

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

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In the matter of:)	
)	
PPG Industries, Inc.)	Docket No. RCRA-03-2016-0088
1 PPG Place)	
Pittsburgh, PA 15272)	
)	
RESPONDENT.)	Proceeding Under Section
)	3008(a) and (g) of the
PPG Industries, Inc.)	Resource Conservation and
Paint Plant)	Recovery Act, as amended,
125 Colfax Street)	42 U.S.C. § 6928(a) and (g)
Springdale, PA 15144)	
)	
PPG Industries, Inc.)	
Development Center)	
151 Colfax Street)	
Springdale, PA 15144)	
)	
FACILITIES.)	

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“Complainant”), and PPG Industries, Inc. (“PPG” or “Respondent”), pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as “RCRA”), 42 U.S.C. § 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“*Consolidated Rules of Practice*”), 40 C.F.R. Part 22, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
2. The *Consolidated Rules of Practice*, at 40 C.F.R. § 22.13(b), provide, in pertinent part, that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3). Pursuant thereto, this Consent Agreement and the accompanying Final Order, collectively referred to herein as the “CAFO,” simultaneously commences and concludes this administrative proceeding against Respondent.

3. The Commonwealth of Pennsylvania has received federal authorization to administer a Hazardous Waste Management Program (the “Pennsylvania Hazardous Waste Management Program”) *in lieu* of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g. Effective January 30, 1986, the Commonwealth of Pennsylvania Hazardous Waste Regulations (“PaHWR”) were authorized by the U.S. Environmental Protection Agency (“EPA” or “Agency”) pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A. The PaHWR subsequently were revised, and thereafter re-authorized by EPA, on September 26, 2000, January 20, 2004, and April 29, 2009. Such authorized revised PaHWR requirements and provisions became effective on November 27, 2000, March 22, 2004, and June 29, 2009 respectively. The PaHWR incorporate, with certain exceptions, federal hazardous waste management regulations that were in effect as of May 1, 1999 (and as of July 6, 1999 for certain regulations regarding Universal Waste) for the November 27, 2000 PaHWR authorization, June 28, 2001 for the March 22, 2004 PaHWR authorization, and October 12, 2005 for the June 29, 2009 PaHWR authorization. The provisions of Pennsylvania’s current authorized revised PaHWR, codified at 25 Pa. Code Chapters 260a-266a, 266b, and 268a-270a, have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a).
4. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes EPA to initiate an enforcement action whenever it is determined that a person is in violation of any requirement of RCRA Subtitle C, EPA’s regulations thereunder, or any regulation of a state hazardous waste program which has been authorized by EPA. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil penalty against any person who violates any requirement of Subtitle C of RCRA.
5. This Consent Agreement and the accompanying Final Order address alleged violations by Respondent of Subtitle C of RCRA, 42 U.S.C. §§ 6921–6939g, and the authorized Pennsylvania Hazardous Waste Regulations, set forth at 25 Pa. Code §§ 260a-270a, *et seq.*, which incorporate by reference the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260–266, 268 and 270-273, in connection with Respondent’s facilities. Respondent’s facilities are located at 125 Colfax Street and 151 Colfax Street, in Springdale, PA 15144 (hereinafter, “the Facilities”), and are further described below. Factual allegations or legal conclusions in this Consent Agreement that are based on provisions of federally-authorized PaHWR requirements cite those respective provisions as the authority for such allegations or conclusions.
6. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated November 30, 2015, 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.

II. GENERAL PROVISIONS

7. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
8. Respondent neither admits nor denies the specific factual allegations or the conclusions of law contained in this CAFO, except as provided in Paragraph 7, above.
9. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of the CAFO.
10. For the 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.
11. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
12. Respondent shall bear its own costs and attorney's fees.

III. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW

13. In accordance with the *Consolidated Rules of Practice* at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant makes the following findings of fact and conclusions of law:
14. EPA has jurisdiction over this matter pursuant to RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g).
15. Respondent is a Pennsylvania corporation.
16. Respondent is, and was at the time of the violations alleged herein, a "person" as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15), 40 C.F.R. § 260.10 and 25 Pa. Code § 260a.10.
17. Respondent was, at all times relevant to the allegations set forth in this CAFO, the "owner" and "operator" of "facilities" located at 125 Colfax Street (the "Paint Plant" or "Coatings Plant") and 151 Colfax Street (the "Development Center" or "Research Center"), Springdale, PA 15144 (hereinafter, "the Facilities"), as these terms are defined in 40 C.F.R. § 260.10, and incorporated by reference in 25 Pa. Code § 260a.1, and as defined in 25 Pa. Code § 260a.10.
18. Respondent's Paint Plant produces: automobile original equipment manufacturer ("OEM") coatings; general industrial and clear coatings; coil and extrusion products for windows, appliances and vinyl siding; and inks and paints for consumer electronics and electromagnetic coatings used as adhesives in cell phones.

19. Respondent's Development Center was created to perform research and development in support of the Paint Plant and PPG plants located elsewhere.
20. As described below, Respondent was, at all times relevant to this CAFO, a "generator" of "solid waste" and "hazardous waste" at the Facilities, as these terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1.
21. At all times relevant to this CAFO, and as described below, Respondent was engaged in the "storage" of "solid waste" and "hazardous waste" in "container[s]" and "tanks" at the Facilities, as the term "storage" is defined in 25 Pa. Code § 260a.10, and as the remaining terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1.
22. At all times relevant to this CAFO, and as described below, Respondent has engaged in the "disposal" of "solid waste" and "hazardous waste" as the term "disposal" is defined in 25 Pa. Code Section 260a.10, and as the remaining terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1.
23. Respondent's Paint Plant and Development Center were each, at all times relevant to the allegations set forth in this CAFO, a hazardous waste storage "facility" as that term is defined in 40 C.F.R. § 260.10 and 25 Pa. Code § 260a.10.
24. A representative of EPA conducted a Compliance Evaluation Inspection ("the Inspection") at the two Facilities from September 3 through 5, 2013, to examine the Paint Plant's and the Development Center's compliance with the federally-authorized PaHWR requirements. The EPA inspector prepared separate reports summarizing his observations and findings from the Inspection of each of the Facilities.
25. On June 30, 2015, EPA issued two formal information request letters ("IRL") to each of Respondent's Facilities, pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a). Respondent provided information to EPA in response to the IRLs on August 25 and 26, 2015.
26. On January 27, 2016, EPA sent a Request to Show Cause and Request for Information ("Show Cause letter") to Respondent advising it of EPA's preliminary findings of PaHWR violations at the Facilities and offering the Respondent an opportunity to provide such additional information as it believed the Agency should review and consider before reaching any final conclusions as to the Respondent's PaHWR compliance at the Facilities. Respondent provided additional information to EPA in response to the Show Cause letter.
27. On the basis of the Inspection and a review of the information provided to EPA by Respondent in response to EPA's IRL, Show Cause letter, and other correspondence, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and federally authorized PaHWR requirements promulgated thereunder at the Facilities.

COUNT I
***(Operating the Development Center, a Hazardous Waste
Storage Facility, Without a Permit or Interim Status)***

28. The allegations of Paragraphs 1 through 27, above, of this Consent Agreement are incorporated herein by reference.
29. At all times relevant to this Consent Agreement, Respondent, at both its Development Center and Paint Plant, was the generator of hazardous waste, having EPA Hazardous Waste Numbers that include, but which are not necessarily limited to, D001, D006, D007, D008 and D035, as specified in 40 C.F.R. §§ 261.21 and 261.24 and incorporated by reference in 25 Pa. Code § 261a.1.
30. On September 4, 2013, during the EPA Inspection, Respondent was storing the following containers of hazardous waste at its Development Center:
- a. A 350-gallon tote, marked with a hazardous waste label, containing D001, D006, D007, D008 and D035 hazardous waste, dated February 28, 2013;
 - b. In the <90-day storage area for the Large Size Section, there was a blue 5-gallon bucket labelled with hazardous waste profile code #165754, indicating that the contents were isocyanate, neutralized and un-neutralized. The bucket had a lid resting on it, but not secured to the bucket, and there was a gap between the lid and the bucket; and
 - c. In the Operators Lab, there was a blue 5-gallon bucket, labelled as containing hazardous waste, and the bucket contained slop resin, a semi-solid material. This bucket had an unsecured lid resting on top of it, and a gap between the lid and the bucket.
31. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), provide, with certain exceptions not relevant to the violations alleged herein, that a person may not operate a hazardous waste treatment, storage or disposal facility (“TSDf”) unless such person has first obtained a permit or interim status for the facility.
32. Respondent has never had “interim status” pursuant to RCRA Section 3005(e) or 25 Pa. Code § 270a.1, or a permit issued pursuant to RCRA Section 3005(a) or 25 Pa. Code § 270a.1, for the treatment, storage, or disposal of hazardous waste at the Development Center.
33. Pursuant to 25 Pa. Code § 262a.10, which incorporates by reference the requirements of 40 C.F.R. § 262.34(a), (b) and (c), 40 C.F.R. § 265.16 and, *inter alia*, Subparts C, D, I, J, AA, BB, and CC of 40 C.F.R. Part 265, generators of hazardous waste who accumulate hazardous waste on-site for less than 90 days are exempt from the requirement to obtain a permit for such accumulation, as long as the hazardous waste is stored in accordance with a number of specified conditions.

34. The following acts or omissions, further described in the Counts below, prevented Respondent from meeting the regulatory permit exemption requirements at its Development Center on September 4, 2013:
- a. Respondent failed to keep containers of hazardous waste, identified in Paragraph 30.b. and c., closed during storage, except when necessary to add or remove hazardous waste, as required by 25 Pa. Code § 265a.1, which incorporates by reference 40 C.F.R. § 265.173(a), which is within 40 C.F.R. Part 265, Subpart I.
 - b. The 350-gallon tote, as described in Paragraph 30.a., above, had an accumulation date of February 28, 2013, when it was found during the Inspection on September 4, 2013. The deadline for removal of this tote within the 90-day statutory requirement would have been May 29, 2013. Instead, it remained at the Development Center on September 4, 2013, 98 days beyond the 90-day period allowed by the exemption.
 - c. Respondent failed to have one required item in its Contingency Plan, as is required by 25 Pa. Code § 264a.1 (incorporating by reference 40 C.F.R. § 264.52(d)), described in further detail in Paragraph 50, below.
35. For each of the reasons and during each of the times set forth above, at the Development Center, Respondent failed to comply with the conditions for the temporary storage (*i.e.*, 90 days or less) of hazardous waste by a generator that are required pursuant to 40 C.F.R. § 262.34(a) and (c), as incorporated by reference in 25 Pa. Code § 262a.10, and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such section.
36. On September 4, 2013, Respondent violated 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), by storing hazardous waste at its Development Center without a permit, interim status or valid exemption to the permitting/interim status requirements

COUNT II

(Operating the Paint Plant, a Hazardous Waste Storage Facility, Without a Permit or Interim Status)

37. The allegations of Paragraphs 1 through 36, above, of this Consent Agreement are incorporated herein by reference.
38. On September 3 and 4, 2013, during the EPA Inspection, Respondent was storing the following containers and tanks of hazardous waste at its Paint Plant:
- a. On September 3, 2013, there were three unlabeled, open buckets of used sock filters containing hazardous waste, in the CP Cell Fill Station in the Basement;
 - b. On September 3, 2013, there was a black 55-gallon drum containing D001, D006, D007 and D008 hazardous waste, in the Golf Ball Coating area. There was a hose

sticking inside of this drum, and the drum lid was sitting on top of the hose, with a gap between the lid and drum;

- c. On September 3, 2013, there was a black 5-gallon bucket, 2/3 full of cloudy liquid hazardous waste, with no label or lid, in the Large Batch Center;
 - d. On September 3, 2013, there was an open, black 5-gallon bucket containing a used filter sock and waste paint, identified by facility personnel as containing hazardous waste, with no label or lid, in the "T" Ten Thousand Filling Station.
 - e. On September 3, 2013, there was an open, black 5-gallon bucket, containing white paint hazardous waste, with no label or lid, in the "T" Ten Thousand Filling Station;
 - f. On September 4, 2013, there was a white 5-gallon bucket, containing semi-clear liquid hazardous waste solvent, with no label or lid, in the Filling Deck.
39. The following acts or omissions, further described in the Counts below, prevented Respondent from meeting the regulatory permit exemption requirements at its Paint Plant on September 3 and 4, 2013:
- a. Respondent failed to keep containers of hazardous waste, identified in Paragraph 38.a. through f., above, closed during storage, except when necessary to add or remove hazardous waste, as required by 25 Pa. Code § 265a.1, which incorporates by reference 40 C.F.R. § 265.173(a), which is within 40 C.F.R. Part 265, Subpart I.
 - b. Respondent failed to have one required item in its Contingency Plan, as is required by 25 Pa. Code § 264a.1 (incorporating by reference 40 C.F.R. § 264.52(d)), described in further detail in Paragraph 50, below.
40. For each of the reasons and during each of the times set forth above, at the Paint Plant, Respondent failed to comply with the conditions for the temporary storage (*i.e.*, 90 days or less) of hazardous waste by a generator that are required pursuant to 40 C.F.R. § 262.34(a) and (c), as incorporated by reference in 25 Pa. Code § 262a.10, and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such section.
41. On September 3 and 4, 2013, Respondent violated 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), by storing hazardous waste at the Paint Plant without a permit, interim status or valid exemption to the permitting/interim status requirements.

COUNTS III & IV

(Failure to Keep Copy of Manifests Signed at Both Facilities)

42. The allegations of Paragraphs 1 through 41, above, are incorporated herein by reference as though fully set forth at length.

43. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.40(a), provides that a generator must 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.
44. On September 4, 2013, Respondent failed to have the signature of the designated facility on two manifests:
 - a. Manifest # 000664351FLE, documenting a shipment of waste paint, D001, D005, D006, D007, D008, D035, hazardous waste, shipped by the Paint Plant on December 16, 2011.
 - b. Manifest # 006060280JJK, documenting a shipment of waste paint, D001, D035, F003, F005 hazardous waste, shipped by the Development Center on March 21, 2012.
45. From December 16, 2011 through September 4, 2013 at the Paint Plant, and from March 21, 2012 through September 4, 2013 at the Development Center, Respondent violated 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.40(a), by failing to keep at each respective Facility a copy of the manifest for waste shipped therefrom, that was signed by its designated receiving facility.

COUNT V

(Failure to Have Required Content in the Contingency Plan for the Facilities)

46. The allegations of Paragraphs 1 through 45, above, are incorporated herein by reference as though fully set forth at length.
47. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.51(a), requires each owner or operator of a hazardous waste treatment, storage or disposal facility to have a Contingency Plan for the facility.
48. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.52(d), requires that the Contingency Plan list names, addresses, and phone numbers (office and home) of all personnel qualified to act as emergency coordinator, and that the list be kept up to date.
49. At the time of the Inspection, Respondent had a single Contingency Plan for both Facilities, dated October 1, 2010.
50. In its Contingency Plan for the Facilities, Respondent failed to list the home addresses of the Emergency Coordinators, as is required by 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.52(d).
51. From October 1, 2010 through September 5, 2013, Respondent violated 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.52(d), by failing to include all of the required contents in its Contingency Plan for the Facilities.

COUNT VI***(Failure to Keep Containers of Hazardous Waste at the Development Center Closed Except When Necessary to Add or Remove Waste)***

52. The allegations of Paragraphs 1 through 51, above, are incorporated herein by reference as though fully set forth at length.
53. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), provides, in relevant part, and with exceptions not herein applicable, that “[a] container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.”
54. On September 4, 2013, at the time of the Inspection, Respondent was storing hazardous waste with a waste profile code #165754 in a blue 5-gallon bucket, previously identified in Paragraph 30.b., above, in its <90-day storage area at the Development Center. The bucket had a lid that was resting on but not secured to the bucket. There was a gap between the bucket and lid when it was not necessary to add or remove waste.
55. On September 4, 2013, at the time of the Inspection, Respondent was storing a blue gallon bucket, previously identified in Paragraph 30.c., above, in its Operators Lab at the Development Center. The bucket containing slop resin, a semi-solid material, had an unsecure lid resting on top of it. There was a gap between the bucket and lid when it was not necessary to add or remove waste.
56. On September 4, 2013, Respondent violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), by failing to keep the aforementioned containers of hazardous waste at the Development Center closed at times when it was not necessary to add or remove waste.

COUNT VII***(Failure to Keep Containers of Hazardous Waste the Paint Plant Closed Except When Necessary to Add or Remove Waste)***

57. The allegations of Paragraphs 1 through 56, above, are incorporated herein by reference as though fully set forth at length.
58. On September 3 and 4, 2013, at the time of the Inspection, Respondent was storing multiple containers of hazardous waste, which were open at a time when it was not necessary to add or remove waste, in the following areas at the Paint Plant.
59. On September 3, 2013, at the time of the Inspection, Respondent was storing three buckets of used sock filters, previously identified in Paragraph 38.a., above, containing hazardous waste without lids or labels, in the CP Cell Fill Station in the Basement.
60. On September 3, 2013, at the time of the Inspection, Respondent was storing a black 55-gallon drum, previously identified in Paragraph 38.b., above, containing D001, D006,

D007 and D008 hazardous waste, in the Golf Ball Coating area, with its lid resting on top of a hose that was resting inside the drum, such that the drum was open.

61. On September 3, 2013, at the time of the Inspection, Respondent was storing a black 5-gallon bucket, 2/3 full of unidentified cloudy liquid, previously identified in Paragraph 38.c., above, without either a label or a lid. Facility staff were unsure of the contents of the bucket, and, at the time of observation, there were no facility personnel actively adding or removing waste from the bucket.
62. On September 3, 2013, at the time of the Inspection, Respondent was storing a black 5-gallon bucket, previously identified in Paragraph 38.d., above, containing a used white filter sock and waste paint. The bucket did not have a label identifying its contents or a lid, however, Facility personnel identified the bucket as containing hazardous waste. At the time of observation, no facility personnel were actively adding or removing waste from the bucket.
63. On September 3, 2013, at the time of the Inspection, Respondent was storing a black 5-gallon bucket, previously identified in Paragraph 38.e., above, lined with a plastic liner containing white paint hazardous waste. At the time of observation, no facility personnel were actively adding or removing waste from the bucket.
64. On September 4, 2013, at the time of the Inspection, Respondent was storing a white 5-gallon bucket, previously identified in Paragraph 38.f., above, that appeared to be 1/3 full of semi-clear liquid hazardous waste solvent. This bucket did not have a label identifying the contents or a lid, and at the time of the observation there were no facility personnel actively adding or removing waste from the bucket.
65. On September 3 and 4, 2013, Respondent violated the requirements of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), by failing to keep the aforementioned containers of hazardous waste at the Paint Plant closed at times when it was not necessary to add or remove waste.

COUNT VIII

(Failure Properly Manage Universal Waste Lamps in Labeled, Closed and Dated Containers at the Development Center)

66. The allegations of Paragraphs 1 through 65, above, are incorporated herein by reference as though fully set forth at length.
67. 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(e), requires that, for small quantity generators of universal waste lamps, each lamp or container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste-Lamp(s)," "Waste Lamp(s)," or "Used Lamp(s)."
68. 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.13(d)(1), requires that a small quantity handler of universal waste lamps must contain lamps in containers

or packages that are structurally sound, and such containers or packages must remain closed.

69. 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.15(c), requires that a small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date that it becomes a waste or has been received.
70. 40 C.F.R. § 273.15(c)(1) provides that the handler may make this demonstration by 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.
71. 40 C.F.R. § 273.15(c)(2) though (6) provides that this demonstration may also be made by marking each individual item with the date that it becomes a waste, maintaining an inventory system that identifies the earliest date that items became waste, placing universal waste in specific accumulation areas that identify the earliest date that items became waste, or any other method that clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.
72. On September 4, 2013, at the time of the Inspection, Respondent was storing an open box of used fluorescent bulbs in the Development Center's R&D Maintenance area, in the basement. The box was marked "universal waste" and "recycle 4-1," however, it was not marked or labeled with the earliest date that the universal waste in it became a waste or was received.
73. On September 4, 2013, at the time of the Inspection, Respondent was storing three open boxes of used fluorescent bulbs located in the Development Center's Finish Goods 90-day area. These boxes were not labeled or marked with any of the required phrases indicating their contents, and were not marked or labeled with the earliest date that the universal waste in them became a waste or was received.
74. On September 4, 2013, at the time of the Inspection, there did not appear to be any other method at the Development Center that clearly demonstrated the length of time that the universal waste had been accumulating.
75. On September 4, 2013, Respondent violated 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. §§ 273.13(d)(1), 273.14(e) and 273.15(c) by:
 - a. failing to keep closed four boxes of universal waste lamps, as required by 40 C.F.R. § 273.13(d)(1);
 - b. failing to label three boxes of universal waste lamps with one of the required phrases, as required by 40 C.F.R. § 273.14(e); and
 - c. failing to label four boxes of universal waste lamps with the earliest date that items became waste, and failing to have any other method that clearly demonstrated the length of time that the universal waste has been accumulating, as required by 40 C.F.R. § 273.15(c).

IV. CIVIL PENALTIES

76. Respondent agrees to pay a civil penalty in the amount of **FIFTY NINE THOUSAND DOLLARS (\$59,000.00)** in full and final settlement and satisfaction of all civil claims for penalties which Complainant may have concerning the violations and facts alleged and set forth in Section III (“EPA Findings of Fact and Conclusions of Law”) of this Consent Agreement. Such civil penalty shall become due and payable immediately upon Respondent’s receipt of a true and correct copy of this CAFO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent.
77. The civil penalty settlement amount set forth in Paragraph 76, immediately above, was determined after consideration of the statutory factors 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 reflect the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g). Complainant has also considered the Adjustment of Civil Monetary Penalties for Inflation, 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). The settlement in this proceeding is consistent with the provisions and objectives of Section 3008 of RCRA, and its implementing regulations.
78. Payment of the civil penalty set forth in Paragraph 76, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 79 through 82, 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 EPA Docket Number of this Consent Agreement, *i.e.*, RCRA-03-2016-0088;
 - 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 and mailed to:

U.S. Environmental Protection Agency
Fine and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Customer service contact: 513-487-2091

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

U.S. Environmental Protection Agency
Cincinnati Finance Center
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1818

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

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: 866-234-5681

- h. On-Line Payment Option: WWW.PAY.GOV/paygov/

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

- i. Additional payment guidance is available at:

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

or by contacting Craig Steffen at 513-487-2091

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

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

and

Natalie Katz
Sr. Assistant Regional Counsel (3RC30)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

79. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
80. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
81. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the

payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

82. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of a 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 a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
83. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

V. CERTIFICATIONS

84. Respondent certifies to Complainant by its signature hereto, to the best of Respondent's knowledge and belief, that Respondent is in compliance with all relevant provisions of the current, authorized revised PaHWR and of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, for which violations are alleged in this Consent Agreement.

VI. OTHER APPLICABLE LAWS

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

VII. RESERVATION OF RIGHTS

86. This CAFO resolves only EPA's claims for civil penalties for the specific violations and facts which are alleged in this Consent Agreement. Nothing in this CAFO shall be construed as limiting the authority of EPA to undertake action against any person, including the Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the *Consolidated Rules of Practice*. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO following its filing with the Regional Hearing Clerk.

VIII. FULL AND FINAL SATISFACTION

87. This settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g), for the violations alleged in this Consent Agreement.

IX. PARTIES BOUND

88. 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.

X. EFFECTIVE DATE

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

XI. ENTIRE AGREEMENT

90. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

For Respondent:

Date: 3/21/16

By: Jane N. Valenta
Name: Jane N. Valenta
Title: VP, EHS

For the Complainant:

Date: 3/30/16

U.S. Environmental Protection Agency, Region III
By: Natalie L. Katz
Natalie L. Katz
Sr. Assistant Regional Counsel

After reviewing the EPA Findings of Fact and Conclusions of Law and other pertinent matters, the Land and Chemicals Division of the United States Environmental Protection Agency, Region III, recommends that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

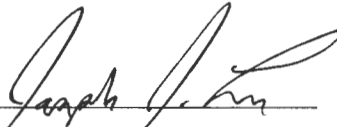
Date: 3.30.16

By: John A. Armstead
John A. Armstead, Director
Land and Chemicals Division

pay a civil penalty payment of **FIFTY NINE THOUSAND DOLLARS (\$59,000.00)**, 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 the Final Order is filed with the Regional Hearing Clerk.

March 31, 2016
Date:



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



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

VIA UPS OVERNIGHT MAIL

Colleen Grace Donofrio
380-A Tylers Mill Road
Sewell, N.J. 08080

APR 4 2016

REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

2016 APR 4 PM 4:52

RECEIVED

Re: **Consent Agreement and Final Order – FILED March 31, 2016**
PAYMENT DUE BY APRIL 30, 2016

Dear Colleen:

Please find enclosed the Consent Agreement and Final Order (“CAFO”) which has now been signed by the Regional Judicial Officer and filed with the Regional Hearing Clerk. This CAFO concludes the legal proceeding by the United States Environmental Protection Agency, Region III (“EPA”) previously against PPG Industries, Inc., under Section 3008(a) and (g) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6928(a) and (g). The Regional Judicial Officer approved the proposed settlement amount of \$59,000. The enclosed Consent Agreement and Final Order memorialize this settlement.

Payment is due within 30 days, or by April 30, 2016, to avoid additional interest and penalties. Please carefully follow the payment instructions on pages 12 - 15 of the Consent Agreement. Note that copies of the payment must be sent to the Regional Hearing Clerk and to me.

I am glad that we were able to bring this matter to a resolution. If you have questions about the requirements of the Consent Agreement and Final Order, please contact me at (215) 814-2615.

Sincerely,

Natalie L. Katz
Senior Assistant Regional Counsel

Enclosures

cc: Steve Forostiak, EPA