



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

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

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

### **Jurisdiction and Waiver of Right to Hearing**

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 2002(a)(1), 3006(b), and 3008 of RCRA; 42 U.S.C. §§ 6912(a)(1), 6926 and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

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

### **Statutory and Regulatory Background**

11. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste and used oil, pursuant to Sections 3002, 3003, 3004, and 3006 of RCRA, 42 U.S.C. §§ 6924 and 6926.

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

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

issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Illinois final authorization to administer a State hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986. 51 Fed. Reg. 3778 (January 31, 1986).

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

### **Factual Allegations and Alleged Violations**

16. Respondent was and is a "person" as defined by 35 IAC Ill. Adm. Code § 720.110, 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. Respondent is an "owner" or "operator," as those terms are defined under 35 IAC § 720.110 and 40 C.F.R. § 260.10, of a facility located at 4100 West Fillmore Street, Chicago, Illinois 60624 (Facility).

18. Respondent's Facility is a "facility" as the term is defined under 35 IAC § 720.10 and 40 C.F.R. § 260.10.

19. At all times relevant to this CAFO, Respondent's Facility consisted of land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste.

20. At all times relevant to this CAFO, Respondent generated hazardous waste at its Facility.

21. At all times relevant to this CAFO, Respondent's stored hazardous waste at its Facility.

22. Waste paint related materials generated at the Facility are a hazardous waste that exhibit the ignitability characteristic (D001) and the toxicity characteristic for Methyl Ethyl Ketone (D035) and are also a listed hazardous waste (F001/F005) as defined by 35 IAC 721, Subpart C and D [40 C.F.R. Part 261, Subpart C and D].

23. On March 18, 2019, U.S. EPA conducted a Compliance Evaluation Inspection (U.S. EPA inspection) at the Facility.

24. On May 20, 2019, U.S. EPA issued a Notice of Violation (NOV) to Respondent alleging certain violations of RCRA discovered during the U.S. EPA inspection.

25. On various dates between June 26, 2019 and November 25, 2019, Respondent submitted to U.S. EPA written responses to the NOV.

26. In its Hazardous Waste Notification dated March 1, 2018, Respondent identified itself as a hazardous waste generator.

27. At all times relevant to this CAFO, Respondent generated during each month more than 1000 kilograms of hazardous waste at the Facility.

28. At all times relevant to this CAFO, Respondent was a “large quantity generator” of hazardous waste.

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

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

**Count 1: Storage of Hazardous Waste Without A Permit or Interim Status**

31. Complainant incorporates paragraphs 1 through 30 of this Complaint as though set forth in full in this paragraph.

32. A generator of 1,000 kg 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 35 IAC § 703.121, 703.180 and 705.121. See 35 IAC § 722.134(b).

33. As documented in the inspection report for the U.S. EPA inspection, Respondent was storing six 55-gallon containers of paint related materials over 90 days in its hazardous waste storage area.

34. The containers were dated as follows: one container dated February 12, 2012; four containers dated February 28, 2018; and one container dated September 28, 2018.

35. As set forth in the manifest attached to Respondent's March 21, 2019, email to U.S. EPA, the waste paint related materials were sent off-site for disposal on March 21, 2019.

36. The containers were being stored from approximately 6 months to 6 ½ years over the 90-day permit exemption storage limit without a permit.

37. Accordingly, Respondent stored hazardous waste for more than 90 days without a permit or interim status in violation of RCRA.

#### **Failure to Mark and Date Hazardous Waste Containers**

38. In order to maintain an exemption from the requirement to have an operating permit or interim status, a hazardous waste generator must clearly mark each container holding hazardous waste with the date upon which each period of accumulation began, and, while being accumulated on-site, each container and tank is labeled with the words, "Hazardous Waste." See 35 IAC § 722.134(c)(1)(ii), 722.134(a)(3), and 722.134(a)(2).

39. At the time of the U.S. EPA inspection, Respondent was storing hazardous waste in twenty-six containers that were not marked or labeled with the words, "Hazardous Waste" in the 90-day hazardous waste storage area.

40. At the time of the U.S. EPA inspection, Respondent did not mark two satellite containers at the spray booth, two satellite containers at the sample line, as well as additional satellite containers located throughout the manufacturing area with the words "Hazardous Waste" or with a description of their contents.

41. At the time of the U.S. EPA inspection, Respondent was storing hazardous waste in one 55-gallon container that was not marked with the date upon which the accumulation of the hazardous waste began.

42. Accordingly, Respondent was not in compliance with the hazardous waste container marking and dating permit exemption criteria, and did not have a hazardous waste storage permit.

**Count 2: Failure to Conduct Weekly Inspections of, and Failure to Maintain Adequate Aisle Space in the Hazardous Waste Storage Area**

43. Complainant incorporates paragraphs 1 through 30 of this Complaint as though set forth in full in this paragraph.

44. A hazardous waste storage facility must inspect areas where hazardous waste is being stored, at least weekly, looking for leaks and for deterioration caused by corrosion and other factors. See 35 IAC § 725.274 [40 C.F.R. 265.174].

45. At the time of the U.S.EPA inspection, Respondent could not provide any weekly inspection records.

46. Accordingly, Respondent failed to satisfy this requirement in violation of RCRA.

47. A hazardous storage facility must maintain adequate aisle space in the hazardous waste storage area. See 35 IAC § 725.135 [40 C.F.R. § 265.35].

48. At the time of the U.S. EPA inspection, Respondent was not maintaining adequate aisle space in the hazardous waste storage area.

49. Accordingly, Respondent failed to satisfy this requirement in violation of RCRA.

**Count 3: Failure to Keep Hazardous Waste Containers Closed**

50. Complainant incorporates paragraphs 1 through 30 of this Complaint as though set forth in full in this paragraph.

51. A hazardous waste storage facility must keep hazardous waste containers closed. See 35 IAC § 725.273(a) [40 C.F.R. § 265.173(a)].

52. At the time of the U.S. EPA inspection, Respondent failed to keep two 14-gallon satellite accumulation containers closed in the spray booth area.

53. Accordingly, Respondent failed to satisfy this requirement in violation of RCRA.

**Count 4: Failure to Implement an Adequate Hazardous Waste Training Program**

54. Complainant incorporates paragraphs 1 through 30 of this Complaint as though set forth in full in this paragraph.

55. A hazardous waste storage facility must implement a training program and maintain and keep documents required for personnel training. See 35 IAC §§ 725.116(a), and 725.116(d) [40 C.F.R. §§ 265.16(a), and 265.16(d)].

56. At the time of the U.S. EPA inspection, Respondent had not implemented an adequate personnel training program for its facility, and failed to keep the following documents required for personnel training: job title for each position at the facility related to hazardous waste management and the name of the employee filling each job; a written job description for

each position at the facility related to hazardous waste management; a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position at the facility related to hazardous waste management; and records that document that the training or job experience described above has been given to and completed by facility personnel.

57. Accordingly, Respondent failed to satisfy this requirement in violation of RCRA.

**Count 5: Failure to Maintain an Adequate Contingency Plan**

58. Complainant incorporates paragraphs 1 through 30 of this Complaint as though set forth in full in this paragraph.

59. The facility's contingency plan must describe arrangements agreed to by local fire and police departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services. See 35 IAC § 725.152(c) [40 C.F.R. § 265.52(c)].

60. At the time of the U.S. EPA inspection, Respondent's contingency plan did not describe arrangements agreed to by local fire and police departments, hospitals, contractors, and state and local emergency response teams.

61. Accordingly, Respondent failed to satisfy this requirement in violation of RCRA.

62. The facility's written contingency plan must name a primary emergency coordinator and others as alternates when more than one person is listed. See 35 IAC § 725.152(d) [40 C.F.R. § 265.52(d)].

63. At the time of the U.S. EPA inspection, Respondent's contingency plan designated five people as the primary emergency coordinator rather than one primary and four alternates.

64. Accordingly, Respondent failed to satisfy this requirement in violation of RCRA.



65. The facility contingency plan must include an evacuation plan, evacuation signals and alternate evacuation routes. See 35 IAC § 725.152(f) [40 C.F.R. § 265.52(f)].

66. At the time of the U.S. EPA inspection, Respondent's contingency plan did not include an evacuation plan, evacuation signals and alternate evacuation routes.

67. Accordingly, Respondent failed to satisfy this requirement in violation of RCRA.

#### **Count 6: Failure to Maintain Manifests**

68. Complaint incorporates paragraphs 1 through 30 of this Complaint as though set forth in this paragraph.

69. A generator must keep a copy of each manifest for three years until he receives a signed copy from the designated facility which receives the waste. Then signed copies must be retained as a record for at least 3 years from the date the waste was accepted by the initial transporter. See IAC § 722.140(a) [40 C.F.R. § 262.40(a)].

70. At the time of the U.S. EPA inspection, Respondent did not have available for review copies of manifests for the year 2016.

#### **Civil Penalty**

71. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is five thousand dollars (\$5,000). In determining the penalty amount, Complainant took into account the seriousness of the violation, any good faith efforts to comply with the applicable requirements, and Respondent's inability to pay claim. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

72. Within 30 days after the effective date of this CAFO, Respondent must pay a \$5,000 civil penalty for the RCRA violations by electronic funds transfer, payable to "Treasurer,

United States of America,” and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
SWIFT address FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message is  
“D68010727 Environmental Protection Agency”

In the comment or description field of the electronic funds transfer, state Color Communications, LLC and the docket number of this CAFO.

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

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

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

#### **General Provisions**

76. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: Cahn.Jeff@epa.gov and [burrus.sheila@epa.gov](mailto:burrus.sheila@epa.gov) (for Complainant), and

tragen@ccicolor.com (for Respondent).

77. Respondent’s full compliance with this CAFO shall only resolve Respondent’s liability for federal civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for the violations alleged in this CAFO.

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

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

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

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

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

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

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

Color Communications, Respondent

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Date

Thomas  
Ragen

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Thomas Ragen  
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Tom Ragen  
Chief Executive Officer  
Color Communications, LLC

**United States Environmental Protection Agency, Complainant**

**MICHAEL  
HARRIS**

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Date

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Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance Division

**In the Matter of:**  
**Color Communications, LLC**  
**Docket No. RCRA-05-2020-0012**

**Final Order**

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

**ANN COYLE** Digitally signed by ANN  
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Date: 2020.07.27  
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Date

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