



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

DEC 16 2019

REPLY TO THE ATTENTION OF

Via Email

Kevin Knoth, President
Nova-Chrome, Incorporated
3200 Wolf Road
Franklin Park, Illinois 60131
kknoth@comcast.net

Re: Consent Agreement and Final Order - In the Matter of: Nova-Chrome, Incorporated
Franklin Park, Illinois **RCRA-05-2020-0002**

Dear Mr. Knoth:

Attached please find a copy of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above-referenced case. This document was filed on December 16, 2019, with our Regional Hearing Clerk.

The civil penalty in the amount of \$20,000 is to be paid in the manner described in paragraph 51 of the CAFO. Please be certain that your company's name and the docket number of this case are written on both the transmittal letter and on the check, or in the comments field if you are paying by electronic funds transfer. Payment is due according to the schedule outlined in paragraph 51.

Thank you for your cooperation in resolving this matter. Please do not hesitate to contact me at (312) 353-5490 if you have any questions regarding this letter.

Sincerely,

A handwritten signature in blue ink that reads "Mardi Klevs".

Mardi Klevs, Chief
Land and Chemicals Enforcement and Compliance Assurance Branch

Attachment

cc: Todd Marvel, (w/CAFO), Illinois Environmental Protection Agency
(todd.marvel@illinois.gov)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)
)
)
NOVA-CHROME, INC.)
FRANKLIN PARK, ILLINOIS)
)
U.S. EPA ID No.: ILD005132410)
)
RESPONDENT.)

Docket No.: RCRA-05-2020-0002

Proceeding to Commence and Conclude
an Action to Assess a Civil Penalty
Under Section 3008(a) of the Resource
Conservation and Recovery Act,
42 U.S.C. § 6928(a)



CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

1. This is an administrative action commenced and concluded under section 3008(a) of the Solid Waste Disposal Act, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. part 22.
2. Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. Respondent is Nova-Chrome, Incorporated, a corporation doing business in the State of Illinois.
4. According to 40 C.F.R. § 22.13(b), where the parties agree to settle one or more causes of action before the filing of a complaint, an administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the terms of this CAFO, including the assessment of the civil penalty specified below.

7. U.S. EPA provided notice of commencement of this action to the State of Illinois pursuant to section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon U.S. EPA by sections 3006(b) and 3008 of RCRA, 42 U.S.C. §§ 6926(b) and 6928.

9. Respondent admits the jurisdictional allegations set forth in this document and neither admits nor denies the factual allegations in this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

11. U.S. EPA has promulgated regulations, codified at 40 C.F.R. parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste or used oil, pursuant to, among others, sections 3001 – 3007, 3013 and 3014 of RCRA, 42 U.S.C. §§ 6921 – 6927, 6934 and 6935.

12. Pursuant to section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated pursuant to subtitle C (sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to section 3006 of RCRA

constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in section 3008 of RCRA, 42 U.S.C. § 6928.

13. Pursuant to section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Illinois final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986, at 51 Fed. Reg. 3778 (January 31, 1986).

14. Under section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both. The Administrator of U.S. EPA may assess a civil penalty of up to \$25,000 per day for each violation of subtitle C of RCRA according to section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note (1996), required U.S. EPA to adjust its penalties for inflation on a periodic basis. EPA published the Civil Monetary Penalty Inflation Adjustment Rule at 40 C.F.R. Part 19. Based on the Civil Monetary Penalty Inflation Adjustment Rule EPA may assess a civil penalty of up to \$32,500 per day for each violation of Subtitle C of RCRA that occurred after March 15, 2004, through January 12, 2009, \$37,500 per day for each violation of Subtitle C of RCRA that occurred after January 12, 2009 through November 2, 2015, and \$99,681 per day for each violation of Subtitle C of RCRA that occurred after November 2, 2015 and where the penalties are assessed on or after January 15, 2018.

Factual Allegations and Alleged Violations

15. Respondent is Nova-Chrome, Incorporated doing business in the State of Illinois as Nova-Chrome, Incorporated (Nova-Chrome).

16. Respondent was and is a “person” as defined by 35 IAC § 720.110, 40 C.F.R. § 260.10, and section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. Respondent is an “owner” or “operator” as those terms are defined under 35 IAC § 720.110 and 40 C.F.R. § 260.10, of a facility located at 3200 Wolf Road, Franklin Park, Illinois (facility).

18. The facility consists of land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste.

19. Respondent’s facility is a “facility” as that term is defined in 35 IAC § 720.110 [40 C.F.R. § 260.10]¹.

20. Respondent’s facility specializes in electroplating that employs a hard chrome process that uses chromic and sulfuric acid to apply chrome to steel parts.

21. Respondent’s facility includes a below-ground concrete pit structure that spans its plating line. This pit was installed in 1972, and at all times relevant to this CAFO, was used to collect and accumulate waste chromic acid solution that was identified and managed as a hazardous waste under RCRA. This below-ground structure meets the definition of “tank” as defined by regulation at 35 IAC § 720.110 [40 CFR § 260.10] as it is “a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.”

22. On July 7, 2016, U.S. EPA conducted an inspection of Respondent’s facility. The Illinois Environmental Protection Agency (Illinois EPA) accompanied U.S. EPA during this inspection. At no time during or immediately after the 2016 inspection was Nova Chrome informed by either the U.S. EPA or the Illinois EPA that they were in obvious violation of federal

¹ For the purposes of this document and for convenient reference, federal corollaries to enforceable Illinois hazardous waste program requirements are provided in brackets.

and/or state standards regarding hazardous waste under the RCRA program or Illinois' hazardous waste program. On December 21, 2016, EPA issued a Notice of Violation to Respondent for violations of RCRA, to which Nova Chrome responded on January 11, 2017.

23. On August 30, 2017, U.S. EPA issued a pre-filing notice letter (PFN) identifying potential violations of RCRA and offering the Respondent an opportunity to settle the potential violations prior to issuance of a complaint. On November 7, 2017, the Respondent submitted its initial response to the PFN.

24. At all times relevant to this CAFO, Respondent's processes at the facility produced hazardous waste identified as characteristic in 35 IAC §§ 721.120 - 721.124 [40 C.F.R. parts §§ 261.20 – 261.24], including but not limited to TCLP² characteristic for chromium (D007) and corrosive (D002) hazardous wastes.

25. Respondent is a "generator" as that term is defined in 35 IAC § 720.110 [40 C.F.R. § 260.10].

26. Respondent produced more than 1,000 kilograms (2,205 pounds) of hazardous waste, on average, each calendar month of 2014, 2015 and 2016 prior to the inspection, and was a large quantity generator.

27. Respondent is subject to the regulations promulgated pursuant to subtitle C of RCRA, 42 U.S.C. §§ 6921 - 6939e, or the analogous Illinois regulations as part of the applicable state hazardous waste management program for the State of Illinois, or both.

28. At no time relevant to this CAFO had the State of Illinois issued a permit to Respondent to treat, store, or dispose of hazardous waste at the facility.

² Toxicity Characteristic Leaching Procedure, at 40 C.F.R. § 261.24.

29. At no time relevant to this CAFO did Respondent have interim status for the treatment, storage, or disposal of hazardous waste at the facility.

A. Storage Over 90 Days

30. At all times relevant to this CAFO, Respondent collected and stored hazardous waste in a below-ground concrete pit on site. At all times relevant to this CAFO, this pit was situated under Respondent's plating line at its facility.

31. At all times relevant to this CAFO, the hazardous waste which was collected and stored in the below-ground pit referenced in Paragraph 30 above was identified as waste chromic acid solution, and this waste stream carried hazardous waste codes D002 and D007. This specific waste carries waste code D002 because of its low pH, which is less than 2.0 on the pH scale.

32. On July 7, 2016, the U.S. EPA inspector reviewed Respondent's hazardous waste shipping manifests. The U.S. EPA inspector observed that between June 2014 and January 2016, Nova-Chrome had five bulk shipments of waste chromic acid solution. Of these, three shipments indicated that Respondent had exceeded the 90-day accumulation limit. Nova-Chrome shipped waste chromic acid solution on June 17, 2014, which occurred 141 days after its prior shipment; on June 19, 2015, which occurred 203 days after its prior shipment; and on January 6, 2016, which occurred 211 days after its prior shipment. These shipments, therefore, indicated that Respondent had exceeded the allowable accumulation time by 51 days, 113 days and 121 days, respectively.

33. Respondent's failure to comply with the 90-day limit for hazardous waste accumulation subjects Respondent to the permit requirements of 35 IAC § 703.180.

34. Respondent's storage of hazardous waste without a permit or interim status violated section 3005(a) of RCRA, 42 U.S.C. § 6925(a).

B. Failure to Comply with all Hazardous Waste Tank Requirements

35. Pursuant to 35 IAC § 725.294, a large quantity generator must ensure operation of the tank system in such a way as to avoid spills, overflow, ruptures, leaks, corrosion and other tank and ancillary equipment failures. Specifically, generators must meet the following; (a) Hazardous wastes or treatment reagents must not be placed in a tank system if they could cause the tank, its ancillary equipment, or the secondary containment system to rupture, leak, corrode, or otherwise fail; (b) The owner or operator must use appropriate controls and practices to prevent spills and overflows from tank or secondary containment systems. These include at a minimum: (1) Spill prevention controls (e.g., check valves, dry discount couplings); (2) Overfill prevention controls (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank); and (3) Maintenance of sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation; (c) The owner or operator must comply with the requirements of 40 C.F.R. § 265.196 if a leak or spill occurs in the tank system.

36. At the time of the July 7, 2016 inspection, Respondent did not have a written tank system integrity assessment for the below-ground pit which, according to Nova-Chrome, was installed in 1972.

37. At the time of the July 7, 2016 inspection, Respondent had not equipped its below-ground concrete pit with secondary containment. While the below-ground pit was initially installed with a coating of unknown material, it is unclear whether the below-ground pit structure was designed, installed, or operated in such a way as to prevent migration of accumulated waste chromic acid solution out of the pit to surrounding soils and/or groundwater.

38. At the time of the July 7, 2016 inspection, it could not be determined with certainty whether Respondent was operating its pit system so as to avoid leaks from the below-

ground pit. However, there was no physical evidence at the time of the inspection that the pit had been overfilled or that it leaked. Since at least 1985, Respondent has been using the below-ground concrete pit to accumulate waste chromic acid solution from the above plating line. Waste collected in this below-ground pit is removed by a waste hauler for off-site disposal. The waste, as stated above, has a low pH due to its acid content. The Respondent's recollection is that the concrete pit was coated in 1972 with a coating of unknown material, unknown thickness, and unknown acid-compatibility, and no additional coating has been added to the pit's floor or walls during all times relevant to this CAFO.

39. At the time of the July 7, 2016 inspection, Respondent was accumulating hazardous waste in a below-ground concrete pit which was not clearly marked with the words, "Hazardous Waste."

40. Respondent's failure to comply with the above generator tank requirements is a violation of the approved RCRA program for the State of Illinois and a violation of section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

C. Failure to Comply with all Contingency Plan Requirements

41. Pursuant to 35 IAC § 725.137(a)(4), owners and operators of hazardous waste facilities must have arrangements in place to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries which could result from fires, explosions or releases at the facility.

42. At the time of the July 7, 2016 inspection, Respondent produced a copy of its Emergency Response and Spill Control Plan, dated June 2013. This plan did not include arrangements with local agencies as required in accordance with 35 IAC §§ 725.137 and 725.152(c).

43. Respondent's plan, referenced in Paragraph 42 above, did not include the locations of the spill kits that are referred to in Appendix 1 of the plan, nor did the plan fully provide physical descriptions of each piece of emergency equipment. In addition, while Respondent's plan included a map of evacuation routes, it did not include a description of an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. Such a plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes in accordance with 35 IAC § 725.152(f).

44. Pursuant to 35 IAC § 725.153(b), owners and operators are required to submit their contingency plan to the local police departments, fire departments, hospitals, contractors and State and local emergency response teams. At the time of the July 7, 2016 inspection, Respondent had no record of sending its contingency plan to the local police departments, fire departments, hospitals, contractors and State and local emergency response teams.

45. Respondent's failure to comply with the above generator contingency plan requirements is a violation of the approved RCRA program for the State of Illinois and is therefore a violation of section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

D. Failure to Comply with all Personnel Training Requirements

46. Pursuant to IAC § 725.116(d), regarding the training program referenced in Paragraph 47 below, a large quantity generator must maintain the following documents and records at its 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; 2) A written job description for each position at the facility related to hazardous waste management; 3) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position at the facility related to hazardous waste management; and 4) Records that

document that the training or job experience described above has been given to and completed by facility personnel.

47. In its Emergency Response and Spill Control Plan, June 2013, at Section 11.0, page 8, Respondent provided brief descriptions of Hazardous Communication Awareness Training with Annual Refresher Training as well as First Responder Training, Operations Level, Incident Command Training, and Refresher Training for Emergency Responders. Additionally, Appendix 1 of Respondent's plan described the facility's Hazardous Material Spill Control and Cleanup Procedures while Appendix 2 of the plan included a blank copy of the facility's Verification of Training Completion form.

48. At the time of the July 7, 2016 inspection, Respondent did not provide documentation that its employees had received the training described in its plan.

49. Respondent's failure to comply with the above generator personnel training requirements is a violation of the approved RCRA program for the State of Illinois and a violation of section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

Civil Penalty

50. Pursuant to section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle the RCRA counts of this action is \$20,000. In determining the penalty amount, Complainant considered the seriousness of the violations, any good faith efforts to comply with the applicable requirements, and the nature, circumstances, extent and gravity of the violations. Complainant also considered Respondent's willingness to undertake the supplemental environmental project described below, its ability to pay, and Respondent's cooperation in settling this matter and U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

51. Respondent must pay \$20,000 as a civil penalty for the RCRA violations according to the following schedule:

Payment 1: \$10,000 due at the time of the SEP Completion Report referenced in Paragraph 61:

Payment 2: \$10,000 due 370 days after the first payment above; and Respondent must pay the penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

The check must note the following: *In re: Nova-Chrome, Inc.*, and the docket number of this CAFO.

52. A transmittal letter, stating Respondent's name, the case name, Respondent's complete address and the case docket numbers, must accompany the payment. Respondent must send a copy of the checks and transmittal letter, by U.S. mail or email, to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604-3511

Michael Valentino (ECR-17J)
RCRA Branch
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604
valentino.michael@epa.gov

Richard Nagle (C-13J)
Office of Regional Counsel
U.S. EPA, Region 5

77 West Jackson Blvd.
Chicago, IL 60604
nagle.richard@epa.gov

53. This civil penalty is not deductible for federal tax purposes.

54. If Respondent does not timely pay this civil penalty or any stipulated penalties assessed under paragraph 66 below, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States enforcement expenses for the collection action. The validity, amount and appropriateness of these civil penalty are not reviewable in a collection action.

55. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

Supplemental Environmental Project

56. Respondent must complete a supplemental environmental project (SEP) designed to protect human health and the environment by installing at its Facility an on-site wastewater treatment system designed to treat and reduce the volume of hazardous waste generated at the Facility and sent off-site for treatment and disposal. Respondent will operate the SEP for a minimum of three years.

57. At its Franklin Park facility, Respondent must complete the SEP as follows: by September 1, 2020, Respondent will complete installation and start-up of a wastewater treatment system that will: (a) use sodium metabisulfite to chemically reduce the chromium in the

wastewater collected in its below-ground pit, from hexavalent (Cr^{6+}) to trivalent (Cr^{3+}); (b) use sodium hydroxide to neutralize the treated wastewater; (c) use a bag filter to remove precipitated metals from the wastewater; (d) employ reverse osmosis as a final polishing to its wastewater; (e) recirculate concentrate from the reverse osmosis system back to pre-treatment collection tank, T-101; and (f) re-use processed water in its plating line to affect a zero-discharge treatment system. Respondent will manifest filter sludge and spent bags as hazardous waste for off-site disposal.

58. Respondent must spend at least \$84,276 to purchase and install the equipment necessary to perform the SEP elements described in the previous paragraph. The U.S. EPA acknowledges that Nova Chrome has and will incur additional costs for coating of the pit, permitting, engineering, and oversight, as well as associated non-SEP costs³, which will raise the total out of pocket costs for Nova Chrome to design, install, and operate the SEP to \$410,000 to \$475,000. The SEP will also require \$20,000 annual operations and maintenance costs going forward.

59. Respondent certifies that it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Respondent further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

³ For example, upon receipt of the December 2016 NOV, at a cost of ~\$37,000, Respondent installed custom made drip pans beneath the floor grates that span between the chromium plating tanks and adjacent water spray rinse tanks. These drip pans receive drippings from the plating tank dragout and overspray from the water spray rinse operation. When waste generation amounts pre- and post- drip pan installation are compared, the drip pans produced a reduction of greater than 95% compared to the average waste generation rates from 2013 through 2016.

60. U.S. EPA and Illinois EPA may inspect the facility at any time to gather information about Respondent's compliance with this CAFO's SEP requirements. Decisions regarding SEP compliance under this CAFO remains a U.S. EPA decision.

61. Respondent must submit a SEP Completion Report to U.S. EPA within ninety (90) calendar days after installation and start-up of the SEP is complete, but no later than December 1, 2020. This report must contain the following information:

- a. Detailed description of the SEP as completed;
- b. Final piping and instrumentation diagram (P&ID);
- c. Description of any operating problems encountered during installation and start-up, and the actions taken to correct the problems;
- d. List and description of all work order changes, if any, during installation and de-bugging (i.e., phase during SEP start-up where problems, if encountered, are identified and corrected to allow for proper operation of the SEP);
- e. Itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services;
- f. Inclusion as an appendix to the final SEP Completion Report of the wastewater treatment system calculation worksheets that show estimated annual reagent quantities and annual amount of sludge generated from SEP installation;
- g. Description and, where necessary, justification of deviation from original SEP cost estimate;
- h. Certification that Respondent has completed the SEP in compliance with this CAFO;
- i. Chronological timeline of completed project;
- j. Description of all State and local permits required to install the SEP; and

- k. Description of the environmental and public health benefits resulting from the SEP, including the anticipated annual reduction in amount of hazardous waste generated resulting from the SEP.

62. Respondent must submit all notices and reports required by this CAFO by first class or overnight mail to Mr. Valentino of the RCRA Branch at the address provided in Paragraph 52, above.

63. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

64. Following receipt of the SEP Completion Report described in Paragraph 61, above, U.S. EPA must notify Respondent in writing that:

- a. Respondent has satisfactorily completed the SEP and the SEP Completion Report;
- b. There are deficiencies in the SEP as completed or in the SEP Completion Report and U.S. EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or submitted the SEP Completion Report, and U.S. EPA will seek stipulated penalties under Paragraph 66, below.

65. If U.S. EPA exercises option b, in Paragraph 64 above, Respondent may object in writing to the deficiency notice within ten days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Respondent a written decision on its objection. Respondent will comply with any requirements that U.S. EPA imposes in its decision. If

Respondent does not complete the SEP as required by U.S. EPA's decision, Respondent will pay stipulated penalties to the United States under Paragraph 78, below.

66. If Respondent violates any requirement of this CAFO relating to the SEP,

Respondent must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent did not complete the SEP satisfactorily according to the requirements of this CAFO including the schedule in Paragraph 61 above, Respondent must pay a penalty of \$84,211.
- b. If Respondent did not complete the SEP satisfactorily, but U.S. EPA determines that Respondent (i) made good faith and timely efforts to complete the SEP and (ii) certified, with supporting documents, that it spent at least 90 percent of the amount set forth in Paragraph 58 above, Respondent will not be liable for a stipulated penalty under subparagraph a, above.
- c. If Respondent completed the SEP satisfactorily, but spent less than 90 percent of the amount set forth in Paragraph 58 above, Respondent must pay a penalty of \$5,000.
- d. If Respondent did not timely submit the SEP Completion Report, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$100	1 st through 14 th day
\$200	15 through 30 th day
\$500	31 st day and beyond

67. U.S. EPA's determinations of whether Respondent satisfactorily completed the SEP and whether Respondent made good faith and timely efforts to complete the SEP will bind Respondent.

68. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Respondent will use the method of payment specified in Paragraph 51-52, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

69. Any public statement that Respondent makes referring to the SEP must include the following language, “Nova-Chrome, Inc., undertook this project under the settlement of the United States Environmental Protection Agency’s enforcement action against Nova-Chrome for violations of the Resource Conservation and Recovery Act (RCRA).”

70. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

General Provisions

71. Respondent certifies that it is complying fully with applicable requirements of RCRA, 42 U.S.C. §§ 6901 – 6939e, the regulations at 40 C.F.R. §§ 260.1 – 279.82 and the federally-authorized Illinois corollaries to the federal regulations.

72. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: nagle.richard@epa.gov (for Complainant) and bheinrich@vedderprice.com and kknoth@comcast.net (for Respondent).

73. Respondent’s full compliance with this CAFO resolves only Respondent’s liability for federal civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a) for the violations alleged in the CAFO.

74. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

75. This CAFO does not affect Respondent’s responsibility to comply with RCRA and other applicable federal, state, local laws or permits.

76. This CAFO is a “final order” for purposes of 40 C.F.R. § 22.31, U.S. EPA’s RCRA Civil Penalty Policy, and U.S. EPA’s Hazardous Waste Civil Enforcement Response Policy (December 2003).

77. The terms of this CAFO bind Respondent, its successors, and assigns.
78. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.
79. Each party agrees to bear its own costs and attorney's fees in this action.
80. This CAFO constitutes the entire agreement between the parties.
81. The Effective Date of this CAFO shall be the day it is filed with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 5, in accordance with Section 22.18(b)(3) of the Consolidated Rules, 40 C.F.R. § 22.18(b)(3).

Nova-Chrome, Inc., Respondent

11-11-19
Date

Kevin Knott
[Name]
[Title] PRESIDENT

United States Environmental Protection Agency, Complainant

12-10-19
Date

Sara Bruneman
for Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

In the Matter of:
Nova-Chrome, Inc.,
Docket No. RCRA-05-2020-0002

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

12/13/19
~~20~~

Date



Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Nova-Chrome, Incorporated
Docket Number: RCRA-05-2020-0002

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number RCRA-05-2020-0002, which was filed on 12/16/2019, in the following manner to the following addressees:


Copy by E-mail to Respondent: Kevin Knoth, Nova-Chrome, Inc.
kknoth@comcast.net

Copy by E-mail to Attorney for Complainant: Richard Nagle
nagle.richard@epa.gov

Copy by E-mail to Attorney for Respondent: Brett Heinrich
bheinrich@vedderprice.com

Copy by E-mail to Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: December 16, 2019



LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5