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 110 through 113, below, shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:
 - a. All payments by Respondent shall reference Respondent’s name and address, and the EPA Docket Number of this Consent Agreement, i.e., RCRA-03-2018-0130;
 - 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 and

mailed to:

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

Customer service contact: 513-487-2091

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

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

Contact: 314-418-1818

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

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

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

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

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

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

US Treasury REX / Cashlink ACH Receiver

ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

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

Contact: 866-234-5681

- h. On-Line Payment Option: WWW.PAY.GOV/paygov/
Enter **sfo 1.1** in the search field. Open and complete the form.
- i. Additional payment guidance is available at:
<http://www2.epa.gov/financial/makepayment>
or by contacting Craig Steffen at 513-487-2091
109. At the time of payment, Respondent shall send a notice of such payment, including a copy of the check or electronic fund transfer, as applicable, to:

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

and

Natalie Katz
Sr. Assistant Regional Counsel (3RC30)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029.
110. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
111. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the

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

112. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
113. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
114. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

V. CERTIFICATIONS

115. Respondent certifies to Complainant by its signature hereto, to the best of Respondent's knowledge and belief, that Respondent is in compliance with all relevant provisions of the current, authorized revised MdHWMR and of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, including the conditions of the permit exemption in Count I, for which violations are alleged in this Consent Agreement.

VI. OTHER APPLICABLE LAWS

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

VII. RESERVATION OF RIGHTS

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

following its filing with the Regional Hearing Clerk.

VIII. FULL AND FINAL SATISFACTION

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

IX. PARTIES BOUND

119. This CAFO 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 CAFO.

X. EFFECTIVE DATE

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

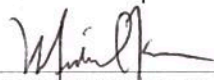
XI. ENTIRE AGREEMENT

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

For Respondent:

Rust-Oleum Corporation

Date: 9/25/18

By: 
Michael Kommer
Plant Manager

For the Complainant:

U.S. Environmental Protection Agency, Region III

Date: 9/25/18

By: 
Natalie L. Katz
Sr. Assistant Regional Counsel

After reviewing the EPA Findings of Fact and Conclusions of Law and other pertinent matters, the Land and Chemicals Division of the United States Environmental Protection Agency, Region III, recommends that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 9.26.18

By: 
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: :
 :
Rust-Oleum Corporation : U.S. EPA Docket RCRA-03-2018-0130
16410 Industrial Lane :
Williamsport, MD 21795 :
 :
Respondent, : Proceeding under Section 3008(a) and (g)
 : of the Resource Conservation and
Rust-Oleum Corporation : Recovery Act, as amended,
16410 Industrial Lane : 42 U.S.C. § 6928(a) and (g)
Williamsport, MD 21795 :
 : U.S. EPA-REGION 3-RHC
 : FILED-26SEP2018pm1:58
Facility. :
 :

FINAL ORDER


Complainant, the Director, Land and Chemical Division, U.S. Environmental Protection Agency, Region III, and Rust-Oleum Corporation (“Respondent”), have executed a document entitled “Consent Agreement,” which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. § 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length herein.

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

NOW, THEREFORE, PURSUANT TO Section 3008(a) and (g) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a) and (g) (“RCRA”), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty payment **\$168,000.00 (ONE HUNDRED SIXTY-EIGHT THOUSAND DOLLARS)**, in accordance with the payment provisions set forth in of the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the attached Consent Agreement and this Final Order is the date on which the Final Order is filed with the Regional Hearing Clerk.

Sept. 26, 2019
Date:



Joseph J. Lisa
Regional Judicial Officer
U.S. EPA, Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

In the matter of: :
: :
Rust-Oleum Corporation : U.S. EPA Docket RCRA-03-2018-0130
16410 Industrial Lane : :
Williamsport, MD 21795 : :
Respondent, : Proceeding under Section 3008(a) and (g)
: of the Resource Conservation and
: Recovery Act, as amended,
Rust-Oleum Corporation : 42 U.S.C. § 6928(a) and (g)
16410 Industrial Lane : :
Williamsport, MD 21795 : :
Facility. : :
:

CERTIFICATE OF SERVICE

I certify that on SEP 26 2018, the original and one (1) copy of the foregoing *Consent Agreement and Final Order*, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copy served via UPS Next Day Delivery, to:

Mr. Mike Fessler
Environmental Health and Safety Manager
Rust-Oleum Corporation
16410 Industrial Lane
Williamsport, MD 21795

Mr. Michael S. McMahon
McMahon DeGulis LLP
812 Huron Road, Suite 650
Cleveland, Ohio 44115

Copies served via Hand Delivery or Inter-Office Mail to:

Natalie Katz
Senior Assistant Regional Counsel
ORC - 3RC30
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103

Rebecca Serfass
RCRA Inspector
LCD - 3LC32
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103

Dated: SEP 26 2018

Berwin Esposito
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III

TRACKING NUMBERS: 17 A43 F71 01 9380 0876
17 A43 F71 01 9345 0861