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

2015 FEB 27 PH 3: 26

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EPA REGION III, PHILA. PA

In the Matter of: )

United Color Manufacturing, Inc. )  
2940 E. Tioga Street )  
Philadelphia, PA 19134, )

Docket No. RCRA-03-2015-0075

RESPONDENT. )

United Color Manufacturing, Inc. )  
2940 E. Tioga Street )  
Philadelphia, PA 19134, )  
EPA ID No. PAR000002337 )

Proceeding Under Section  
3008(a) and (g) of the  
Resource Conservation and  
Recovery Act, as Amended,  
42 U.S.C. § 6928(a) and (g)

FACILITY. )

**CONSENT AGREEMENT**

**I. PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant"), and United Color Manufacturing, Inc. ("UCM" or "Respondent"), pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as 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 ("CA") and the accompanying Final Order ("FO"), collectively referred to herein as the "CAFO," simultaneously commences and concludes this administrative proceeding against Respondent.

3. The Commonwealth of Pennsylvania has received federal authorization to administer a Hazardous Waste Management Program (the “Pennsylvania Hazardous Waste Management Program”) in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g. Effective January 30, 1986, the Commonwealth of Pennsylvania Hazardous Waste Regulations (“PaHWR”) were authorized by the U.S. Environmental Protection Agency (“EPA” or the “Agency”) pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A. The PaHWR subsequently were revised, and thereafter re-authorized by EPA, on three separate occasions (September 26, 2000, January 20, 2004 and April 29, 2009). Such authorized revised PaHWR requirements and provisions became effective on November 27, 2000, March 22, 2004 and June 29, 2009, respectively. The PaHWR incorporate, with certain exceptions, federal hazardous waste management regulations that were in effect as of May 1, 1999 (and as of July 6, 1999 for certain regulations regarding Universal Waste) for the November 27, 2000 PaHWR authorization, June 28, 2001 for the March 22, 2004 PaHWR authorization, and October 12, 2005 for the April 29, 2009 PaHWR authorization. The provisions of Pennsylvania’s current authorized PaHWR, codified at 25 Pa. Code Chapters 260a-266a, 266b, and 268a-270a, have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to RCRA Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). The provisions of Pennsylvania’s current authorized revised PaHWR, codified at 25 Pa. Code Chapters 260a-266a, 266b, and 268a-270a, have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a).
4. The factual allegations and legal conclusions in this CA are based on provisions of the PaHWR in effect at the time of the violations alleged herein.
5. Upon making a determination that any person has violated or is in violation of any requirement of RCRA Subtitle C, and upon satisfying the notification requirements of RCRA Section 3008(a)(2), 42 U.S.C. § 6928(a)(2), RCRA Section 3008(a)(1), 42 U.S.C. § 6928(a)(1), authorizes the Administrator of EPA to issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both.
6. Respondent is hereby notified of EPA’s determination that Respondent has violated requirements of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and federally-authorized PaHWR requirements, at its facility located at 2940 E. Tioga Street, Philadelphia, PA 19134, EPA ID No. PAR000002337.

7. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated August 7, 2014, EPA notified the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (“PaDEP” or the “Department”), 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. 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 this CAFO, except as provided in Paragraph 8, immediately above.
10. Respondent agrees not to contest EPA’s jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement of the CAFO.
11. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CA and any right to appeal the accompanying FO.
12. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
13. Each party shall bear its own costs and attorney’s fees.
14. The provisions of this CAFO shall be binding upon Complainant and Respondent, its officers, directors, employees, successors and assigns.
15. This CAFO shall not relieve Respondent of its obligation 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**

16. 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, set forth below.

17. Respondent is a Pennsylvania corporation with offices and a manufacturing facility located at 2940 E. Tioga Street, Philadelphia, PA 19134, EPA ID No. PAR000002337 (hereinafter, the "Facility").
18. Respondent operates its Facility to manufacture and produce color dye and marker products for use principally in plastics, petroleum products, inks, and various other specialty applications.
19. Respondent is a "person" as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15), 40 C.F.R. § 260.10 and 25 Pa. Code Section 260a.10.
20. At all times relevant to this CA, Respondent has been the "owner" and "operator" of a "facility" (*i.e.*, the Facility), where the Respondent engaged in "hazardous waste management" activities, as these terms are defined in 40 C.F.R. § 260.10 and incorporated by reference in 25 Pa. Code § 260a.1, and as defined in 25 Pa. Code § 260a.10.
21. As described below, Respondent is and, at all times relevant to this CAFO has been, a "generator" of "solid waste" and "hazardous waste" at the Facility, as these terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1, including, but not necessarily limited to, hazardous wastes having EPA Hazardous Waste Numbers D001 and/or F003, as specified in 40 C.F.R. §§ 261.21 and 261.31 and incorporated by reference in 25 Pa. Code § 261a.1.
22. At all times relevant to this CAFO, and as described below, Respondent has engaged in the "storage" of "solid waste" and "hazardous waste" in "container[s]" at the Facility, as the term "storage" is defined in 25 Pa. Code Section 260a.10 and as the remaining terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1.
23. The Facility is a hazardous waste storage "facility" as that term is defined in 40 C.F.R. § 260.10 and 25 Pa. Code Section 260a.10.
24. Respondent has submitted to EPA a Notification of Hazardous Waste Activity, pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, for its operations at the Facility, which include operation as a large quantity generator of hazardous waste.
25. On August 6, 2012, duly authorized representatives of EPA (the "EPA Inspectors") conducted a compliance evaluation inspection of the Facility (the "Inspection" or "Facility Inspection") to assess compliance with federally authorized PaHWR requirements.

26. On June 13, 2013, pursuant to the authority of RCRA § 3007(a), 42 U.S.C. § 6927(a), EPA sent an information request letter (“IRL”) to a Facility representative seeking additional information regarding Respondent’s hazardous waste generation and management practices at the Facility and requesting the production of specified documents and information.
27. A Facility representative replied to EPA’s IRL by correspondence dated July 29, 2013 (“IRL Response”).
28. On the basis of the Facility Inspection and a review of the supplemental information provided to EPA in the IRL Response, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and federally authorized PaHWR requirements promulgated thereunder.

**Permit Requirements**

29. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 40 C.F.R. § 270.1(b), as incorporated by reference into 25 Pa. Code § 270a.1, 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. At all times relevant hereto, Respondent did not have a permit, pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), or 40 C.F.R. Part 270, as incorporated by reference into 25 Pa. Code § 270a.1, for the storage of hazardous waste at the Facility, and did not have interim status pursuant to Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), or 40 C.F.R. § 270.70, as incorporated by reference into 25 Pa. Code § 270a.1.

**Permit Exemption Conditions**

31. Pursuant to 25 Pa. Code § 262a.10, which incorporates by reference the requirements of 40 C.F.R. § 262.34(a), generators of hazardous waste who accumulate hazardous waste in containers, tanks, drip pads, or containment buildings on-site for less than 90 days are exempt from the requirement to obtain a permit for such accumulation, so long as the hazardous waste is stored in accordance with a number of conditions set forth in that section, including, *inter alia*:
  - a. the condition set forth at 40 C.F.R. § 262.34(a)(1)(i), which requires, in relevant and applicable part, that when hazardous waste is placed in containers, the generator must comply “with the applicable requirements of Subparts I ... of 40 C.F.R. Part 265[,]” including:

- i. 40 C.F.R. § 265.173(a), which is an applicable requirement of 40 C.F.R. Part 265, Subpart I, and provides that “[a] container holding hazardous waste must always be kept closed during storage, except when it is necessary to add or remove waste[;]” and
- b. the condition set forth at 40 C.F.R. § 262.34(a)(2), which requires that “[t]he date upon which each period of accumulation begins is clearly marked and visible for inspection on each container[;]”
- c. the condition set forth at 40 C.F.R. § 262.34(a)(3), which requires that “[w]hile being accumulated on-site, each container and tank is labeled or marked clearly with the words, “Hazardous Waste[;]” and
- d. the condition set forth at 40 C.F.R. § 262.34(a)(4), which requires, in relevant and applicable part, that “[t]he generator complies with the requirements for owners or operators in Subparts C . . . in 40 CFR Part 265, [and] with [40 C.F.R.] § 265.16, . . . [.]” including:
  - i. the 40 C.F.R. Part 265, Subpart C, requirements of 40 C.F.R. § 265.35 (entitled “Required aisle space”), which provide 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[; and]”
  - ii. the requirements of 40 C.F.R. § 265.16(d)(1) – (3), which provide that “[t]he owner or operator must maintain the following documents and records at the facility: (1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; (2) A written job description for each position listed under paragraph (d)(1) of this Section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position; (3) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph (d)(1) of this section . . .”.

32. 25 Pa. Code § 265a.1 incorporates by reference the requirements and provisions of 40 C.F.R. § 265.16 [entitled “Personnel Training”], including the requirements of 40 C.F.R. §§ 265.16(d)(1) – (3), and of 40 C.F.R. Part 265, Subparts C [entitled “Preparedness and Prevention”] and I [entitled “Use and Management of Containers”], including, in relevant and applicable part, the requirements and provisions of 40 C.F.R. § 265.35 and of 40 C.F.R. § 265.173(a).

**COUNT I**  
**(Operating Without a Permit)**

33. The allegations of Paragraphs 1 through 32 of this CA are incorporated herein by reference.
34. On August 6, 2012, Respondent failed to comply with the permit exemption condition set forth at 40 C.F.R. § 262.34(a)(1)(i) for the temporary (*i.e.*, 90 days or less) accumulation of hazardous waste by a generator in containers, which incorporates by reference the closed container requirement of 40 C.F.R. § 265.173(a), by storing: (i) an open, unlabeled and undated blue 55-gallon drum container of F003 hazardous waste; (ii) an open 5-gallon red metal container of D001 hazardous waste; and (iii) an open-bung blue 55-gallon drum container of F003 hazardous waste at the Facility at a time when it was not necessary to add or remove waste from any of those containers.
35. On August 6, 2012, Respondent failed to comply with the permit exemption condition set forth at 40 C.F.R. § 262.34(a)(2) for the temporary (*i.e.*, 90 days or less) accumulation of hazardous waste by a generator in containers by storing: (i) two closed, black 55-gallon drum containers of D001/F003 hazardous waste; (ii) the open and unlabeled blue 55-gallon drum container of F003 hazardous waste identified in the preceding paragraph; (iii) a closed, black 55-gallon drum container of F003 hazardous waste; and (iv) the blue 55-gallon drum container of F003 hazardous waste previously identified in the preceding paragraph, without clearly marking each container so that the date upon which each period of accumulation began was clearly visible for inspection.
36. On August 6, 2012, Respondent failed to comply with the permit exemption condition set forth at 40 C.F.R. § 262.34(a)(3) for the temporary (*i.e.*, 90 days or less) accumulation of hazardous waste by a generator in containers by storing: (i) one of the closed, black 55-gallon drum containers of D001/F003 hazardous waste, previously identified in the preceding Paragraph; and (ii) the open and unlabeled blue 55-gallon drum container of F003 hazardous waste previously identified in the two preceding paragraphs on-site at the Facility without labeling or marking either of them clearly with the words “Hazardous Waste.”

37. On August 6, 2012, Respondent failed to comply with permit exemption conditions set forth at 40 C.F.R. § 262.34(a)(4) for the temporary (*i.e.*, 90 days or less) accumulation of hazardous waste by a generator in containers by: (i) storing large 225-gallon capacity tote containers of used solvent, including six (6) such containers of D001/F003 waste flammable liquid hazardous waste, in rows at an area of the Facility designated as the “Storage Area for Totes” in a manner that was not compliant with the requirements of 40 C.F.R. § 265.35 because the Respondent failed to maintain sufficient and necessary aisle space between the rows of such containers to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to that area of the Facility *and* did not demonstrate to the Director of PADEP that such aisle space was not then needed for any of these purposes; and (ii) failing to maintain at the Facility, for the EPA Inspectors’ review, copies of the documented job titles, written job descriptions, and a written description of training that is required for those employees responsible for the management of hazardous waste at the Facility, pursuant to the requirements of 40 C.F.R. § 265.16(d)(1) – (3).
38. For each of the reasons set forth in Paragraphs 34 through 37, above, Respondent failed to satisfy and comply with the conditions set forth in 40 C.F.R. § 262.34(a)(1)(i), (a)(2), (a)(3) and (a)(4) applicable to generator accumulation of hazardous waste in containers and, therefore, failed to qualify for the “less than 90-day” hazardous waste generator accumulation exemption of 25 PA Code Section 262a.10. The Facility, therefore, is a hazardous waste treatment, storage or disposal “[f]acility,” as that term is defined by 25 PA Code Section 260a.10, that was required to have a permit or interim status for its August 6, 2012 described storage activities.
39. Respondent violated 25 Pa. Code § 270a.1 (which incorporates by reference 40 C.F.R. §§ 270.1(b) and 270.70) and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), by operating a hazardous waste storage facility, on August 6, 2012, without a permit, interim status or valid exemption to the applicable permitting/interim status requirements.

**COUNT II**

***(Failure to Keep Containers of Hazardous Waste Closed)***

40. The allegations of paragraphs 1 through 39 of this CA are incorporated herein by reference as though fully set forth at length.
41. 25 Pa. Code § 264a.1 incorporates by reference the requirements of 40 C.F.R. Part 264, including the requirements of 40 C.F.R. § 264.173(a), which provides that “[a] container holding hazardous waste must always be kept closed during storage, except when it is necessary to add or remove waste.”



42. On August 6, 2012, Respondent failed to keep the three (3) containers of hazardous waste, previously identified in paragraph 34, above, closed during storage, at a time when it was not necessary to add or remove waste.
43. On August 6, 2012, Respondent violated 25 Pa. Code § 264a.1 by failing to keep three (3) containers of hazardous waste closed during storage, when it was not necessary to add or remove waste from any container, in accordance with applicable 40 C.F.R. § 264.173(a) requirements.

**COUNT III**  
**(Failure to Maintain Training Records)**

44. The allegations of paragraphs 1 through 43 of this CA are incorporated herein by reference as though fully set forth at length.
45. 25 Pa. Code § 264a.1 incorporates by reference the Personnel Training requirements of 40 C.F.R. § 264.16, including the requirements and provisions of 40 C.F.R. § 264.16(d)(1) – (3), which provide that “[t]he owner or operator must maintain the following documents and records at the facility: (1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; (2) A written job description for each position listed under paragraph (d)(1) of this Section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position; (3) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph (d)(1) of this section . . .”.
46. On August 6, 2012, Respondent failed to maintain at the Facility copies of the documented job titles, written job descriptions, and a written description of training that is required for those employees responsible for the management of hazardous waste at the Facility, pursuant to the requirements of 40 C.F.R. § 264.16(d)(1) – (3).
47. On August 6, 2012, Respondent violated 25 Pa. Code § 264a.1 by failing to maintain required Personnel Training documents and records at the Facility in accordance with applicable 40 C.F.R. § 264.16(d)(1) – (3) requirements.

**COUNT IV**  
***(Failure to Maintain Required Aisle Space)***

48. The allegations of paragraphs 1 through 47 of this CA are incorporated herein by reference as though fully set forth at length.
49. 25 Pa. Code § 264a.1 incorporates by reference the requirements of 40 C.F.R. § 264.35, pertaining to “[r]equired aisle space” and provides, in relevant and applicable 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* it can be demonstrated to the [Director] that aisle space is not needed for any of these purposes.”
50. On August 6, 2012, Respondent stored large 225-gallon capacity tote containers of used solvent, including six (6) such containers of D001/F003 flammable liquid hazardous waste, in rows at an area of the Facility designated as the “Storage Area for Totes” in a manner that was not compliant with the requirements of 40 C.F.R. § 265.35 because the Respondent failed to maintain sufficient and necessary aisle space between the rows of such containers to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to that area of the Facility.
51. On August 6, 2012, Respondent violated 25 Pa. Code § 264a.1 by failing to maintain sufficient aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to the “Storage Area for Totes” at the Facility in an emergency, *without* demonstrating to the Director of PADEP that such aisle space was not then needed for any of these purposes, in accordance with applicable 40 C.F.R. § 265.35 requirements.

**IV. CIVIL PENALTY**

52. Respondent agrees to pay a civil penalty in the amount of **Twenty-Five Thousand Dollars (\$25,000.00)**, in settlement and satisfaction of all civil claims for penalties which Complainant may have concerning the violations alleged and set forth in Section III (“EPA Findings of Fact and Conclusions of Law”) of this CA. Such civil penalty shall become due and payable immediately upon Respondent’s receipt of a true and correct copy of the 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 this CAFO is mailed or hand-delivered to Respondent.

53. The Parties find and represent that the aforesaid settlement amount is reasonable and is based upon Complainant's consideration of a number of factors, including the penalty criteria set forth in Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements. 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, which reflect the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6982(a)(3) and (g), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the November 16, 2009 Memorandum by EPA Office of Civil Enforcement, Waste and Chemical Enforcement Division Director Rosemarie A. Kelly, entitled *Adjusted Penalty Matrices based on the 2008 Civil Monetary Penalty Inflation Adjustment Rule*.
54. Payment of the civil penalty as required by paragraph 52, above, and any associated interest, administrative costs and/or late payment penalties owed in accordance with the provisions of paragraphs 56, 57, 58 and/or 59, 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 Docket Number of this action (*Docket No. RCRA-03-2015-0075*).
  - b. All checks shall be made payable to "United States Treasury".
  - c. All payments made by check and sent by Regular U.S. Postal Service Mail shall be addressed and mailed to:  
  
U.S. Environmental Protection Agency  
Fines 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 Private Commercial 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 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"**

- 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>**

- 55. At the time of payment, Respondent simultaneously shall send a notice of such payment, including a copy of the check or electronic wire transfer, as applicable, to:**

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

**and**

**A.J. D'Angelo  
Sr. Assistant Regional Counsel (3RC30)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.**

- 56. 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.**
- 57. 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).

58. 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.
59. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). The late payment penalty on any portion of the civil penalty that remains delinquent more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
60. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this CAFO.

#### **V. CERTIFICATIONS**

61. Respondent certifies to Complainant by its signature hereto, to the best of Respondent's knowledge and belief, that Respondent and the Facility currently are in compliance with all relevant provisions of the federally-authorized PaHWR, and those of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, for which violations are alleged in this CA.

#### **VI. OTHER APPLICABLE LAWS**

62. 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**

63. This CAFO resolves only EPA's claims for civil penalties for the specific violations which are alleged in this CA. 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*, 40 C.F.R. § 22.18(c). 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**

64. 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 CA. Compliance with the requirements and provisions of this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and/or regulations administered by EPA.

**IX. PARTIES BOUND**

65. This CA and the accompanying FO 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 CA on behalf of Respondent acknowledges that he or she is fully authorized to enter into this CA and to bind the Respondent to the terms and conditions of this CA and the accompanying FO.

**X. EFFECTIVE DATE**

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

**XI. ENTIRE AGREEMENT**

67. 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:

Date: 2/23/15

By: Thomas E. Nowakowski, Sr.  
Thomas E. Nowakowski, Sr., President  
United Color Manufacturing, Inc.

For the Complainant:

Date: 2/25/2015

By: A.J. D'Angelo  
A.J. D'Angelo  
Sr. Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region III

After reviewing the EPA Findings of Fact, 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 FO.

Date: 2.26.15

By: John A. Armstead  
John A. Armstead, Director  
Land and Chemicals Division  
U.S. Environmental Protection Agency, Region III



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BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III

2015 FEB 27 PM 3: 26  
REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

In the Matter of: )

United Color Manufacturing, Inc. )  
2940 E. Tioga Street )  
Philadelphia, PA 19134, )

Docket No. RCRA-03-2015-0075

RESPONDENT. )

United Color Manufacturing, Inc. )  
2940 E. Tioga Street )  
Philadelphia, PA 19134, )  
EPA ID No. PAR000002337 )

Proceeding Under Section  
3008(a) and (g) of the  
Resource Conservation and  
Recovery Act, as Amended,  
42 U.S.C. § 6928(a) and (g)

FACILITY. )

**FINAL ORDER**

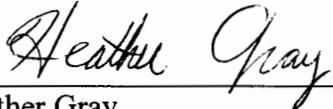
Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, United Color Manufacturing, Inc., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules 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 Sections 22.13(b) and 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

**NOW, THEREFORE**, pursuant to Section 3008(a)(1) and (g) of the Solid Waste Disposal Act, commonly known as Resource Conservation and Recovery Act of 1976, as amended, *inter alia*, by the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. § 6928(a)(1) and (g), and the *Consolidated Rules of Practice*, after having determined, based on the representations of the Parties set forth in the

Consent Agreement, that the civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) agreed to therein was based upon a consideration of, *inter alia*, the U.S. Environmental Protection Agency's current *RCRA Civil Penalty Policy* and the statutory penalty factors set forth at RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3), **IT IS HEREBY ORDERED** that Respondent pay a civil monetary penalty of Twenty-Five Thousand Dollars (\$25,000.00), in accordance with the provisions of the foregoing Consent Agreement, and comply timely with each of the additional terms and conditions thereof.

The effective date of the foregoing Consent Agreement and this Final Order, signed by the Regional Administrator of the U.S. Environmental Protection Agency, Region III, or his designee, the Regional Judicial Officer, is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: 2-27-2015

  
\_\_\_\_\_  
Heather Gray  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region III

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

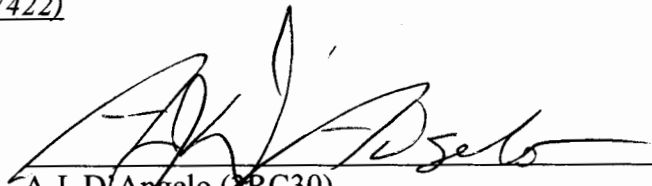
<b>In the Matter of:</b>	)	
	)	
<b>United Color Manufacturing, Inc.</b>	)	<b>Docket No. RCRA-03-2015-0075</b>
<b>2940 E. Tioga Street</b>	)	
<b>Philadelphia, PA 19134,</b>	)	
	)	
<b>RESPONDENT.</b>	)	
	)	
<b>United Color Manufacturing, Inc.</b>	)	<b>Proceeding Under Section</b>
<b>2940 E. Tioga Street</b>	)	<b>3008(a) and (g) of the</b>
<b>Philadelphia, PA 19134,</b>	)	<b>Resource Conservation and</b>
<b>EPA ID No. PAR000002337</b>	)	<b>Recovery Act, as Amended,</b>
	)	<b>42 U.S.C. § 6928(a) and (g)</b>
<b>FACILITY.</b>	)	

**CERTIFICATE OF SERVICE**

I hereby certify that on the date set forth below, I caused to be hand-delivered to Ms. Lydia Guy, Regional Hearing Clerk (3RC00), U.S. EPA Region III, 1650 Arch Street, 5<sup>th</sup> Floor, Philadelphia, PA 19103-2029, the original and one copy of the foregoing Consent Agreement and of the accompanying Final Order. I further certify that on the date set forth below, I caused true and correct copies of the same to be mailed, via Certified Mail, Return Receipt Requested, Postage Prepaid, to the following person at the following address:

Steven T. Miano, Esquire  
Hangley, Aronchick, Segal & Pudlin  
One Logan Square  
18<sup>th</sup> & Cherry Streets, 27<sup>th</sup> Floor  
Philadelphia, PA 19103-6933  
(Article No. 7004 2890 0000 5075 7422)

FEB 27 2015  
Date

  
A.J. D'Angelo (3RC30)  
Sr. Assistant Regional Counsel  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029  
Tel. (215) 814-2480