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

In the Matter of:	)
	) **Docket No. RCRA-03-2013-0172**
Advanced Finishing Systems, Inc.	)
2954 George Washington Memorial Highway	) **CONSENT AGREEMENT**
Hayes, Virginia 23072	)
	) **Proceeding Under Section 3008(a) and**
EPA ID No. VAD982363541	) **(g) of the Resource Conservation and**
	) **Recovery Act, *as amended*, 42 U.S.C.**
Respondent	) **§ 6928(a) and (g)**
	)

CONSENT AGREEMENT

Preliminary Statement

1. This Consent Agreement ("CA") is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant"), and Advanced Finishing Systems, Inc. ("Respondent"), 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. Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, this CA and the attached Final Order ("FO," hereinafter jointly referred to as the "CAFO") both commence and conclude the above-captioned administrative proceeding against Respondent, brought under Section 3008(a) and (g) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a) and (g), for alleged violations of RCRA at Respondent's metal finishing facility located at 2954 George Washington Memorial Highway in Hayes, Virginia (the "Facility").

2. On December 4, 1984, pursuant to section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, subpart A, EPA authorized the Commonwealth of Virginia to administer its state hazardous waste management program in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. The Virginia Hazardous Waste Management Regulations, codified at VHWMR §§ 1.0 *et seq.* (1984), became effective December 18, 1984. 49 *Fed. Reg.* 47391 (December 4, 1984). Subsequent revisions of the Virginia hazardous waste management program were authorized by the EPA on: June 14, 1993 (effective August 13, 1993); July 31, 2000 (effective September 29, 2000); June 20, 2003 (effective June 20, 2003); May 10, 2006 (effective July 10, 2006); and July 30, 2008 (effective July 30, 2008). 58 *Fed. Reg.* 32885 (June 14, 1993); 65 *Fed. Reg.* 46607 (July 31, 2000); 68 *Fed. Reg.* 36925 (June 20, 2003); 71 *Fed. Reg.* 27216 (May 10, 2006); 73 *Fed. Reg.* 44168 (July 30, 2008). Through such authorizations, the authorized VHWMR set forth at 9 VAC

§ 20-60-14, -18, and -260 through -279 (May 22, 2006) have become requirements of RCRA Subtitle C and are, accordingly, enforceable by EPA pursuant to Section 3008(a) of RCRA.

3. In accordance with 9 VAC § 20-60-18, the authorized VHWMR (May 22, 2006), which became effective on June 30, 2008, incorporate by reference, with limited exceptions, certain federal hazardous waste management regulations that became final prior to July 1, 2006. Accordingly, the regulatory citations herein refer to the authorized VHWMR (May 22, 2006) and Title 40 of the Code of Federal Regulations (2006),which were in effect at the time of the violations alleged herein. (Citations to the relevant provisions of Title 40 of the Code of Federal Regulations (2006) incorporated by reference in theVHWMR are displayed in brackets [] for convenience.)

4. Prior to issuing this CAFO, EPA provided notice to the Commonwealth of Virginia, in accordance with section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

5. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of this CA.

6. Except as provided in paragraph 5, Respondent neither admits nor denies the specific factual allegations set forth in this CA.

7. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the FO, or the enforcement of this CAFO.

8. For the purposes of this proceeding, Respondent hereby expressly waives any right to contest the allegations set forth in this CA and any right to appeal the accompanying FO.

9. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.

10. Respondent shall bear its own costs and attorney's fees incurred in connection with this proceeding.

Complainant's Determinations, Factual Allegations and Conclusions of Law

11. Complainant has determined that Respondent has violated RCRA and the authorized VHWMR, and alleges the facts and conclusions of law set forth below, in accordance with 40 C.F.R. §§ 22.18(b)(2) and .14(a)(2) and (3).

12. Respondent, Advanced Finishing Systems, Inc., is a corporation organized on or about November 14, 1991 pursuant to the laws of the Commonwealth of Virginia.

13. Respondent is, and was at the time of the violations alleged herein, a "person" as defined in section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and in 9 VAC § 20-60-260 [40 C.F.R. § 260.10 "*Person*"].

14. Pursuant to 9 VAC § 20-60-260 [40 C.F.R. § 260.10 "*Facility*"], "facility" means, *inter alia*, "[t]he land, structures and other appurtenances or improvements … where hazardous waste is treated, stored or disposed."

15. Pursuant to 9 VAC § 20-60-260 [40 C.F.R. § 260.10 "*Hazardous waste*"], "hazardous waste" means "a hazardous waste as defined in [40 C.F.R.] § 261.3 … ."

16. 9 VAC § 20-60-261 [40 C.F.R. § 261.3] provides, in relevant part:

> (a) A solid waste, as defined in [40 C.F.R.] § 261.2, is a hazardous waste if:
> (1) It is not excluded from regulation as a hazardous waste under § 261.4(b); and
> (2) It meets any of the following criteria:
> (i) It exhibits any of the characteristics of hazardous waste identified in [40 C.F.R. §§ 261.20-.24] … .
> (ii) It is listed in [40 C.F.R. §§ 261.30-.38] … .
> * * * *
> (iv) It is a mixture of solid waste and one or more hazardous wastes listed in [40 C.F.R. §§ 261.30-.38] … .

17. Pursuant to 9 VAC § 20-60-260 [40 C.F.R. § 260.10 "*Generator*"], "generator" means "any person, by site, whose act or process produces hazardous waste identified or listed in [40 C.F.R. Part 261] or whose act first causes a hazardous waste to become subject to regulation."

18. Since at least 2006, Respondent has generated more than 1,000 kilograms of hazardous waste per month at the Facility.

19. Since at least 2006, Respondent has been a "generator" at the Facility.

20. On September 8, 2010, representatives from EPA Region III and the Virginia Department of Environmental Quality inspected Respondent's Facility to determine its compliance with the hazardous waste management requirements of RCRA Subtitle C and the authorized VHWMR. Respondent provided additional information in response to information request letters sent by EPA to Respondent on December 7, 2010, May 10, 2011, and October 31, 2011.

COUNT I

(Operating a facility without a permit or interim status)

21. The allegations in paragraphs 1 through 20, above, are incorporated herein by reference as though fully set forth at length.

22. RCRA § 3005(a), 42 U.S.C. § 6925(a), in pertinent part, prohibits treatment, storage, and disposal of hazardous waste and construction of any new facility except in accordance with a permit ("RCRA permit") issued pursuant to that provision.

23. RCRA § 3005(e), 42 U.S.C. § 6925(e), provides, in pertinent part, that any person who owns or operates a facility required to have a permit under RCRA § 3005, which facility was in existence on November 19, 1980, or is in existence on the effective date of statutory or regulatory provisions that render the facility subject to the requirement to have a permit, has complied with the notification requirements of RCRA § 3010(a), 42 U.S.C. § 6930(a), and has applied for a permit under RCRA § 3005, shall be treated as having been issued such permit (*i.e.*, "interim status") until such time as final administrative disposition of such application is made.

24. 9 VAC § 20-60-270 [40 C.F.R. § 270.70] provides, in pertinent part with exceptions not relevant to this CA, that:

> (a) Any person who owns or operates an "existing HWM facility" or a facility in existence on the effective date of statutory or regulatory amendments that render the facility subject to the requirement to have a RCRA permit [for the treatment, storage, or disposal of any hazardous waste] shall have interim status and shall be treated as having been issued a permit to the extent he or she has:
> (1) Complied with the requirements of Section 3010(a) of RCRA pertaining to notification of hazardous waste activity.
> (2) Complied with the requirements of [40 C.F.R.] § 270.10 governing submission of part A applications.

25. 9 VAC § 20-60-270 [40 C.F.R. § 270.1(b)] provides, in pertinent part, that owners and operators of hazardous waste management facilities must have "interim status" or a permit for the treatment, storage, or disposal of any hazardous waste, and that the treatment, storage, or disposal of hazardous waste by any person who has not applied for or received such a permit is prohibited.

26. Respondent has never obtained a permit, pursuant to RCRA § 3005(a) or 9 VAC § 20-60-270 [40 C.F.R. Part 270], for the treatment, storage, or disposal of hazardous waste.

27. Respondent has never had "interim status," as described in RCRA § 3005(e) and 40 C.F.R. § 270.70, in lieu of a permit for the treatment, storage, or disposal of hazardous waste at the Facility.

28. 9 VAC § 20-60-262 [40 C.F.R. § 262.34(b)] provides, in pertinent part, that "[a] generator of 1,000 kilograms or greater of hazardous waste in a calendar month ... who accumulates hazardous waste ... for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264, 265, and 267 and the permit requirements of 40 CFR part 270 ... ."

29. Respondent stored "hazardous waste," having EPA Hazardous Waste Numbers F006 and D006, in a one-cubic yard cardboard box located in the Facility's shipping and receiving area for 199 days, between May 4, 2010 and November 19, 2010.

30. Respondent's management of the F006 hazardous waste referred to in paragraph 29, above, did not meet the conditions under 9 VAC § 20-60-262 [40 C.F.R. § 262.34(g)], and therefore did not qualify for the exemption provided in that section from the 90-day time limit for accumulation of hazardous waste specified in 9 VAC § 20-60-262 [40 C.F.R. § 262.34(b)].

31. Because Respondent accumulated hazardous waste for a period in excess of the 90-day hazardous waste accumulation time limit under 9 VAC § 20-60-262, as described in paragraph 29, above, Respondent was an operator subject to the permit requirements of 9 VAC § 20-60-270 and section 3005(a) of RCRA, and to 40 CFR parts 264, 265, and 267, from at least August 3, 2010 to November 19, 2010.

32. Pursuant to 9 VAC § 20-60-260 [40 C.F.R. § 260.10 "*Container*"], "container" means a "portable device in which a material is stored, transported, treated, disposed of, or otherwise handled."

33. Pursuant to 9 VAC § 20-60-260 [40 C.F.R. § 260.10 "*Tank*"], "tank" means "a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials ... which provide structural support."

34. Pursuant to 9 VAC § 20-60-260 [40 C.F.R. § 260.10 "*Tank system*"], "tank system" means "a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system."

35. 9 VAC § 20-60-262 [40 C.F.R. § 262.34(a)] provides, in pertinent part with exceptions not relevant to this matter:

> a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:
> (1) The waste is placed:
> (i) In containers and the generator complies with the applicable requirements of subparts I ... of 40 CFR part 265; and/or
> (ii) In tanks and the generator complies with the applicable requirements of subparts J ... of 40 CFR part 265 ...; and/or
> * * * *
> (2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
> (3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste"; and
> (4) The generator complies with the requirements for owners or operators in subparts C and D in 40 CFR part 265, with § 265.16, and with 40 CFR [§] 268.7(a)(5).
> * * * *

36. Pursuant to the provisions of RCRA § 3005(a) and (e) and 9 VAC § 20-60-262 [40 C.F.R. § 262.34(a)], Respondent, as a generator of hazardous waste who has not had

interim status or a permit for the storage of hazardous waste, has been prohibited from accumulating hazardous waste at its Facility since at least 2006, unless Respondent qualified for an exemption from the RCRA permit requirement by, among other things, operating in accordance with the conditions quoted in paragraph 35, above.

37. Section 265.173(a) of 40 C.F.R. Part 265, subpart I provides that "[a] container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste."

38. On September 8, 2010, Respondent was storing a one-cubic yard cardboard box containing "hazardous waste" (having EPA Hazardous Waste Number D006) in the central hazardous waste storage area of the Facility.

39. On September 8, 2010, the cardboard box referred to in paragraph 38, above, was open at a time when no waste was being added to or removed from it, and it was neither labeled with the words "Hazardous Waste" nor marked with the date when Respondent began accumulating hazardous waste in it.

40. The one-cubic yard cardboard box referred to in paragraphs 38 and 39, above, is a "container" as defined in 9 VAC § 20-60-260 [40 C.F.R. § 260.10 "*Container*"].

41. By failing to mark the container referred to in paragraphs 38 through 40, above, with the date when Respondent began accumulating hazardous waste in it, Respondent failed to qualify for exemption, under 9 VAC § 20-60-262 [40 C.F.R. § 262.34(a)(2)], from the permit requirements of RCRA § 3005(a) and 9 VAC § 20-60-270 on September 8, 2010.

42. 9 VAC § 20-60-262 [40 C.F.R. § 262.34(c)] provides, in pertinent part with exceptions not relevant to this matter:

> (1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste … in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with paragraph (a) of this section provided he:
> (i) Complies with [40 C.F.R.] … § 265.173(a) …; and
> (ii) Marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.
> * * * *

43. On September 8, 2010, Respondent was accumulating "hazardous waste" (baghouse dust having EPA Hazardous Waste Number D006) in a 55-gallon drum immediately beneath a baghouse used to collect emissions from the media blasting process at the Facility.

44. On September 8, 2010, the 55-gallon drum referred to in paragraph 43, above, was open at a time when no waste was being added to or removed from it, and it was neither

marked with the words "Hazardous Waste" nor with other words that identified its contents.

45. On September 8, 2010, Respondent was accumulating "hazardous waste" (waste paint having EPA Hazardous Waste Numbers D001, D035, F003, and F005) in a 55-gallon metal drum.

46. On September 8, 2010, the 55-gallon metal drum referred to in paragraph 45, above, was open at a time when no waste was being added to or removed from it, and it was neither marked with the words "Hazardous Waste" nor with other words that identified its contents.

47. Each of the drums referred to in paragraphs 43 through 46, above, is a "container" as defined in 9 VAC § 20-60-260 [40 C.F.R. § 260.10 "*Container*"].

48. By failing to label the containers described in paragraphs 38 through 47, above, with the words "Hazardous Waste," or with other words that identified the contents of those containers, in accordance with 40 C.F.R. § 262.34(a) or (c), as applicable, Respondent failed to qualify for the exemption under 9 VAC § 20-60-262 from the permit requirements of RCRA § 3005(a) and 9 VAC § 20-60-270 on September 8, 2010.

49. By failing to keep closed the containers described in paragraphs 38 through 47, above, when waste was not being added to or removed from them, as required by 40 C.F.R. § 265.173(a), Respondent failed to qualify for the exemption under 9 VAC § 20-60-262 [40 C.F.R. § 262.34(a)(1)(i) or (c)(1)(i), as applicable] from the permit requirements of RCRA § 3005(a) and 9 VAC § 20-60-270 on September 8, 2010.

50. From at least September 8, 2010 through October 21, 2010, Respondent stored hazardous waste (an aqueous mixture of plating and anodizing wastes having Hazardous Waste Numbers D002, D006, D007, D008, and D011) in a "tank" and "tank system" that were no longer being used for wastewater treatment.

51. On September 8, 2010, the tank referred to in paragraph 50, above, was not marked with the words "Hazardous Waste."

52. By failing to label the tank described in paragraphs 50 and 51, above, with the words "Hazardous Waste," in accordance with 40 C.F.R. § 262.34(a)(3), Respondent failed to qualify for the exemption under 9 VAC § 20-60-262 from the permit requirements of RCRA § 3005(a) and 9 VAC § 20-60-270 on September 8, 2010.

53. With an exception not applicable herein, section 265.195 of 40 C.F.R. Part 265, subpart J provides, among other things, that:

> (b) … the owner or operator must inspect at least once each operating day:
> * * * *

> (2) Above ground portions of the tank system, if any, to detect corrosion or releases of waste; and
>
> (3) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).
>
> * * * *
>
> (g) The owner or operator must document in the operating record of the facility an inspection of those items in paragraphs (a) and (b) of this section.

54. From at least September 8, 2010 through October 21, 2010, Respondent did not inspect daily the tank system referred to in paragraphs 50 through 52, above, and/or failed to document, in the operating record of the Facility, the results of daily tank system inspections in accordance with 40 C.F.R. § 265.195(b) and (g).

55. By failing to inspect daily the tank system referred to in paragraphs 50, 51, 52, and 54, above, and/or to document such inspections in accordance with 40 C.F.R. § 265.195(b) and (g), Respondent failed to qualify for the exemption under 9 VAC § 20-60-262 [40 C.F.R. § 262.34(a)(1)(ii)] from the permit requirements of RCRA § 3005(a) and 9 VAC § 20-60-270 from at least September 8, 2010 through October 21, 2010.

56. Since approximately October 2005, Respondent has stored hazardous wastes (acid solutions identified as EPA Hazardous Waste Numbers D002, D006, D007, D008, and D011) in two 2,500-gallon polyethylene tanks, comprising two tank systems at the Facility.

57. Respondent failed to inspect and/or to document inspections of the tank systems referred to in paragraph 56, above, during the period September 26, 2009 through December 16, 2009 and Respondent inspected and/or documented inspections of those tank systems on a weekly rather than daily basis at other times between August 2008 and mid-May 2011.

58. By failing to inspect the tank system referred to in paragraphs 56 and 57, above, and/or to document such inspections daily in accordance with 40 C.F.R. § 265.195(b) and (g), Respondent failed to meet the condition in 40 C.F.R. § 262.34(a)(1)(ii) to qualify for the exemption under 9 VAC § 20-60-262 from the permit requirements of RCRA § 3005(a) and 9 VAC § 20-60-270, from at least August 2008 through mid-May 2011.

59. Section 265.31 of 40 C.F.R. Part 265, subpart C provides:

> Facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

60. On September 8, 2010, the two 2,500-gallon tanks referred to in paragraphs 56 through 58, above, were labeled "CYANIDE TANK HAZARDOUS WASTE STORAGE" and "ACID WASTE TANK," respectively. According to Respondent, the former label did not accurately identify the waste stored in the tank to which that label was affixed.

61. Cyanide solutions and spent acid wastes are classified within Groups 5-A and 5-B, respectively, in Appendix V to 40 C.F.R. Part 264, entitled "Examples of Potentially Incompatible Waste." Appendix V states that a potential consequence of mixing a Group 5-A material with a Group 5-B material is the "[g]eneration of toxic hydrogen cyanide ... gas."

62. Although Respondent has stated that the wastes stored in the tanks labeled "CYANIDE TANK HAZARDOUS WASTE STORAGE" and "ACID WASTE TANK" "are exactly the same," the mislabeling of one of the tanks as "CYANIDE TANK HAZARDOUS WASTE STORAGE" could have led to the inadvertent addition of cyanide waste to a tank or tank system containing acid waste, with the potential to generate and release toxic hydrogen cyanide gas to the air inside the Facility.

63. By mislabeling a 2,500-gallon tank as described in paragraph 60, above, Respondent failed to maintain and operate its Facility to minimize the possibility of an unplanned sudden or non-sudden release of a hazardous waste constituent, hydrogen cyanide gas, to the air, as required by 40 C.F.R. § 265.31, potentially threatening human health or the environment. Said mislabeling, therefore, failed to meet the condition set forth in 40 C.F.R. § 262.34(a)(4) to qualify for the exemption under 9 VAC § 20-60-262 from the permit requirements of RCRA § 3005(a) and 9 VAC § 20-60-270, on September 8, 2010.

64. Section 265.35 of 40 C.F.R. Part 265, subpart C provides, in relevant part, that

> [t]he owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, *unless* aisle space is not needed for any of these purposes.

65. On September 8, 2010, the centralized hazardous waste container storage area of Respondent's Facility did not have adequate aisle space to allow the unobstructed movement of personnel and equipment within the secondary containment area around the tanks referred to in paragraphs 56 through 60, above.

66. By failing to maintain adequate aisle space to allow the unobstructed movement of personnel and equipment within a secondary containment area of the Facility in accordance with 40 C.F.R. § 265.35, Respondent failed to meet the condition set forth in 40 C.F.R. § 262.34(a)(4) to qualify for the exemption under 9 VAC § 20-60-262 from the permit requirements of RCRA § 3005(a) and 9 VAC § 20-60-270, on September 8, 2010.

67. Pursuant to 9 VAC § 20-60-260 [40 C.F.R. § 260.10 "*Owner*"], "owner" means "the person who owns a facility or part of a facility."

68. Since at least August 2008, Respondent has been the "owner" of the Facility.

69. Pursuant to 9 VAC § 20-60-260 [40 C.F.R. § 260.10 "*Operator*"], "operator" means "the person responsible for the overall operation of a facility."

70. Since at least August 2008, Respondent has been the "operator" of the Facility.

71. For the reasons alleged in paragraphs 31, 41, 48, 49, 52, 55, 58, 63, and 66, above, Respondent did not qualify for an exemption from the permit requirements of RCRA § 3005(a) and 9 VAC § 20-60-270, and, therefore, was prohibited from storing hazardous waste at the Facility without a permit from at least August 2008 through mid-May 2011.

72. From at least August 2008 through mid-May 2011, Respondent violated RCRA § 3005(a) and 9 VAC § 20-60-270 by storing hazardous wastes under the circumstances alleged in paragraphs 26 through 66, above, without a permit to store such waste, or "interim status," and without qualifying for an exemption from the permit requirement in accordance with 9 VAC § 20-60-262, for which violation RCRA § 3008(a) and (g) authorizes EPA to assess a penalty.

COUNT II
(Failure to keep containers closed)

73. The allegations in paragraphs 1 through 72, above, are incorporated herein by reference as though fully set forth at length.

74. Because it failed to qualify for an exemption under 9 VAC § 20-60-262 [40 C.F.R. § 262.34(a), (b), and (c)] from the permit requirements of RCRA § 3005(a) and 9 VAC § 20-60-270, Respondent was an "owner" and "operator" of a "facility" and was required to comply with the requirements applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities set forth at 9 VAC § 20-60-264.

75. 9 VAC § 20-60-264 [40 C.F.R. § 264.173(a)] provides that "[a] container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste."

76. Pursuant to 9 VAC § 20-60-264, Respondent was required to keep the cardboard box and two drums, referred to in paragraphs 38 through 46, above, closed when waste was not being added to or removed from them.

77. Respondent's failure to keep closed three containers of hazardous waste when nothing was being added to or removed from those containers on September 8, 2010, as alleged in paragraphs 39, 44, and 46, above, constitutes three violations of 9 VAC § 20-60-264, for which RCRA § 3008(a) and (g) authorizes EPA to assess a penalty.

COUNT III

(Failure to inspect and/or document inspections of a tank in the wastewater treatment area)

78. The allegations in paragraphs 1 through 77, above, are incorporated herein by reference as though fully set forth at length.

79. 9 VAC § 20-60-264 [40 C.F.R. § 264.195(c)] provides, with an exception not applicable to this matter, that:

> the owner or operator must inspect at least once each operating day:
> (1) Above ground portions of the tank system, if any, to detect corrosion or releases of waste.
> (2) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).

80. 9 VAC § 20-60-264 [40 C.F.R. § 264.195(h)] provides that: "[t]he owner or operator must document in the operating record of the facility an inspection of those items in paragraphs (a) through (c) of [40 C.F.R. § 264.195]."

81. Pursuant to 9 VAC § 20-60-264, Respondent was required to inspect its tank systems and to document the results of tank system inspections daily.

82. Respondent violated 9 VAC § 20-60-264 [40 C.F.R. § 264.195(c) and (h)] by failing to inspect a tank system (the former wastewater treatment tank) and/or to document the results of such inspections daily as alleged in paragraph 54, above, from at least September 8, 2010 through October 21, 2010, for which violations RCRA § 3008(a) and (g) authorizes EPA to assess a penalty.

COUNT IV

(Failure to inspect and/or document inspections of two 2,500-gallon tanks)

83. The allegations in paragraphs 1 through 82, above, are incorporated herein by reference as though fully set forth at length.

84. Respondent violated 9 VAC § 20-60-264 [40 C.F.R. § 264.195(c) and (h)] by failing to inspect and/or to document inspections of two 2,500-gallon polyethylene tanks during the period September 26, 2009 through December 16, 2009 and by failing to inspect and/or document inspections of those tanks on a daily, rather than weekly, basis on the other days between August 2008 and mid-May 2011, as alleged in paragraph 57, above, for which violations RCRA § 3008(a) and (g) authorizes EPA to assess a penalty.

COUNT V

(Failure to minimize possibility of release of a hazardous waste constituent)

85. The allegations in paragraphs 1 through 84, above, are incorporated herein by reference as though fully set forth at length.

86. 9 VAC § 20-60-264 [40 C.F.R. § 264.31] provides:

> [f]acilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

87. Respondent violated 9 VAC § 20-60-264 [40 C.F.R. § 264.31] by operating a mislabeled 2,500-gallon tank and, thereby, failing to maintain and operate the Facility to minimize the possibility of an unplanned sudden or non-sudden release of a hazardous waste constituent to the air on September 8, 2010, as described in paragraphs 60 through 62, above, which potentially threatened human health or the environment, for which violation RCRA § 3008(a) and (g) authorizes EPA to assess a penalty.

COUNT VI

(Failure to maintain unobstructed aisle space)

88. The allegations in paragraphs 1 through 87, above, are incorporated herein by reference as though fully set forth at length.

89. 9 VAC § 20-60-264 [40 C.F.R. § 264.35] provides:

> [t]he owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, *unless* it can be demonstrated to the [Director of the Virginia Department of Environmental Quality] that aisle space is not needed for any of these purposes.

90. Respondent violated 9 VAC § 20-60-264 [40 C.F.R. § 264.35] by failing to maintain adequate aisle space to allow the unobstructed movement of personnel and equipment within a secondary containment area of the Facility on September 8, 2010, as described in paragraph 65, above, for which violation RCRA § 3008(a) and (g) authorizes EPA to assess a penalty.

COUNT VII

(Failure to timely file two biennial reports)

91. The allegations in paragraphs 1 through 90, above, are incorporated herein by reference as though fully set forth at length.

92. 9 VAC § 20-60-262 [40 C.F.R. § 262.41(a)] provides that "[a] generator who ships any hazardous waste off-site to a treatment, storage or disposal facility with the United States must prepare and submit a single copy of a Biennial Report to the [Director of the Virginia Department of Environmental Quality] by March 1 of each even numbered year.

93. As a generator, Respondent was required to submit Biennial Reports to the Director of the Virginia Department of Environmental Quality by March 1 of 2010 and 2012.

94. Respondent did not submit a Biennial Report for 2009 by March 1, 2010 and did not submit a Biennial Report for 2011 by March 1, 2012.

95. The Biennial Report for 2009 which Respondent submitted after March 1, 2010 contained inaccurate information regarding the quantities of hazardous wastes generated at the Facility in 2009.

96. Respondent violated 9 VAC § 20-60-262 [40 C.F.R. § 262.41(a)] by failing to submit timely and accurate Biennial Reports for 2009 and 2011 to the Director of the Virginia Department of Environmental Quality by March 1 of 2010 and 2012 as alleged in paragraphs 94 and 95, above, for which violations RCRA § 3008(a) and (g) authorizes EPA to assess a penalty.

COUNT VIII
(Failure to Comply with LDR Storage Requirements)

97. The allegations in paragraphs 1 through 96, above, are incorporated herein by reference as though fully set forth at length.

98. 9 VAC § 20-60-268 [40 C.F.R. § 268.50] provides, in pertinent part with exceptions not relevant to this matter, that:

> (a) ... the storage of hazardous wastes restricted from land disposal under subpart C of [40 C.F.R. Part 268] ... is prohibited, unless the following conditions are met:
> (1) A generator stores such wastes in tanks, containers, or containment buildings on-site ... and the generator complies with the requirements in [40 C.F.R.] § 262.34 and parts 264 and 265 ... .

99. Pursuant to 9 VAC § 20-60-268 [40 C.F.R. §§ 268.9(c), .37, and .40], the hazardous wastes referred to in paragraphs 29, 38, 43, 45, 50, and 56, above, are and were at the time of the violation alleged in this Count, prohibited from land disposal.

100. During the time when Respondent was storing the hazardous wastes referred to in paragraphs 29, 38, 43, 45, 50, 56, and 99, above, those wastes did not meet the treatment standards specified in 40 C.F.R. §§ 268.40 - .43, or the treatment standards specified under a variance issued pursuant to 40 C.F.R. § 268.44, nor were such wastes in

compliance with applicable prohibitions specified in RCRA Section 3004, 42 U.S.C. § 6924.

101. As a generator of hazardous wastes that are prohibited from land disposal, Respondent has been prohibited from storing such wastes at the Facility since at least August 2008, unless it complied with the requirements in 40 C.F.R. § 262.34 and parts 264 and 265.

102. As alleged in paragraphs 41, 48, 49, 52, 55, 58, 63, and 66, above, Respondent stored hazardous wastes that are restricted from land disposal without complying with the following requirements of 40 C.F.R. § 262.34 and parts 264 and 265: 1) clearly marking containers where visible for inspection with the date when hazardous waste accumulation began; 2) labeling containers and tanks with the words "Hazardous Waste;" 3) keeping containers closed in accordance with 40 C.F.R. §§ 264.173(a) and 265.173(a); 4) conducting daily inspections of hazardous waste tank systems, and/or documenting such inspections, in accordance with 40 C.F.R. §§ 265.195(b) and (g) and 264.195(c) and (h); 5) maintaining and operating the Facility, in accordance with 40 C.F.R. §§ 264.31 and 265.31, to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment; and 6) maintaining aisle space to allow the unobstructed movement of personnel and certain equipment to any area of facility operation in an emergency in accordance with 40 C.F.R. §§ 264.35 and 265.35.

103. Respondent's storage of land disposal restricted waste from August 2008 through mid-May 2011 without complying with the requirements of 40 C.F.R. § 262.34 and parts 264 and 265 as described in paragraph 102, above, violates 9 VAC § 20-60-268 [40 C.F.R. § 268.50(a)], for which violations RCRA § 3008(a) and (g) authorizes EPA to assess a penalty.

COMPLIANCE ORDER

104. Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to perform the Compliance Tasks listed in paragraphs 104.A through G, below. ("Days" as used herein shall mean calendar days unless specified otherwise.)

Compliance Tasks

A. Respondent shall immediately cease storing hazardous waste at the Facility except: 1) in accordance with a permit issued or interim status conferred pursuant to RCRA § 3005, 42 U.S.C. § 6925, and 9 VAC § 20-60-270 [40 C.F.R. Part 270], or in accordance with an exception or exclusion from the requirement to have a permit or interim status under RCRA or the authorized VHWMR.

B. If Respondent continues to accumulate hazardous waste in containers and tanks at the Facility pursuant to 9 VAC § 20-60-262 [40 C.F.R. § 262.34], Respondent shall, among other things:

1) perform training and maintain adequate records of the training provided, in

accordance with 9 VAC § 20-60-262 and -265 [40 C.F.R. §§ 262.34(a)(4) and 265.16];
2) not accumulate wastes for a period longer than 90 days, unless accumulation for a longer period is specifically authorized by an exception to the 90 day limitation specified in 9 VAC § 20-60-262 [40 C.F.R. § 262.34];
3) keep containers closed except when adding or removing wastes from them, as required by 9 VAC § 20-60-265 [40 C.F.R. § 265.173];
4) mark each and every container with the date when the accumulation of a covered quantity hazardous waste begins in accordance with 9 VAC § 20-60-262 [40 C.F.R. § 262.34(a)(2) and (c)(2), as applicable];
5) label all containers and tanks with the words "Hazardous Waste" (or, for containers meeting the conditions set forth in 40 C.F.R. § 262.34(c)(1)(ii), with other words to identify the contents of those containers), in accordance with 9 VAC § 20-60-262 [40 C.F.R. § 262.34(a)(3) and (c)(1)(ii), as applicable];
6) inspect each tank system daily and document such inspections in accordance with 9 VAC § 20-60-262 and -265 [40 C.F.R. §§ 262.34(a)(1)(ii) and 265.195(b) and (g)];
7) label tanks accurately and operate and maintain the Facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents from tanks and containers to air, soil, or surface water which could threaten human health or the environment as required by 9 VAC § 20-60-265 [40 C.F.R. § 265.31];
8) not store incompatible wastes in the same tank system or in nearby containers, as required by 9 VAC § 20-60-265 [40 C.F.R. §§ 265.177 and .199];
9) not store containers or other items within the secondary containment structures of tank systems if such storage would reduce the effective capacity of the secondary containment structure below that required to comply with 9 VAC § 20-60-265 [40 C.F.R. § 265.193(e)];
10) maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, as required by 9 VAC § 20-60-265 [40 C.F.R. § 265.35]; and
11) store all hazardous wastes at the Facility in accordance with the requirements for land disposal restricted wastes, as required by 9 VAC § 20-60-268 [40 C.F.R. § 268.50].

C. Respondent shall submit timely and accurate Biennial Reports in accordance with 9 VAC § 20-60-262 [40 C.F.R. § 262.41(a)].

D. Certification of Compliance. Within thirty (30) days after the effective date of this Order, submit to EPA a written statement, accompanied by a certification in the form set forth in paragraph F, below, and signed by a responsible corporate officer, certifying that Respondent has completed Compliance Tasks A through C, above, and is in compliance with the requirements of RCRA, the federal regulations implementing RCRA, and the authorized Virginia Hazardous Waste Management Regulations, as applicable, with particular emphasis on the

requirements alleged to have been violated herein. If Respondent is not in compliance with the requirements of RCRA or the authorized Virginia Hazardous Waste Management Regulations at the time of the certification, Respondent shall describe those requirements with which it is not in compliance and shall describe the measures it has taken and will take to achieve compliance (including a schedule for achieving such compliance).

E. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this Order which discusses, describes, demonstrates, or supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirements of this Order shall be certified by a responsible corporate officer of Respondent. A responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

F. The certification of the responsible corporate officer required above shall be in the following form:

> I certify that the information contained in or accompanying this [type of submission] is true, accurate and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure the qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.
>
> Signature: _____
> Name: _____
> Title: _____

G. Any notifications or submissions to EPA required by this Order shall be sent to the attention of:

Clark Conover
RCRA Enforcement and Compliance Officer (3LC70)
U.S. Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

and

John Ruggero
Senior Assistant Regional Counsel (3RC30)
U.S. Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

H. Any failure by Respondent to comply with this Consent Agreement, including the failure to complete any Compliance Task within the deadline specified in this Compliance Order, shall be deemed a violation of this Consent Agreement and the accompanying Final Order, and may subject the Respondent to further administrative, civil and/or criminal enforcement actions seeking appropriate relief, including the imposition of civil penalties and criminal fines and/or imprisonment as provided by Section 3008(a), (c), and (g) of RCRA, 42 U.S.C. § 6928(a), (c), and (g).

Civil Penalty

105. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this CA, Respondent consents to the assessment of a civil penalty in the amount of Ten Thousand Dollars ($10,000.00), 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 fully executed copy of this CAFO. Interest, administrative costs, and late payment penalties will be assessed as explained below for any portion of the civil penalty not paid by Respondent within thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent.

106. The aforesaid civil penalty is based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors of the seriousness of the violations and good faith efforts of the Respondent to comply, as provided for in section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's *RCRA Civil Penalty Policy* (June 2003) to determine the penalty amount set forth in paragraph 105, above. Also in accordance with the *RCRA Civil Penalty Policy*, Complainant has considered and relied upon the financial information listed below and related correspondence provided to EPA by Respondent in support of its claim that it is unable to pay the full civil penalty assessable for the violations alleged herein.

- Respondent's Balance Sheets for 2010 and 2011
- Respondent's Statements of Deposit for 2012 and 2013
- "EPA's Financial Statement of Corporate Debtor" prepared by Respondent
- U.S. Corporate Income Tax Returns for tax years 2009 through 2011
- Banking records for the period December 2011 through January 2013

107. The civil penalty of Ten Thousand Dollars ($10,000.00) assessed in paragraph 105, above, shall be paid in five (5) installments with interest at the rate of one percent (1%) per annum on the outstanding principal balance in accordance with the following schedule:

1st Payment: The first payment in the amount of Two Thousand Ten Dollars ($2,010.00), consisting of a principal payment of $2,010.00 and an interest payment of $0.00, shall be paid within thirty (30) days of the date on which this CAFO is mailed to Respondent;

2nd Payment: The second payment in the amount of Two Thousand Ten Dollars ($2,010.00), consisting of a principal payment of $1,990.02 and an interest payment of $19.98, shall be paid within ninety (90) days of the date on which this CAFO is mailed to Respondent;

3rd Payment: The third payment in the amount of Two Thousand Ten Dollars ($2,010.00), consisting of a principal payment of $1,995.00 and an interest payment of $15.00, shall be paid within one hundred eighty (180) days of the date on which this CAFO is mailed to Respondent;

4th Payment: The fourth payment in the amount of Two Thousand Ten Dollars ($2,010.00), consisting of a principal payment of $1,999.99 and an interest payment of $10.01, shall be paid within two hundred seventy (270) days of the date on which this CAFO is mailed to Respondent;

5th Payment: The fifth payment in the amount of Two Thousand Ten Dollars ($2,010.00), consisting of a principal payment of $2,004.99 and an interest payment of $5.01, shall be paid within three hundred sixty (360) days of the date on which this CAFO is mailed or hand-delivered to Respondent;

Pursuant to the above schedule, Respondent will remit total principal payments for the civil penalty in the amount of Ten Thousand Dollars ($10,000.00) and total interest payments in the amount of Fifty Dollars ($50.00).

108. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in paragraph 107, above, the entire unpaid balance of the penalty and

all accrued interest shall become due immediately upon such failure, and Respondent shall *immediately* pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for, and shall pay, administrative handling charges and late payment penalty charges as described in paragraphs 113 and 114, below, in the event of any such failure or default.

109. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth in paragraph 107, above, Respondent may pay the entire civil penalty of Ten Thousand Dollars ($10,000.00) within thirty (30) calendar days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondent and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a) as described in paragraph 112, below. In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.

110. Respondent shall remit each installment payment for the civil penalty and interest, pursuant to paragraph 107, above, and/or the full penalty pursuant to paragraphs 108 or 109, 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-03-2013-0172;

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

I. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

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

and

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

111. 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 owned 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.

112. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this 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).

113. 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.

114. 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).

115. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this CAFO.

Other Applicable Laws

116. Nothing in this CAFO shall relieve Respondent of any duties or obligations otherwise imposed upon it by applicable Federal, State or local laws or regulations.

Scope of Settlement

117. Subject to paragraphs 118 and 119, below, the settlement set forth in this CAFO shall constitute full and final satisfaction of Complainant's civil claims for penalties for the

specific violations alleged herein. 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.

Reservation of Rights

118. This CAFO resolves only EPA's claims for civil penalties for the specific violations of RCRA Subtitle C which are alleged herein. 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. Nothing herein shall be construed to limit the authority of the EPA to undertake action against any person, including Respondent, in response to any condition which the EPA determines may present an imminent and substantial endangerment to the public health, welfare, or the environment. Furthermore, 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.

119. Complainant reserves the right to take any and all actions, including, but not limited to, initiation of a judicial action seeking appropriate relief if it is determined that Respondent has in any manner misrepresented a material fact pertaining to its financial status or the information relied upon by Complainant in evaluating Respondent's claim that it is unable to pay the full penalty assessable pursuant to the *RCRA Civil Penalty Policy* (2003) for the violations alleged herein.

Respondent's Certification

120. By signing this Consent Agreement, Respondent's representative certifies that the financial information listed in paragraph 106, above, accurately reflects the financial status of Respondent.

Parties Bound

121. This CAFO shall apply to and be binding upon EPA, Respondent, and Respondent's officers, employees, agents, successors and assigns. By his/her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized to enter into this Agreement on behalf of Respondent and to bind Respondent to the terms and conditions of this CAFO.

Effective Date

122. The effective date of this CAFO is the date on which the Final Order, signed by the Regional Administrator of EPA Region III, or the Administrator's designee, the Regional Judicial Officer, is filed with the EPA Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

Entire Agreement

123. This CAFO constitutes the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein, and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

For Respondent:

Date: 8-5-13

By: _____
Christopher Green, President
Advanced Finishing Systems, Inc.

For Complainant:

Date: August 20, 2013

By: _____
John Ruggero
Senior Assistant Regional Counsel

The Land and Chemicals Division, United States Environmental Protection Agency - Region III, recommends that the Regional Administrator of the U.S. EPA Region III or his designee, the Regional Judicial Officer, issue the accompanying Final Order.

Date: 8/26/13

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:	)	
	)	**Docket No. RCRA-03-2013-0172**
Advanced Finishing Systems, Inc.	)	
2954 George Washington Memorial Highway	)	**FINAL ORDER**
Hayes, Virginia 23072	)	
EPA ID No. VAD982363541	)	**Proceeding Under Section 3008(a) and**
	)	**(g) of the Resource Conservation and**
Respondent	)	**Recovery Act, *as amended*, 42 U.S.C.**
	)	**§ 6928(a) and (g)**
	)	

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Advanced Finishing Systems, Inc., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. Sections 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 Ten Thousand Dollars ($10,000.00) plus any interest as specified in the Consent Agreement, and comply with the Compliance Order and the other terms and conditions of the Consent Agreement.

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

Date: 9/5/13

By: Renée Sarajian
Renée Sarajian
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that, on the date noted below, I hand-delivered to the Regional Hearing Clerk, EPA Region III the original CONSENT AGREEMENT AND FINAL ORDER (CAFO) in *In the Matter of: Advanced Finishing Systems, Inc.*, Docket No. RCRA-03-2013-0172, and the original memo from Ms. Marcia E. Mulkey and Mr. John A. Armstead transmitting the CAFO to the Regional Judicial Officer (RJO). In addition, I caused copies of those documents to be sent to the following individual via the manner specified:

UPS OVERNIGHT DELIVERY: Andrea W. Wortzel, Esq.
Hunton & Williams LLP
951 East Byrd Street
Riverfront Plaza, East Tower
Richmond, Virginia 23219

SEP 05 2013
Date

John Ruggero
Senior Assistant Regional Counsel
EPA Region III (3RC30)
1650 Arch St.
Philadelphia, PA 19103-2029
215-814-2142