

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

In the Matter of:	:	
	:	
Cygnus Manufacturing Company LLC	:	
	:	
Respondent.	:	
	:	
Cygnus Manufacturing Company LLC	:	EPA Docket No. RCRA-03-2019-0010
491 Chantler Drive	:	
Saxonburg, Pennsylvania, 16056	:	
	:	
Facility.	:	Proceeding under Section 3008(a)
	:	of the Resource Conservation and
	:	Recovery Act, as amended, 42 U.S.C.
	:	Section 6928(a)
	:	
	:	

U.S. EPA-REGION 3-RHC  
FILED-20NOV2018PM2:29

**CONSENT AGREEMENT**

**I. PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“EPA”, “Agency” or “Complainant”) and Cygnus Manufacturing Company LLC (“Respondent”) pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as “RCRA”), 42 U.S.C. § 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

2. This Consent Agreement and the accompanying Final Order (hereinafter jointly referred to as this “CAFO”) address alleged violations by Respondent of RCRA and the federally authorized Pennsylvania Hazardous Waste Management Regulations (“PaHWMR”), codified at 25 Pa. Code Chapters 260a – 266a, 266b, and 268a – 270a.

3. The Commonwealth of Pennsylvania has received federal authorization to administer a Hazardous Waste Management Program (the “Pennsylvania Hazardous Waste Management Program”) (“PaHWMP”) 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 PaHWMP was 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). 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 Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), to resolve alleged violations of RCRA at Respondent's facility located at 491 Chantler Drive, Saxonburg, Pennsylvania, 16056.

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 shall bear its 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 February 21, 2018, 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. FINDINGS OF FACT AND ALLEGATIONS 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 limited liability company of the Commonwealth of Pennsylvania.

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(15), and 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, with the exception of the term “facility”, which is defined in 25 Pa. Code § 260a.10.

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 491 Chantler Drive, Saxonburg, Pennsylvania, 16056.

17. In calendar years 2013 – 2017 Respondent was a large quantity generator of hazardous waste that generated more than 1,000 kilograms of hazardous waste per month at its Facility.

18. Respondent is assigned EPA ID No. PAR000509059.

19. 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.

20. On April 27, 2017, a representative of EPA conducted a RCRA Compliance Evaluation Inspection (“RCRA CEI”) at the Facility.

21. On September 25, 2017, EPA issued an Information Request Letter to Respondent. Respondent submitted a timely response dated December 8, 2017.

22. On April 27, 2017, “hazardous wastes” generated by Respondent, identified below in Paragraphs 23 - 25 were in “storage” in containers at the Facility.

23. Respondent generates waste HVAC filters at the Facility, which are hazardous wastes (EPA Hazardous Waste No. D008) within the meaning of 25 Pa. Code § 261a.1, which

incorporates by reference 40 C.F.R. § 261.24 because it exhibits the characteristic of toxicity for lead.

24. Respondent generates waste parts washer fluids at the Facility, which is a hazardous waste (EPA Hazardous Waste Nos. D001 and F003) 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 and 40 C.F.R. § 261.31, because it contains spent methanol used for its solvent properties.

25. Respondent generates waste mop water at the Facility, which is a hazardous waste (EPA Hazardous Waste No. D008) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.24, because it exhibits the characteristic of toxicity for lead.

26. On June 6, 2018, EPA sent to Respondent an Opportunity to Show Cause letter, advising Respondent of certain alleged violations of RCRA Subtitle C based upon the RCRA CEI and this Consent Agreement resolves those alleged violations.

#### COUNT I

(Operating a Treatment, Storage or Disposal Facility Without a Permit or Interim Status)

27. The preceding paragraphs are incorporated by reference.

28. 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.

29. 25 Pa. Code § 262a.10 incorporates by reference 40 C.F.R. § 262.34(a), which provides, in pertinent part, that a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status.

30. 25 Pa. Code § 262a.10 incorporates by reference 40 C.F.R. § 262.34(a)(2) which provides, in pertinent part, that a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status in containers provided that, each container, while being accumulated on site, is properly labeled with the date upon which each period of accumulation began.

31. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4) and by further reference, the personnel training requirements of 40 C.F.R. § 265.16, provides, in pertinent part, that a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status in containers provided that facility

personnel take part in an annual review of the initial hazardous waste training as provided by 40 C.F.R. § 265.16(c).

32. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4) and by further reference, the personnel training requirements of 40 C.F.R. § 265.16(d), provides, in pertinent part that a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status in containers provided that the owner or operator maintain the following documents and records at the facility: (1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; and (2) A written job description for each position listed under 40 C.F.R. § 265.16 (d)(1).

33. From November 17, 2016 until May 22, 2017, Respondent accumulated D008 hazardous HVAC air filters at the Facility for a period of greater than 90 days in violation of 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.34(a).

34. On April 27, 2017, Respondent accumulated hazardous waste in containers that were not properly labeled with the date upon which each period of accumulation began in violation of 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.34(a)(2). Specifically, the following containers were not properly labeled with the date upon which each period of accumulation began:

A. A tote containing 200 gallons of hazardous waste (EPA Hazardous Waste No. D008) mop water located in the Facility hazardous waste accumulation area;

B. A 55-gallon metal container of hazardous waste methanol/IPA (EPA Hazardous Waste Nos. D001, F003) located on a wooden pallet in the Facility North-side hazardous waste accumulation area;

C. A cardboard box containing hazardous waste (EPA Hazardous Waste No. D008) HVAC filters stored on the first tier of a shelving unit in the Facility North-side hazardous waste accumulation area; and

D. A tote container containing hazardous waste (EPA Hazardous Waste No. D008) mop water stored on the second tier of a shelving unit in the Facility North-side hazardous waste accumulation area.

35. From January 1, 2013 to December 31, 2016, Respondent did not provide annual hazardous waste refresher training to three Facility personnel as required by 25 Pa. Code § 262a.10,

which incorporates by reference 40 C.F.R. § 262.34(a)(4) and by further reference, the personnel training requirements of 40 C.F.R. § 265.16(c).

36. From January 1, 2013 to December 31, 2016, Respondent's job descriptions for the positions of Shipping Coordinator, Facilities Maintenance Specialist and Shipping and Receiving Working Group Leader did not discuss the requisite hazardous waste management training and/or responsibilities for hazardous waste management for each such position in violation of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4) and by further reference, the personnel training requirements of 40 C.F.R. § 265.16(d).

37. 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(a) with exceptions not relevant herein, by failing to satisfy the conditions for such exemptions referred to in Paragraphs 29 - 32, above, and as described in Paragraphs 33 - 36, above.

38. Respondent's Facility is a hazardous waste treatment, storage or disposal "facility" as that term is defined in 25 Pa. Code § 260a.10 with respect to the storage of hazardous waste as described above.

39. Respondent does not have, and never had, a hazardous waste treatment or storage permit or interim status pursuant to 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), for the treatment or storage of hazardous waste at the Facility.

40. 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.

41. From at least December 31, 2013 until May 22, 2017, Respondent violated 25 Pa. Code § 270a.1, 40 C.F.R. § 270.1(b) and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), by operating a hazardous waste storage facility without a permit, interim status or a valid exemption to the permit requirement.

COUNT II  
(Training)

42. The preceding paragraphs are incorporated by reference.

43. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c) requires Facility personnel to take part in an annual review of the initial training required in 40 C.F.R. § 264.16(a).

44. From January 1, 2013 to December 31, 2016, Respondent failed to provide an annual review of hazardous waste training to three employees at the Facility.

45. From January 1, 2013 to December 31, 2016, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(c) by failing to provide Facility personnel with an annual review of the initial training required in 40 C.F.R. § 264.16(a).

COUNT III  
(Job Descriptions)

46. The preceding paragraphs are incorporated by reference.

47. 25 Pa. § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d), requires, *inter alia*, the owner or operator of a facility to maintain the following documents and records at the facility: (1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; and 2) A written job description for each position listed under 40 C.F.R. § 264.16(d)(1).

48. From January 1, 2013 to December 31, 2016, Respondent's job descriptions for the positions of Shipping Coordinator, Facilities Maintenance Specialist and the Shipping and Receiving Working Group Leader did not discuss the requisite hazardous waste management training and/or responsibilities needed for each such position.

49. From January 1, 2013 to December 31, 2016, Respondent violated 25 Pa. § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d), by failing to include a discussion of the requisite hazardous waste management training and/or responsibilities needed for the positions of Shipping Coordinator, Facilities Maintenance Specialist and the Shipping and Receiving Working Group Leader, as required by 25 Pa. § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d).

COUNT IV  
(Tank Assessment)

50. The preceding paragraphs are incorporated by reference.

51. Pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.192(a), the owner or operator of a new tank system or components is required to obtain and submit to the Director of PADEP a written assessment, reviewed and certified by a qualified Professional Engineer, in accordance with 40 C.F.R. § 270.11(d), attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste.

52. On April 27, 2017, Respondent utilized an in-ground unlined concrete sump (storage tank) to accumulate hazardous waste (EPA Hazardous Waste No. D008) mop water.

53. Respondent did not submit a written assessment reviewed and certified by a qualified Professional Engineer, in accordance with 40 C.F.R. § 270.11(d), attesting to the sump's integrity to the Director of PADEP prior to using the sump (storage tank) to manage hazardous waste.

54. On April 27, 2017, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.192(a) by storing hazardous waste mop water (EPA Hazardous Waste No. D008) in a hazardous waste storage tank at the Facility without having had the tank's integrity assessed and certified by a professional engineer.

COUNT V  
(Secondary Containment)

55. The preceding paragraphs are incorporated by reference.

56. 25 Pa. Code § 264a.1, incorporates by reference 40 C.F.R. § 264.193(b)(1), which requires secondary containment systems for hazardous waste storage tanks to be designed, installed and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water, or surface water at any time during the use of the tank system.

57. On April 27, 2017, Respondent managed hazardous waste (EPA Hazardous Waste No. D008) mop water in an in-ground unlined concrete sump (storage tank) that did not have secondary containment.

58. On April 27, 2017, Respondent violated 25 Pa. Code § 264a.1 and 40 C.F.R. § 264.193(b)(1) by failing to have secondary containment for hazardous waste mop water storage tank at the Facility.

COUNT VI  
(Daily Tank Inspections)

59. The preceding paragraphs are incorporated by reference.

60. Pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.195 with exceptions not relevant herein, owners and operators are required to inspect tanks being used to store hazardous waste at least once each operating day in accordance with 40 C.F.R. § 264.195.

61. Pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.195(h) with exceptions not relevant herein, owners and operators are required to document in the operating record of the facility an inspection of those items inspected pursuant to 40 C.F.R. § 264.195.

62. On April 27, 2017, Respondent failed to conduct daily inspections of the below grade sump (storage tank) used to store hazardous waste (EPA Hazardous Waste No. D008) mop water as required by 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.195.

63. On April 27, 2017, Respondent failed to document in the operating record of the Facility the inspection of the below grade sump (storage tank) used to store hazardous waste (EPA Hazardous Waste No. D008) mop water pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.195(h).

64. On April 27, 2017, Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.195 by failing to inspect a tank at the Facility being used to store hazardous waste and failing to document in the operating record of the Facility an inspection pursuant to 40 C.F.R. § 264.195.

### COUNT VII

#### (Biennial Reports)

65. The preceding paragraphs are incorporated by reference.

66. 40 C.F.R. § 262.41, which is incorporated by reference at 25 Pa. Code § 262a.10, provides that any large quantity 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.

67. Respondent was a large quantity generator of hazardous waste in calendar years 2013 and 2015 because it generated more than 1,000 kilograms of hazardous waste per month at its Facility in calendar years 2013 and 2015.

68. Respondent did not file a biennial report for calendar year 2013 by March 1, 2014, and for calendar year 2015 by March 1, 2016.

69. From at least March 2, 2014 until on or about September 12, 2018 and from at least March 2, 2016 until on or about February 26, 2018 (submittal to EPA) and on or about September 13, 2018 (submittal to PADEP), Respondent violated 40 C.F.R. § 262.41, which is incorporated by reference at 25 Pa. Code § 262a.10, by failing to file Biennial Reports for calendar years 2013 and 2015, respectively.

### III. CIVIL PENALTIES

70. Respondent agrees to pay a civil penalty in the amount of FORTY-TWO THOUSAND ONE HUNDRED THIRTY DOLLARS (\$42,130.00) in settlement of the alleged violations set forth in this CAFO, which Respondent agrees to pay 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.

71. The civil penalty of FORTY-TWO THOUSAND ONE HUNDRED THIRTY DOLLARS (\$42,130.00), set forth in Paragraph 70, above, shall be paid in eight (8) installments in accordance with the following schedule:

- a. 1st Payment: The first payment in the amount of \$5,266.25, shall be paid within thirty (30) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- b. 2nd Payment: The second payment in the amount of \$5,296.55, shall be paid within sixty (60) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- c. 3rd Payment: The third payment in the amount of \$5,292.22, shall be paid within ninety (90) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- d. 4th Payment: The fourth payment in the amount of \$5,287.89, shall be paid within one hundred and twenty (120) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- e. 5th Payment: The fifth payment in the amount of \$5,283.56, shall be paid within one hundred and fifty (150) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- f. 6th Payment: The sixth payment in the amount of \$5,279.24 shall be paid within one hundred and eighty (180) days of the date on which this CAFO is mailed or hand-delivered to Respondent.
- g. 7th Payment: The seventh payment in the amount of \$5,274.91 shall be paid within two hundred and ten (210) days of the date on which this CAFO is mailed or hand-delivered to Respondent.
- h. 8th Payment: The eighth payment in the amount of \$5,270.58 shall be paid within two hundred and forty (240) days of the date on which this CAFO is filed or hand-delivered to Respondent.

72. Pursuant to the above schedule, Respondent will remit total payments of \$42,251.20, for the civil penalty in the amount of \$42,130.00 and for interest in the amount of \$121.20.

73. If Respondent fails to make timely payment of any one of the installment payments in accordance with the schedule set forth in Paragraph 71, above, the entire unpaid balance of the penalty and all accrued interest at the rate of one percent per annum (1%) become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for, and shall pay, administrative handling charges and late payment interest and penalty charges as described in Paragraphs 79 - 81 below, in the event of any such failure or default.

74. Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.

75. 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 Section 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 December 6, 2013)* and the January 11, 2018 memorandum by EPA Assistant Administrator Susan Parker Bodine entitled *Amendments to the EPA's Civil Penalty Policies to Account for Inflation (effective January 15, 2018)*.

76. Payment of the civil penalty as required by Paragraph 70, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 79 - 81, 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-03-2018-0151;
- 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](mailto:steffen.craig@epa.gov)

Additional payment guidance is available at:

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

77. 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:

Bevin Esposito  
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

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

79. 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.

80. 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.

81. 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**

82. 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**

83. 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**

84. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

#### **VI. CERTIFICATION OF COMPLIANCE**

85. 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.

#### **VII. PARTIES BOUND**

86. 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.

#### **VIII. EFFECTIVE DATE**

87. 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.

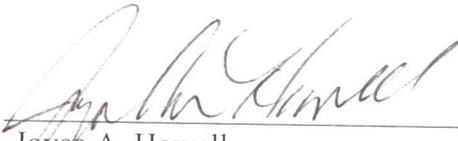
For Respondent, Cygnus Manufacturing Company LLC

Date: 10/25/2018

By:   
Craig K. Harding  
Chairman & CEO

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

Date: Nov. 1, 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: 11.19.18

By:   
John Armstead  
Director  
Land and Chemicals Division

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

U.S. EPA-REGION 3-RHC  
FILED-20NOV2018PM2:29

In the Matter of:	:	
	:	
Cygnus Manufacturing Company, Inc.	:	
	:	
Respondent.	:	
	:	EPA Docket No. RCRA-03-2019-0010
Cygnus Manufacturing Co., Inc.	:	
491 Chantler Drive	:	
Saxonburg, Pennsylvania, 16056,	:	
	:	
Facility.	:	Proceeding under Section 3008(a) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6928(a)
	:	
_____	:	

**FINAL ORDER**

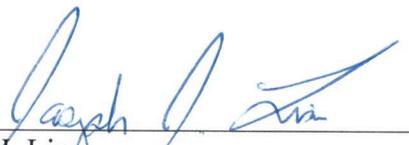
Complainant, the Director, Land and Chemical Division, U.S. Environmental Protection Agency - Region III, and Respondent, Cygnus Manufacturing Company, Inc., have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of 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. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the Consolidated Rules of Practice and Section 3008(a) and (g) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a) and (g) ("RCRA"), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a 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-TWO**

**THOUSAND ONE HUNDRED THIRTY DOLLARS (\$42,130.00)**, 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.

Nov. 20, 2019  
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:

Cygnus Manufacturing Company, Inc.

Respondent.

Cygnus Manufacturing Co., Inc.  
491 Chantler Drive  
Saxonburg, Pennsylvania, 16056,

Facility.

U.S. EPA-REGION 3-RHC  
FILED-20NOV2018pm2:28

EPA Docket No. RCRA-03-2019-0010

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 on November 20, 2018, the original and one copy of the Consent Agreement and Final Order were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029. I further certify that on the date set forth below, I served a true and correct copy of the same to each of the following persons, in the manner specified below, at the following addresses:

**Via UPS, next day delivery to:**

Colleen Grace Donofrio  
380-A Tylers Mill Road  
Sewell, NJ 08080  
(Attorney for Respondent)

**Via Hand Deliver or Inter-Office Mail:**

Joyce Howell  
Senior assistant Regional Counsel  
Office of Regional Counsel (3RC30)  
U.S.EPA, Region III  
Philadelphia, PA 19103-2029  
(Attorney for Complainant)

Dated: NOV, 20, 2018

*for* Bethina L Dunn  
Bevin Esposito  
Regional Hearing Clerk  
U.S. EPA - Region III

TRACKING NUMBERS: 1ZA43F710194714299