



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

U.S. EPA-REGION 3-RHC
FILED-17APR2018pm3:38

Via UPS

APR 17 2018

Philip L. Comella, Esq.
Freeborn & Peters, LLP
311 South Wacker Drive
Suite 3000
Chicago, IL 60606

Re: IMO Core Label, LLC
RCRA-03-2018-005213

Dear Phil:

Enclosed please find the filed Consent Agreement and Final Order for this matter.
Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Cheryl Jamieson".

Cheryl Jamieson, Chief,
Waste and Chemical Law Branch
Office of Regional Counsel

Enclosures

cc: Rebecca Serfass (3LC32)

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). The PaHWMR incorporate, with certain exceptions, specific provisions of Title 40 of the 1999 Code of Federal Regulations by reference. See 25 Pa. Code § 260a.3(e).

4. Pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) - (3) of the Consolidated Rules of Practice, this CAFO simultaneously commences and concludes an administrative proceeding against Respondent by the issuance of a Consent Agreement and Final Order, brought under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a), to resolve alleged violations of RCRA at Respondent's facility located at 13985 S. Eagle Valley Road, Tyrone, Pennsylvania, 16686.

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

6. For purposes of this proceeding only, Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO, except as provided in Paragraph 5, above.

7. For the purposes of this proceeding only, Respondent agrees not to contest EPA's jurisdiction with respect to the execution and issuance of this CAFO, or the enforcement of the CAFO.

8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and any right to appeal the accompanying Final Order.

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

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

Notice of Action to the Commonwealth of Pennsylvania

11. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated March 7, 2017, EPA notified the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection ("PADEP"), of EPA's intent to commence this administrative action against Respondent in response to the violations of RCRA Subtitle C that are alleged herein.

12. 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.

II. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW

In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant alleges the following findings of fact and conclusions of law:

13. Respondent is, and was at the time of the violations alleged herein, a corporation of the State of Florida.

14. 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, 25 Pa. Code § 260a.10.

15. Respondent is, and at all times relevant to this Consent Agreement, was the “owner” and “operator” of a “facility”, described in Paragraph 16, below, as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1.

16. The facility referred to in Paragraph 15, above, including all of its associated equipment and structures (hereinafter the “Facility”), is a manufacturing facility located at 13985 S. Eagle Valley Road, Tyrone, Pennsylvania.

17. Respondent was at all times relevant to this CAFO, a large quantity generator of hazardous waste that generated more than 1,000 kilograms of hazardous waste per month at its Facility. Respondent is assigned EPA ID No. PAR000520510.

18. Respondent was at all times relevant to this CAFO, a “generator” of, and has engaged in the “storage” in “containers” at the Facility of materials described below that are “solid wastes” and “hazardous wastes”, as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference by 25 Pa. Code § 260a.1, with the exception of the term “storage”, which is defined in 25 Pa. Code § 260a.10.

19. On August 30, 2016, representatives of EPA conducted a RCRA Compliance Evaluation Inspection (“RCRA CEI”) at the Facility.

20. On August 30, 2016, “hazardous wastes” generated by Respondent, identified below in Paragraphs 21 - 22 were in “storage” in containers at the Facility.

21. Respondent generates waste solvent at the Facility which is a hazardous waste (EPA Hazardous Waste No. D001) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. §§ 261.21 because it exhibits the characteristic of ignitability.

22. Respondent generates waste solvent contaminated rags at the Facility which is a hazardous waste (EPA Hazardous Waste No. D001) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. §§ 261.21, because it exhibits the characteristic of ignitability.

23. Respondent generates waste ink at the Facility which is a hazardous waste (EPA Hazardous Waste No. D001) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. §§ 261.21, because it exhibits the characteristic of ignitability.

1. Non-Compliance with Generator Requirements

24. The preceding paragraphs are incorporated by reference.

25. Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), provide, in pertinent part, that a person may not own or operate a facility for the treatment, storage or disposal of hazardous waste unless such person has first obtained a permit for such facility or has qualified for interim status for the facility.

26. 25 Pa. Code § 262a.10 incorporates by reference 40 C.F.R. § 262.34, which provides, in pertinent part, that a generator that accumulates hazardous waste on site for less than 90 days in compliance with the terms of that section may do so without a permit or interim status.

27. 25 Pa. Code § 262a.10 incorporates by reference 40 C.F.R. § 262.34(a)(2) which provides, in pertinent part, that a generator may accumulate hazardous waste in containers on-site for 90 days or less without a permit or having interim status provided that, among other things, the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

28. 25 Pa. Code § 262a.10 incorporates by reference 40 C.F.R. § 262.34(a)(3) which provides, in pertinent part, that a generator may accumulate hazardous waste in containers on-site for 90 days or less without a permit or having interim status provided that, while being accumulated on-site, each container is marked with the words "Hazardous Waste."

29. 25 Pa. Code § 262a.10 incorporates by reference 40 C.F.R. § 262.34(a)(4) which provides, in pertinent part, that a generator may accumulate hazardous waste in containers on-site for 90 days or less without a permit or having interim status provided that, among other things, the generator complies with the requirements for owners and operators in 40 C.F.R. § 265.16, which requires facility personnel to successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of 40 C.F.R. Part 265; including 40 C.F.R. § 265.16(c) which requires that facility personnel take part in an annual review of RCRA training .

30. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4), provides, in pertinent part, that a generator may accumulate hazardous waste in containers on-site for 90 days or less without a permit or having interim status provided that, among other things, the generator complies with the requirements of 40 C.F.R. Part 265, Subpart D, including 40 C.F.R. §§ 265.52(d) and 265.54(d) which requires that the Contingency Plan list the names of all persons qualified to act as emergency coordinators and that this list be kept up-to-date.

31. 25 Pa. Code § 262a.10, which incorporates by 40 C.F.R. § 262.34(c), provides, in pertinent part that a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in 40 C.F.R. § 261.31 or § 261.33(e) 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 provided that among other things, the generator marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the container.

32. 25 Pa. Code § 262a.10 incorporates by reference 40 C.F.R. § 262.34(a)(1)(i) which provides, in pertinent part, that a generator may accumulate hazardous waste in containers on-site for 90 days or less without a permit or having interim status provided that, among other things, the generator complies with the requirements of 40 C.F.R. Part 265, Subpart I, which includes 40 C.F.R. § 265.173(a), which requires that containers holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

33. On August 30, 2016, Respondent accumulated hazardous waste solvent-contaminated rags on-site in 21 plastic bags, three crates and four buckets that were not marked with a start accumulation date, in violation of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(2)

34. On August 30, 2016, Respondent accumulated hazardous waste solvent on-site in thirteen 55-gallon drums that were not marked with a start accumulation date, in violation of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(2)

35. On August 30, 2016, Respondent accumulated hazardous waste solvent-contaminated rags on-site in 21 plastic bags, three crates and four buckets that were not marked with the words "Hazardous Waste" in violation of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(3).

36. On August 30, 2016, Respondent accumulated hazardous waste solvent on-site in thirteen 55-gallon drums that were not marked with the words "Hazardous Waste" in violation of 25 Pa. Code § 262a.10 incorporates by reference 40 C.F.R. § 262.34(a)(3).

37. On August 30, 2016, Facility personnel had not received RCRA training within six months of their date of employment and had not received annual refresher training in violation of 25 Pa. Code § 262a.10, which incorporates by 40 C.F.R. § 262.34(a)(4), which requires compliance with 40 C.F.R. § 265.16.

38. On August 30, 2016, Respondent failed to have a complete Contingency Plan as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4), which requires compliance with 40 C.F.R. §§ 265.52(d) and 265.54(d), by failing to list in the Facility Contingency Plan the names of all persons qualified to act as emergency coordinators and by failing to keep the Facility Contingency Plan up-to-date.

39. On August 30, 2016, Respondent stored hazardous waste in containers that were not kept closed except when necessary to add or remove waste, in violation of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i), which requires compliance with 40 C.F.R. § 265.173(a). Specifically, the following containers were open and no hazardous waste was being added or removed from the containers:

A. Twenty-one garbage bags being used to store hazardous waste solvent-contaminated rags (D001) at the Facility all of which were not kept closed;

B. Three open crates being used to store hazardous waste solvent- contaminated rags (D001) at the Facility;

C. Four open buckets being used to store hazardous waste solvent-contaminated rags (D001) at the Facility;

D. Two open 55-gallon drums being used to store hazardous waste spent ink (D001) at the Facility; and the Facility.

E. One 55-gallon drum being used to store hazardous waste solvent (D001) at

40. On August 30, 2016, Respondent used two 55-gallon satellite accumulation containers to collect hazardous waste spent ink waste (D001) and one 55-gallon satellite accumulation container to collect hazardous waste spent solvent (D001) that were not labeled with the words "Hazardous Waste" or with other words that identified the contents of the container, in violation of 25 Pa. Code § 262a.10, which incorporates by 40 C.F.R. § 262.34(c).

41. Respondent failed to qualify for the "less than 90-day" generator accumulation exemption of 25 Pa. Code § 262a.10, which incorporates by reference the requirements of 40 C.F.R. § 262.34, by failing to satisfy the conditions for such exemptions referred to in Paragraphs 27 – 32, above, and as described in Paragraphs 33 - 40, above.

42. From at least June 1, 2015 until August 30, 2016, Respondent failed to comply with the generator requirements, and thus was in violation of the permit requirements of 25 Pa. Code § 270a.1, 40 C.F.R. § 270.1(b) and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a).

2. Failure to Perform a Hazardous Waste Determination

43. The preceding paragraphs are incorporated by reference.

44. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11 with exceptions not relevant herein, provides that a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste using the following methods:

(a) He should first determine if the waste is excluded from regulation under 40 C.F.R. § 261.4.

(b) He must then determine if the waste is listed as a hazardous waste in subpart D of 40 C.F.R. Part 261.

(c) For purposes of compliance with 40 C.F.R. Part 268, or if the waste is not listed in subpart D of 40 C.F.R. Part 261, the generator must then determine whether the waste is identified in subpart C of 40 C.F.R. Part 261 by either:

(1) Testing the waste according to the methods set forth in subpart C of 40 C.F.R. Part 261, or according to an equivalent method approved by the Administrator under 40 C.F.R. § 260.21; or

(2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

45. Respondent had failed to conduct hazardous waste determinations on spent aerosol cans generated at the Facility, which are “solid wastes” as defined at 25 Pa. Code § 261a.2, which incorporates by reference 40 C.F.R. § 261.2.

46. On August 30, 2016, Respondent disposed of aerosol cans in the trash without first making a hazardous waste determination of the used aerosol cans.

47. The waste referred to in Paragraph 46, above, is and was at the time of the alleged violation “solid wastes” as this term is defined in 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.2, with exceptions not relevant here.

48. On August 30, 2016, Respondent violated 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11, by failing to perform a hazardous waste determination for used aerosol cans, which are a solid waste, generated at the Facility.

3. Biennial Report

49. The preceding paragraphs are incorporated by reference.

50. 25 Pa Code § 262a.41 provides that a generator who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must prepare and submit a single copy of a Biennial Report to the PADEP by March 1 of each even numbered year.

51. On August 30, 2016, Respondent had not filed a hazardous waste biennial report for reporting year 2015 by March 1 of 2016.

52. On August 30, 2016, Respondent had not filed a hazardous waste biennial report for reporting year 2013 by March 1 of 2014.

53. 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.40(b) requires that generator maintain a copy of each Biennial Report for at least three years from the due date of the report.

54. On August 30, 2016, Respondent had not maintained a copy of its 2013 Biennial Report for at least three years from the due date of the report.

55. From at least March 1, 2014 until August 12, 2014, Respondent violated 25 Pa Code § 262a.41, by failing to timely file a hazardous waste biennial report for reporting year 2014.

56. From at least March 1, 2016 until September 5, 2016, Respondent violated 25 Pa Code § 262a.41, by failing to timely file a hazardous waste biennial report for reporting year 2015.

57. On August 30, 2016, Respondent violated 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.40(b) by failing to maintain a copy of its 2013 Biennial Report for at least three years after March 1, 2014.

4. Manifest Records

58. The preceding paragraphs are incorporated by reference.

59. 25 Pa. Code § 262a.1, which incorporates by reference 40 C.F.R. § 262.40(a), requires that a generator keep a copy of each manifest signed in accordance with 40 C.F.R. § 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. The signed copy must be maintained as a record for at least three years from the date the waste was accepted by the initial transporter.

60. On August 30, 2016, Respondent did not have signed copies of certain hazardous waste manifests received from the designated facility.

61. On August 30, 2016, Respondent violated 25 Pa. Code § 262a.1, which incorporates by reference 40 C.F.R. § 262.40(a), by failing to keep a copy of eighteen manifests signed in accordance with 40 C.F.R. § 262.23(a) for three years from the date the waste was accepted by the initial transporter or until Respondent received a signed copy from the designated facility which received the waste.

5. Training

62. The preceding paragraphs are incorporated by reference.

63. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(a)(1), requires facility personnel to successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of 40 C.F.R. Part 264. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c), requires facility personnel successfully complete this training within six months of the date of their employment. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c), requires that facility personnel take part in an annual review of the initial RCRA training.

64. On August 30, 2016, Facility personnel had not received RCRA training within six months of the initial date of their employment and had not received an annual review of initial RCRA training for calendar year 2016.

65. On August 30, 2016, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(a)(1) and (c) by failing to provide Facility personnel with initial and annual hazardous waste training as required by 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(a)(1) and (c).

6. Minimize Risk of Release

66. The preceding paragraphs are incorporated by reference.

67. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.31 with exceptions not relevant herein, requires that facilities be designed, constructed, 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.

68. On August 30, 2016, twenty buckets of solvent located in the Ink Room at the Facility were not securely closed, and some of the contents of these buckets had spilled onto the Facility floor. On August 30, 2016, Respondent used twenty-one open plastic garbage bags, three open crates, and four open buckets to store hazardous waste solvent-contaminated rags (D001) from which hazardous waste solvent was released.

69. On August 30, 2016, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.31, by failing to operate its Facility 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 by failing to secure stacked buckets of solvent so that said buckets did not leak their contents onto the Facility floor and by failing to store hazardous waste solvent- contaminated rags in closed containers.

7. Contingency Plan

70. The preceding paragraphs are incorporated by reference.

71. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.52(d) and 40 C.F.R. § 264.54(d), requires the owner or operator of a hazardous waste facility must have a contingency plan that complies with 40 C.F.R. § 264.52(d) and 40 C.F.R. § 264.54(d).

72. 40 C.F.R. § 264.52(d) requires that the facility contingency plan must list all persons qualified to act as emergency coordinators.

73. 40 C.F.R. § 264.54(d) requires that the facility contingency plan be kept up-to-date.

74. On August 31, 2016, the Facility Contingency Plan did not list the person qualified to act as emergency coordinator, listed a person who no longer was employed at the Facility, and was not kept up-to-date.

75. On August 31, 2016, Respondent violated 25 Pa. Code § 264a.1 and the contingency plan requirements of 40 C.F.R. §§ 264.52(d) and 264.54(d) because the Facility Contingency Plan did not list the person qualified to act as emergency coordinator, listed a person who no longer was employed at the Facility, and was not kept up-to-date.

8. Container Management

76. The preceding paragraphs are incorporated by reference.

77. Pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), containers used to store hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

78. On August 30, 2016, Respondent failed to keep the following hazardous waste containers closed when hazardous waste was not being added or removed:

A. Twenty-one garbage bags being used to store hazardous waste solvent-contaminated rags (D001) at the Facility which were not kept closed

B. Three open crates being used to store hazardous waste solvent-contaminated rags (D001) at the Facility;

C. Four open buckets being used to store hazardous waste solvent-contaminated rags (D001) at the Facility;

D. Two open 55-gallon drums being used to store hazardous waste spent ink (D001) at the Facility; and

E. One 55-gallon drum being used to store hazardous waste solvent- (D001) at the Facility.

79. On August 30, 2016, Respondent violated 25 Pa. Code § 264a.1, and 40 C.F.R. § 264.173(a) by failing to keep containers storing hazardous waste closed during storage, except when it is necessary to add or remove waste.

9. Weekly Inspections

80. The preceding paragraphs are incorporated by reference.

81. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.174, requires the owner or operator of a hazardous waste facility to inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration of containers and the containment system caused by corrosion and other factors.

82. Respondent failed to conduct weekly inspections from June 2015 through January 2016 at the Facility.

83. From June 1, 2015 until January 31, 2016, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.174, by failing to inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration of containers and the containment system caused by corrosion and other factors.

10. Universal Waste

84. The preceding paragraphs are incorporated by reference.

85. Respondent is a small quantity handler of universal waste as that term is defined at 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.9.

86. 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(e), requires small quantity handlers of universal waste lamps to label each lamp or container or package in which universal waste lamps are contained with one of the following phrases "Universal Waste-Lamp(s)," "Waste Lamp(s)" or "Used Lamp(s)."

87. 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.15(c), requires small quantity handlers of universal waste lamps to demonstrate the length of time universal waste has been accumulated. Such demonstration can be made by: 1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received; 2) Marking or labeling each individual item of universal waste with the date the individual item became a waste or was received; 3) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received by the handler; 4) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received; 5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; 6) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

88. On August 30, 2016, Respondent had not marked two containers of universal waste lamps with one of the phrases “Universal Waste-Lamp(s),” “Waste Lamp(s)” or “Used Lamp(s).”

89. On August 30, 2016, Respondent was not able to clearly demonstrate the length of time universal waste lamps had been stored on-site.

90. On August 30, 2016, Respondent violated 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(e) and § 273.15(c), by failing to mark two containers of universal waste lamps with one of the phrases “Universal Waste-Lamp(s),” “Waste Lamp(s)” or “Used Lamp(s)” and by failing to demonstrate the length of time universal waste has been accumulated on-site at the Facility.

III. CIVIL PENALTIES

91. Respondent agrees to pay a civil penalty in the amount of FORTY THOUSAND DOLLARS (\$40,000.00) in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent’s receipt of a true and correct copy of the executed and filed CAFO. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of the executed and filed CAFO is mailed or hand-delivered to Respondent.

92. The aforesaid settlement amount was based upon Complainant’s consideration of a number of factors, including the penalty criteria set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA’s October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 (“RCRA Penalty Policy”), which 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). Complainant also has considered the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and the December 6, 2013 memorandum by EPA Assistant Administrator Cynthia Giles, entitled Amendments to the U.S. Environmental Protection Agency’s Civil Penalty Policies to Account for Inflation (Effective August 1, 2016).

93. Payment of the civil penalty as required by Paragraph 91, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 96 - 98, 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, i.e., RCRA-03-2018-0052;

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
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 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. On-Line Payment Option: WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

H. Point of Contact regarding payment questions (i.e. how to make payment via wire, ACH, check, pay.gov):

Craig Steffen, 513-487-2091, steffen.craig@epa.gov

Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>.

94. At the time of payment, Respondent shall send a notice of such payment, including a copy of any check or electronic transfer, as appropriate, to:

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

and

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

95. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.

96. 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 as specified in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

97. 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.

98. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly. 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).

IV. RESERVATION OF RIGHTS

99. This CAFO resolves only EPA's claims for civil penalties for the specific violations alleged in the CAFO. 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. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk. 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.

V. SCOPE OF SETTLEMENT

100. The settlement set forth in this CAFO shall constitute full and final satisfaction of the EPA's civil claims for the specific allegations alleged herein. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of federal laws and regulations administered by EPA.

VI. OTHER APPLICABLE LAWS

101. 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. CERTIFICATION OF COMPLIANCE

102. Respondent certifies to EPA that, upon investigation, to the best of Respondent's knowledge and belief, Respondent is currently in compliance with all applicable provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and the federally authorized PaHWMR, for which violations are alleged in this Consent Agreement.

VIII. PARTIES BOUND

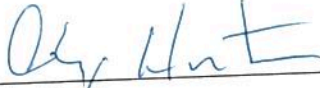
103. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind the Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order

IX. EFFECTIVE DATE

104. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Judicial Officer or Regional Administrator.


For Respondent, Fort Dearborn Company, f/k/a Core Label, LLC:

Date: 3/26/2018

By: 
Andy Hunter
Director
Environmental Health and Safety
Fort Dearborn Company

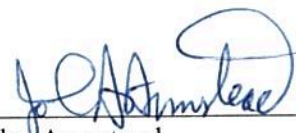
For Complainant, United States Environmental Protection Agency, Region III:

Date: 4/6/2018

By: 
Joyce A. Howell
Senior Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Director, Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.


Date: 4.11.18

By: 
John Armstead
Director
Land and Chemicals Division

consideration of the factors set forth in Section 3008(a)(3) and (g), 42 U.S.C. § 6928(a)(3) and (g), IT IS HEREBY ORDERED that Respondent pay a civil penalty of **FORTY THOUSAND DOLLARS (\$40,000.00)**, and comply with each of the additional terms and conditions as specified in the attached Consent Agreement.

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

April 17, 2018
Date:



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

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:

Fort Dearborn Company, f/k/a
Core Label, LLC,

Respondent.

Fort Dearborn Company, f/k/a
Core Label, LLC
13985 S. Eagle Valley Road
Tyrone, Pennsylvania, 16686,

Facility.

U.S. EPA-REGION 3-RHC
FILED-17APR2018pm3:21

EPA Docket No. RCRA-03-2018-0052

Proceeding under Section 3008(a)
of the Resource Conservation and
Recovery Act, as amended, 42 U.S.C.
Section 6928(a)

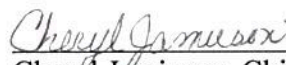
CERTIFICATE OF SERVICE

I certify that I sent a copy of the Consent Agreement and Final Order to the addressee listed below. The original and one copy of the Complaint were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Via UPS, next day delivery to:

Philip L. Comella, Esq.
Freeborn & Peters, LLP
311 South Wacker Drive
Suite 3000
Chicago, IL 60606

Dated: 4-17-18



Cheryl Jamieson, Chief,
Waste and Chemical Law Branch
Office of Regional Counsel