

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION III
 Four Penn Center
 1600 John F. Kennedy Boulevard
 Philadelphia, Pennsylvania 19103**

In the Matter of:	:
	:
Palram Americas, Inc. 9735 Commerce Circle Kutztown, PA 19530	: U.S. EPA Docket No. RCRA-03-2023-0091
	:
	: Proceeding under Sections 3008(a) and (g) of
	: the Resource Conservation and Recovery Act
	: (RCRA), as amended,
Respondent.	: 42 U.S.C. §§ 6928(a) and (g).
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CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Palram Americas, Inc., (“Respondent”) (collectively the “Parties”), pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a), 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. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under Subtitle C of RCRA, 42 U.S.C. §§ 6921- 6939(g), the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260-266, 268 and 270, and the Commonwealth of Pennsylvania’s federally authorized Hazardous Waste Management Program set forth in the Pennsylvania Hazardous Waste Regulations (“PaHWR”) at 25 Pa. Code Chapters 260a – 266a, 266b, and 268a – 270a, for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. The Commonwealth of Pennsylvania has received federal authorization to administer a Hazardous Waste Management Program in lieu of the federal hazardous waste management program authorized under RCRA Subtitle C, 42 U.S.C. §§ 6921 – 6939(g). Effective January 30, 1986, the PaHWR were authorized by the EPA pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A and thereby became requirements of RCRA Subtitle C and enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). *See* 51 Fed.Reg. 1791 (January 15, 1986), 65 Fed. Reg. 57734 (September 26, 2000), 69 Fed. Reg. 2674 (January 20, 2004) and 74 Fed. Reg. 19453 (April 29, 2009). EPA has authorized the PaHWR that incorporate, with certain exceptions, provisions of Title 40 of the Code of Federal Regulations by reference that were in effect as of October 12, 2005. The Code of Federal Regulation citations used herein when referring to the Federal regulations incorporated by the PaHWR are to the 2005 Federal regulations.
6. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by letter dated January 20, 2023, EPA notified the Pennsylvania Department of Environmental Protection (“PADEP”) of EPA’s intent to commence this administrative action against Respondent in response to violations of RCRA Subtitle C that are alleged herein.

GENERAL PROVISIONS

7. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
8. Except as provided in Paragraph 7, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
9. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
10. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.

11. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
12. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

13. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
14. Respondent is a corporation organized under the laws of the State of Illinois.
15. Respondent is a "person" as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 25 Pa. Code § 260a.10.
16. Respondent is and, at all times relevant to the violations alleged herein, was the "owner" and "operator" of a "facility" located at 9735 Commerce Circle, Kutztown, Pennsylvania 19530 (hereinafter "the Facility"), as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code §§ 260a.1 and 260a.10.
17. On or before June 4, 2003, the Respondent submitted a Notice of Hazardous Waste Activity ("Notification") for the Facility to the Pennsylvania Department of Environmental Protection ("PADEP") and to the EPA, Region III, pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, identifying the Facility as a generator of hazardous waste. The Facility originally reported as a very small quantity generator of hazardous waste. The Facility's current reported Generator status is as a Small Quantity Generator ("SQG") of hazardous waste, with EPA ID # PAR000508168.
18. Although Respondent had reported in its notification that the Facility was a very small quantity generator, from at least March 1, 2018 to present the Facility was a small quantity generator of hazardous waste. In addition, sometime after December 2018 the Facility experienced an episodic generation of a large quantity of hazardous waste.
19. At all times relevant to the violations alleged herein, including at least from March 1, 2018 until April 1, 2021, Respondent is, and has been, a "generator" of "solid waste" and "hazardous waste" and has engaged in the temporary "storage" in "containers" at the Facility of D001 hazardous waste, as those terms are defined in 25 Pa. Code §§ 260a.10 and 261a.1, and 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1.
20. On March 8, 2021, EPA Region III sent an Information Request Letter ("IRL") to Palram Americas, Inc. On April 1, 2021, Palram Americas responded to the March 8, 2021 IRL.

21. Based on the information provided by Respondent, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, certain federally-authorized PaHWR requirements, and certain applicable federal hazardous waste regulations.

Count I
Operation Without a Permit or Interim Status

22. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
23. 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b) and (c), and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 40 C.F.R. §§ 262 & 270 require, with certain exceptions not relevant herein, that no person who owns or operates a facility for the treatment, storage or disposal of hazardous waste may do so without first obtaining a permit or qualifying for interim status for the facility.
24. At all times relevant to the violations alleged herein, Respondent did not possess, nor did Respondent ever possess, a) a permit for the Facility, pursuant to 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b) and (c), nor b) interim status for the Facility, pursuant to 25 Pa. Code § 265a.1, which incorporates by reference 40 C.F.R. § 265.1(b), and, therefore, was not authorized to store hazardous waste at the Facility in accordance with the regulations set forth at 40 C.F.R. Parts 265 or 270.

Failure to Conduct Weekly Inspections

25. 25 Pa. Code § 262a.10 incorporates by reference the generator permit exemption conditions of 40 C.F.R. § 262.34(d), which provides in relevant part: “A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that: . . . (2) The generator complies with the requirements of subpart I of [40 CFR Part 265], except for §§ 265.176 and 265.178 . . .”
26. 25 Pa. Code § 262a.10 incorporates by reference the generator permit exemption conditions of 40 C.F.R. § 262.34(a)(1)(i)¹ which provides in applicable and relevant part: “Except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that hazardous waste is placed:

¹ 40 C.F.R. § 262.34 (2005) is the currently federally enforceable version of the RCRA regulation in Pennsylvania. On November 28, 2016, EPA re-codified the generator permit exemption, effective on May 30, 2017. The federal requirements previously found in 40 C.F.R. §262.34 are now re-codified at 40 C.F.R. §§ 262.15 – 262.17.

(i) In containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265 . . .”

- 27. 40 C.F.R. § 265.174 requires, in relevant part, that those areas where containers are stored, be inspected at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.
- 28. Based on Respondent’s April 1, 2021 response to the March 8, 2021 IRL, Respondent did not conduct weekly inspections for the HWAAs (hazardous waste accumulation areas) from March 1, 2018 to April 1, 2021.

Failure to Provide Initial Hazardous Waste Management Training and Failure to Provide Annual Training

- 29. 25 Pa. Code § 262a.10 incorporates by reference the generator permit exemption conditions of 40 C.F.R. § 262.34(a)(4) and, by further reference, 40 C.F.R. §§ 265.16(a)(1) and 265.16(c), which requires the owner or operator of a hazardous waste facility to provide initial and annual hazardous waste training to each person employed in a position related to hazardous waste management
- 30. Based on Respondent’s April 1, 2021 response to the March 8, 2021 IRL, Respondent did not provide initial or annual hazardous waste training for the Facility’s Environmental Health and Safety Manager during the period of 2018 to 2020.
- 31. In failing to comply with the above permit exemption conditions incorporated by reference within 25 Pa. Code § 262a.10, the Respondent did not qualify for the generator permit exemptions from at least March 1, 2018 to April 1, 2021, and engaged in the storage of hazardous waste without a permit.
- 32. From at least March 1, 2018 to April 1, 2021, Respondent was required by 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), to obtain a permit for the hazardous waste storage activities described in this count and failed to obtain such permit.
- 33. In failing to comply with 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(b), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count II

Failure to Provide Initial Hazardous Waste Management Training and Failure to Provide Annual Training

- 34. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

35. 25 Pa. Code § 262a.10 incorporates by reference 40 C.F.R. § 262.34(b) which provides that: “A generator 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 and 265 and the permit requirements of 40 CFR part 270 unless he has been granted an extension to the 90-day period.”
36. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(a)(1) and (c) (pertaining to “Personnel Training”), requires the owner or operator of a hazardous waste facility to provide initial and annual hazardous waste training to each person employed in a position related to hazardous waste management.
37. Based on Respondent’s April 1, 2021 response to the March 8, 2021 IRL, Respondent did not provide initial or annual hazardous waste training for the Facility’s Environmental Health and Safety Manager during the period of 2018 to 2020.
38. Due to the failure to provide the required hazardous waste management training in 2018, 2019, or 2020, Respondent was in violation of the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(a)(1) and (c).
39. In failing to comply with the requirements of 25 Pa. Code § 264a.1(a), which incorporates by reference 40 C.F.R. § 264.16(a)(1) and (c), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count III
Failure to maintain adequate Contingency Plan

40. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
41. 25 Pa. Code § 264a, which incorporates 40 C.F.R. § 264.51 by reference, requires generators of hazardous waste to have a Contingency Plan.
42. Based on Respondent’s April 1, 2021 response to the March 8, 2021 IRL, Respondent did not have a Contingency Plan in place for the Facility until April 2, 2021.
43. Due to the failure to have a Contingency Plan on March 8, 2021, Respondent was in violation of the requirements of 25 Pa. Code § 264a, which incorporates by reference 40 C.F.R. § 264.51.
44. In failing to comply with the requirements of 25 Pa. Code § 264a., which incorporates by reference 40 C.F.R. § 264.51, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count IV

Failure to conduct weekly inspections of hazardous waste accumulation areas

- 45. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
- 46. 25 Pa. Code § 264a, which incorporates by reference 40 C.F.R. § 264.174, requires the owner or operator of a facility that generates hazardous waste to perform weekly inspections of those areas where containers of hazardous waste are stored, looking for leaks and for deterioration caused by corrosion or other factors.
- 47. Based on Respondent’s April 1, 2021 response to the March 8, 2021 IRL, Respondent did not conduct weekly inspections for the HWAAs (hazardous waste accumulation areas) from March 1, 2018 to April 1, 2021.
- 48. Due to its failure to perform weekly inspections of areas where containers of hazardous waste are stored, Respondent was in violation of 25 Pa. Code § 264a, which incorporates by reference 40 C.F.R. § 264.174.
- 49. In failing to comply with the requirements of 25 Pa. Code § 264a, which incorporates by reference 40 C.F.R. § 264.174, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

CIVIL PENALTY

- 50. In settlement of EPA’s claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **SEVENTY-FIVE THOUSAND dollars (\$75,000.00)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
- 51. The civil penalty is based upon EPA’s consideration of a number of factors, including the penalty criteria (“statutory factors”) set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), including the following: 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 and May 2020 (“RCRA Penalty Policy”), which reflect the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g), the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA’s civil penalty policies to account for inflation.
- 52. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier’s check, certified check or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, **U.S. EPA Docket No. RCRA-03-2023-0091**;
- b. All checks shall be made payable to the "United States Treasury";
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box **979078**
St. Louis, MO 63197-9000

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously by email to:

Daniel T. Gallo
Assistant Regional Counsel
gallo.dan@epa.gov

and

U.S. EPA Region III Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

- 53. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
- 54. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).

55. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date Respondent is notified of its debt to the United States as established upon the ratification and filing of the fully executed Consent Agreement and Final Order with the Regional Hearing Clerk. However, EPA will not seek to recover interest on any amount of the civil penalties 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).
56. ADMINISTRATIVE COSTS: The costs of the EPA'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). If payment is not received within 30 calendar days of the effective date of this Consent Agreement, EPA will also 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.
57. LATE PAYMENT PENALTY: A late payment penalty of six percent 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). 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).
58. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

GENERAL SETTLEMENT CONDITIONS

59. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
60. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, **including information about respondent's ability to pay a penalty**, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading

information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

- 61. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

- 62. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA’s authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the RCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

- 63. This Consent Agreement and Final Order resolves only EPA’s claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. 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). EPA reserves any rights and remedies available to it under the RCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

- 64. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

- 65. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her

designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

66. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties 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 Consent Agreement and Final Order.

For Respondent: Palram Americas, Inc.

Date: 6/29/2023

By: _____



Ed Jennings, Director of Manufacturing
& Logistics
Palram Americas, Inc.

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: _____
(Digital signature and date)
Karen Melvin, Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

By: _____
(Digital signature and date)
Daniel T. Gallo
Assistant Regional Counsel
U.S. EPA – Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION III
 Four Penn Center
 1600 John F. Kennedy Boulevard
 Philadelphia, Pennsylvania 19103**

In the Matter of:

**Palram Americas, Inc.
 9735 Commerce Circle
 Kutztown, PA 19530**

Respondent.

:
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 : **U.S. EPA Docket No. RCRA-03-2023-0091**
 :
 : **Proceeding under Sections 3008(a) and (g) of**
 : **the Resource Conservation and Recovery Act**
 : **(RCRA), as amended,**
 : **42 U.S.C. §§ 6928(a) and (g).**
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FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Palram Americas, 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.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s October 1990 RCRA Civil Penalty Policy, as revised in June 2003 and May 2020 (“RCRA Penalty Policy”), which reflects the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6982(a)(3) and (g), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA’s civil penalty policies to account for inflation.

NOW, THEREFORE, PURSUANT TO Section 3008(a) of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. § 6928(a) and (g), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of ***SEVENTY-FIVE THOUSAND (\$75,000.00)***, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the RCRA and the regulations promulgated thereunder.

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

By: _____
(Digital signature and date)
Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Four Penn Center
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Philadelphia, Pennsylvania 19103**

In the Matter of: :
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Palram Americas, Inc. : **U.S. EPA Docket No. RCRA-03-2023-0091**
9735 Commerce Circle :
Kutztown, PA 19530 : **Proceeding under Sections 3008(a) and (g) of the**
 : **Resource Conservation and Recovery Act**
Respondent. : **(RCRA), as amended,**
 : **42 U.S.C. §§ 6928(a) and (g).**
 :
 :

CERTIFICATE OF SERVICE

I certify that the foregoing *Consent Agreement and Final Order* was filed with the EPA Region III Regional Hearing Clerk on the date that has been electronically stamped on the *Consent Agreement and Final Order*. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Ed Jennings, Director of Manufacturing
and Logistics
Palram Americas
Ed.Jennings@palram.com
9735 Commerce Circle
Kutztown, PA 19530

Donald R. Wagner, PG
Stevens & Lee
donald.wagner@stevenslee.com
111 N. Sixth Street
Reading, PA 19601

Daniel T. Gallo
Assistant Regional Counsel
U.S. EPA, Region III
gallo.dan@epa.gov

Stephen Forostiak
Enforcement Officer
U.S. EPA, Region III
Forostiak.stephen@epa.gov

[Digital Signature and Date]
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III