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

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

JUL 2 8 2016

Re: In the matter of Gelest, Inc.
U.S. EPA Docket No. CAA-03-2016-0188

Dear Ms. Guy:

Enclosed please find the original and one copy of the Consent Agreement and Final Order, along with a certificate of service, in the above-captioned matter.

Sincerely,

Lauren E. Ziegler
Assistant Regional Counsel

Enclosures

cc: Dr. Barry Arkles (11 East Steel Road, Morrisville, Pennsylvania 19067)
Mary Hunt (3HS61)

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

In the Matter of:	)	**EPA Docket No.: CAA-03-2016-0188**
Gelest, Inc. **11 East Steel Road** **Morrisville, Pennsylvania 19067,**	)	**Proceeding under Sections 112(r) and 113 of the Clean Air Act, 42 U.S.C. §§ 7412(r) and 7413**
Respondent.	)	

CONSENT AGREEMENT

STATUTORY AUTHORITY

This Consent Agreement is proposed and entered into under the authority vested in the President of the United States by Section 113(d) of the Clean Air Act, as amended (the "CAA"), 42 U.S.C. § 7413(d). The President has delegated this authority to the Administrator of the U.S. Environmental Protection Agency ("EPA"), who has, in turn, delegated it to the Regional Administrator of EPA, Region III. The Regional Administrator has re-delegated these authorities to the Director of the Hazardous Site Cleanup Division, EPA Region III ("Complainant"). Further, this Consent Agreement is proposed and entered into under the authority provided by 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.

The parties agree to the commencement and conclusion of this cause of action by issuance of this Consent Agreement and Final Order (referred to collectively herein as "CAFO") as prescribed by the Consolidated Rules of Practice, pursuant to 40 C.F.R. § 22.13(b), 22.18(b)(2) and (3), and having consented to the entry of this CAFO, agree to comply with the terms of this CAFO.

JURISDICTION

1. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).

2. The Regional Judicial Officer has the authority to approve this settlement and conclude this proceeding pursuant to 40 C.F.R. § 22.4(b) and 22.18(b)(3).

3. For the purpose of this proceeding, Respondent admits to the jurisdictional allegations in this Consent Agreement and agrees not to contest EPA's jurisdiction with respect to the execution or enforcement of this Consent Agreement.

4. For the purpose of this proceeding, and with the exception of Paragraph 3, above, Respondent neither admits nor denies the following factual allegations and conclusions of law, but expressly waives its rights to contest said allegations.

FINDINGS OF FACT

5. Respondent was incorporated in the Commonwealth of Pennsylvania and has its headquarters located at 11 East Steel Road, Morrisville, Pennsylvania 19067.

6. Respondent is a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

7. Respondent is the owner and operator of a chemical manufacturing facility located at 11 East Steel Road, Morrisville, Pennsylvania 19067 ("the Facility").

8. On August 12, 2015 and October 1, 2015, EPA conducted an investigation of the Facility pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, in order to determine the Facility's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and its regulations, the Chemical Accident Prevention Provisions of 40 C.F.R. Part 68.

FINDINGS OF FACT RELATED TO THE VIOLATIONS OF SECTION 112(r)(7) OF THE CLEAN AIR ACT

COUNT I

9. The findings of fact contained in Paragraphs 5 through 8 of this CAFO are incorporated by reference herein as though fully set forth at length.

10. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Clean Air Act Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r).

11. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. The list of regulated substances can be found in 40 C.F.R. § 68.130.

12. On June 20, 1996, EPA promulgated a final rule known as the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). The regulations require owners and operators of stationary sources to develop and implement a risk management program that includes a hazard assessment, a prevention program, and an emergency response program. The risk management program is described in a risk management plan ("RMP") that must be submitted to EPA. The RMP must include a hazard assessment to assess the potential effects of an accidental release of any regulated substance, a program for preventing accidental releases of hazardous substances, and a response program providing for specific actions to be taken in response to an accidental release of a regulated substance, so as to protect human health and the environment.

13. Section 113(d)(1)(B), as amended by the Debt Collection Improvement Act of 1996 and the subsequent Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, authorizes EPA to commence an administrative action to assess civil penalties of not more than $37,500 per day for each violation of Section 112(r) of the CAA that occurs after January 12, 2009.

14. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and its corresponding regulations at 40 C.F.R. § 68.10(a) and 68.150(a), the owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity must submit an RMP to EPA no later than the latter of June 21, 1999, three years after the date on which a regulated substance is first listed under § 68.130, or the date on which a regulated substance is first present above the threshold quantity in a process.

15. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines "stationary source," as "any buildings, structures, equipment, installations, or substance emitting stationary activities (i) which belong to the same industrial group, (ii) which are located on one or more contiguous properties, (iii) which are under the control of the same person (or persons under common control), and (iv) from which an accidental release may occur."

16. The regulations at 40 C.F.R. § 68.3 define "regulated substance" as any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), in 40 C.F.R. § 68.130.

17. The regulations at 40 C.F.R. § 68.3 define "threshold quantity" as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), listed in 40 C.F.R. § 68.130, Table 1, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

18. The regulations at 40 C.F.R. § 68.3 define "process" as any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

19. The Facility is a chemical manufacturing facility containing an isotainer with a maximum capacity of 15,900 liters, or 33,440 pounds, of dimethyldichlorosilane.

20. Dimethyldichlorosilane, Chemical Abstract Service ("CAS") No. 75-78-5, is a chemical listed under 40 C.F.R. § 68.130 with a threshold quantity of 5,000 pounds.

21. Respondent has handled and/or stored more than 5,000 pounds of dimethyldichlorosilane at the Facility since March 2013.

22. Respondent submitted an initial RMP on November 10, 2014, 20 months after more than 5,000 pounds of dimethyldichlorosilane were first present at the Facility.

COUNT 2

23. The Chemical Accident Prevention Provisions require an owner or operator to complete a compilation of written process safety information which shall include information pertaining to the hazards of the regulated substances used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process. 40 C.F.R § 68.65(a). Specifically, the owner or operator shall document that equipment complies with recognized and generally accepted good engineering practices. 40 C.F.R § 68.65(d)(2).

24. Applicable industry standards for the storage, handling, and use of flammable and combustible liquids include the National Fire Protection Association 30, *Flammable and Combustible Liquids Code* ("NFPA 30"). NFPA 30 is recognized and generally accepted as good engineering practices for safeguards pertaining to the storage, handling, and use of flammable and combustible liquids.

25. Section 4.3.1 of NFPA 30 defines a Class 1A flammable liquid as a flammable liquid that has a flash point below 73° Fahrenheit and a boiling point below 100° Fahrenheit, and defines a Class 1B flammable liquid as a flammable liquid with a flash point below 73° Fahrenheit and a boiling point at or above 100° Fahrenheit.

26. Based upon the criteria set forth in Section 4.3.1 of NFPA 30, dimethylhydrogenochlorosilane (CAS No. 1066-35-9) is a Class IA flammable liquid and dimethyldichlorosilane is a Class IB flammable liquid.

27. Section 22.4.2.1 of NFPA 30 states, "Tanks storing Class I, Class II, or Class III stable liquids shall be separated by the distances given in Table 22.4.2.1." Table 22.4.2.1 provides that the minimum shell-to-shell spacing between aboveground storage tanks that are not over 150 feet in diameter be no less than three feet.

28. During EPA's inspection on August 12, 2015, EPA observed horizontal tanks, which were not over 150 feet in diameter, filled with dimethylhydrogenochlorosilane and dimethyldichlorosilane, which are Class IA and Class IB flammable liquids, located adjacent to each other, with less than two feet between their tank shells.

29. Respondent failed to properly locate the horizontal tanks of dimethylhydrogenochlorosilane and dimethyldichlorosilane with adequate distance between the tanks in accordance with Section 22.4.2.1 of NFPA 30.

CONCLUSIONS OF LAW RELATED TO THE VIOLATIONS OF SECTION 112(r)(7) OF THE CLEAN AIR ACT

30. The findings of fact contained in Paragraphs 5 through 29 of this CAFO are incorporated by reference herein as though fully set forth at length.

31. Dimethyldichlorosilane is a regulated substance pursuant to Section 112(r)(2) and (3) of the CAA, 42 U.S.C. § 7412(r)(2) and (3), because it is listed at 40 C.F.R. § 68.130, with a threshold quantity of 5,000 pounds.

32. At all times relevant to this Consent Agreement, dimethyldichlorosilane has been present in a process at the Facility in an amount exceeding its threshold quantity.

33. Respondent is a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

34. Respondent is the owner and operator of the "stationary source," as the term is defined at 40 C.F.R. § 68.3.

35. Respondent is subject to the requirements of Section 112(r)(7) of the CAA, 40 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68, because it is the owner and/or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process.

36. The Facility is a Program 3 Facility under the Chemical Accident Prevention Provisions, in accordance with 40 C.F.R. § 68.10(d).

37. Respondent failed to timely file an RMP on or before the date in March 2013 on which dimethyldichlorosilane was first present above a threshold quantity in a process, as required by Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150.

38. By co-locating its horizontal tanks of dimethylhydrogenochlorosilane and dimethyldichlorosilane less than two feet apart, in contradiction with Section 22.4.2.1 of NFPA

30, Respondent failed to document that its equipment complies with recognized and generally accepted good engineering practices as required by Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R § 68.65(d)(2).

39. Respondent has violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and its implementing regulations at 40 C.F.R. § 68.150 and 68.65(d)(2). Respondent is, therefore, subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

FINDINGS OF FACT RELATED TO THE VIOLATIONS OF SECTION 112(r)(1) OF THE CLEAN AIR ACT

COUNT 3

40. The findings of fact and conclusions of law contained in Paragraphs 5 through 39 of this CAFO are incorporated by reference herein as though fully set forth at length.

41. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1) ("the General Duty Clause"), the owners and operators of stationary sources producing, processing, handling or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

42. The General Duty Clause applies to any stationary source producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the CAA, or other extremely hazardous substances. Extremely hazardous substances include, but are not limited to, regulated substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), at 40 C.F.R. § 68.130, and chemicals on the list of extremely hazardous substances published under the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11002(a)(2), and at 40 C.F.R. Part 355, Appendices A and B.

43. Acetylene (CAS No. 75-07-0) and hydrogen (CAS No. 1333-74-0), are chemicals listed under 40 C.F.R. § 68.130.

44. Chlorine (CAS No. 7782-50-5), anhydrous hydrogen chloride (CAS No. 7647-01-0), and anhydrous ammonia (CAS No. 7664-41-7), are all chemicals listed under 40 C.F.R. § 68.130 and 40 C.F.R. Part 355, Appendix A and B.

45. During EPA's inspection on October 1, 2015, EPA observed that cylinders of hydrogen and acetylene, both flammable substances, were stored less than 20 feet from cylinders

of chlorine, anhydrous hydrogen chloride, and anhydrous ammonia, which are all toxic substances.

46. During EPA's inspection on October 1, 2015, EPA also observed that the front of the Facility's gas cylinder storage area was only 25 feet from the Production Building.

47. Applicable industry standards for fundamental safeguards associated with installation, storage, use, and handling of compressed gases and cryogenic fluids in portable and stationary cylinders, containers, and tanks include the National Fire Protection Association 55, *Compressed Gases and Cryogenic Fluids Code* ("NFPA 55"). The International Fire Code ("IFC") also addresses applicable industry standards for the aforementioned safeguards.

48. Section 7.1.11.2 of NFPA 55 states that gas cylinders, containers, and tanks must be separated in accordance with Table 7.1.11.2, which, in turn, provides that incompatible gas cylinders must be stored at least 20 feet apart.

49. Section 2703.9.8 of the IFC also states that incompatible materials should be stored at least 20 feet apart from each other.

50. Section 7.9.2.2 of NFPA 55 states that "the outdoor storage or use of toxic or highly toxic compressed gases shall not be within 75 feet of lot lines, streets, alleys, public ways, or means of egress, or buildings not associated with such storage or use."

51. Section 3704.3.2.1 of the IFC provides the same distance standard as Section 7.9.2.2 of NFPA 55.

52. EPA determined that Respondent failed to store toxic and flammable gas cylinders and the cylinder and tank storage area in a manner to provide safety consistent with industry standards.

CONCLUSIONS OF LAW RELATED TO THE VIOLATIONS OF SECTION 112(r)(1) OF THE CLEAN AIR ACT

53. The findings of fact and conclusions of law contained in Paragraphs 5 through 52 of this CAFO are incorporated by reference herein as though fully set forth at length.

54. Acetylene and hydrogen are flammable regulated substances pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), because they are listed at 40 C.F.R. § 68.130, Table 3.

55. Chlorine, anhydrous hydrogen chloride, and anhydrous ammonia are all regulated substances pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), because they are listed in Section 112(r)(3) of the CAA as well as at 40 C.F.R. § 68.130, and are all extremely

hazardous substances under Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2), because they are listed at 40 C.F.R. Part 355, Appendices A and B.

56. Respondent is subject to the requirements of the General Duty Clause at the Facility because Respondent is the owner and operator of a stationary source which produces, processes, handles, or stores hazardous substances listed pursuant to Section 112(r)(3) of the CAA, or other extremely hazardous substances.

57. At the time of the inspection, Respondent failed to comply with the requirement of Section 112(r)(1) of the CAA to design and maintain a safe facility taking such steps as are necessary to prevent accidental releases.

58. Respondent has violated Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), because Respondent failed to design and maintain a safe facility taking such steps as are necessary to prevent the release of substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3) or any other extremely hazardous substances. Respondent is, therefore, subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

SETTLEMENT

59. In full and final settlement and resolution of all allegations referenced in the foregoing Findings of Fact and Conclusions of Law, and in full satisfaction of all civil penalty claims pursuant thereto, for the purpose of this proceeding, Respondent consents to the assessment of a civil penalty for the violations of Section 112(r)(1) and (7) of the CAA, 42 U.S.C. § 7412(r)(1) and (7), in the amount of **$39,309**.

60. Respondent consents to the issuance of this Consent Agreement, and consents for purposes of settlement to the payment of the civil penalty cited in the foregoing Paragraph.

PAYMENT TERMS

61. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with the civil penalty described in this CAFO, Respondent shall pay a total civil penalty of **$39,309**, no later than thirty (30) days after the effective date of the Final Order (the "Final Due Date") by either cashier's check, certified check, or electronic wire transfer, as set forth in the following paragraphs.

62. Payment of the $39,309 civil penalty shall be made in the following manner:

a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, **CAA-03-2016-0188**;

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. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
Contact: Heather Russell (513-487-2044)

d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. EPA
Government Lockbox 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
Contact: 314-418-1028

e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

U.S. EPA
Cincinnati Finance Center
26 W. Martin Luther King Drive, MS-002
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:

U.S. 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: Randolph Maxwell 202-874-3720 or
REX, 1-866-234-5681

h. Online 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://www.epa.gov/ocfo/finservices/make_a_payment.htm

63. Respondent shall submit proof of the penalty payment, noting the title and docket numbers of this case, to the following persons:

Lydia Guy (3RC00) Regional Hearing Clerk U.S. EPA, Region III 1650 Arch Street Philadelphia, PA 19103-2029	and	Lauren E. Ziegler (3RC42) Assistant Regional Counsel U.S. EPA, Region III 1650 Arch Street Philadelphia, PA 19103-2029

64. The civil penalty of $39,309 stated herein is based upon Complainant's consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and is consistent with 40 C.F.R. Part 19 and the *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7) and 40 C.F.R. Part 68* (June 2012).

65. 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 by the Final Due Date 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.

66. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this fully executed CAFO is mailed or hand-delivered to Respondent. 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).

67. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of 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 Final Due Date and an additional $15.00 for each subsequent thirty (30) day period the penalties remain unpaid.

68. A penalty charge of six (6) percent per year will be assessed monthly on any portion of the civil penalties which remain delinquent more than ninety (90) calendar days in accordance with 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, in accordance with 31 C.F.R. § 901.9(d).

69. Failure by Respondent to pay the civil penalty assessed by the Final Order in full by the Final Due Date may subject Respondent to a civil action to collect the assessed penalties, plus interest, pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

GENERAL PROVISIONS

70. For the purpose of this proceeding, Respondent expressly waives its right to a hearing and to appeal the Final Order under Section 113(d)(2) of the CAA, 42 U.S.C. § 7413(d)(2).

71. The provisions of the CAFO shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.

72. This CAFO resolves only the civil penalty claims for the specific violations alleged in this Consent Agreement. Complainant reserves the right to commence action against any person, including Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Nothing in this CAFO shall be construed to limit the United States authority to pursue criminal sanctions. In addition, this settlement is subject to all limitations on the scope of resolution and the reservation of rights set forth in 40 C.F.R. § 22.18(c). Further, Complainant reserves any rights and remedies available to it under the CAA or the regulations promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of this Consent Agreement and accompanying Final Order following its filing with the Regional Hearing Clerk.

73. This Consent Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

74. Each party to this action shall bear its own costs and attorney's fees.

FOR GELEST, INC.

Dr. Barry Arkles
President

7/15/16
DATE

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Joan Armstrong
for Dominique Lueckenhoff, Acting Director
Hazardous Site Cleanup Division

July 28, 2016
DATE

BEFORE THE UNITED STATES

ENVIRONMENTAL PROTECTION AGENCY

REGION III

In the Matter of:	)	**EPA Docket No.: CAA-03-2016-0188**
Gelest, Inc.	)	
11 East Steel Road	)	**Proceeding under Sections 112(r) and 113**
Morrisville, Pennsylvania 19067,	)	**of the Clean Air Act, 42 U.S.C. § 7412(r)**
	)	**and 7413**
Respondent.	)	

FINAL ORDER

Complainant, the Acting Director of the Hazardous Site Cleanup Division, U.S. Environmental Protection Agency, Region III, and Respondent, Gelest, 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 on the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68* (June 2012), and the statutory factors set forth in Section 113(e) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(e).

NOW, THEREFORE, PURSUANT TO Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **THIRTY-NINE THOUSAND THREE HUNDRED AND NINE DOLLARS ($39,309)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

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.

July 28, 2016
Date

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

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

In the Matter of:	)	**EPA Docket No.: CAA-03-2016-0188**
Gelest, Inc. **11 East Steel Road** **Morrisville, Pennsylvania 19067,**	)	**Proceeding under Sections 112(r) and 113 of the Clean Air Act, 42 U.S.C. §§ 7412(r) and 7413**
Respondent.	)	

CERTIFICATE OF SERVICE

I hereby certify that the original and one copy of the foregoing Consent Agreement and Final Order ("CAFO") in the above-captioned matter have been filed with the EPA Region III Regional Hearing Clerk and that a copy of the CAFO was sent by UPS overnight mail to:

Dr. Barry Arkles
President
Gelest, Inc.
11 East Steel Road
Morrisville, Pennsylvania 19067

I further certify that I have sent a pdf copy of the CAFO by electronic pdf to Respondent's President, Barry Arkles, at Executiveoffice@gelest.com on this day.

7/28/16
Date

Lauren E. Ziegler
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III