



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
MAY 13 2014

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL 7009 1680 0000 7669 2489
RETURN RECEIPT REQUESTED

Mr. Michael Hancock
Quality/Human Resources Manager
Colors, Incorporated
5780 Massachusetts Avenue
Indianapolis, Indiana 46218

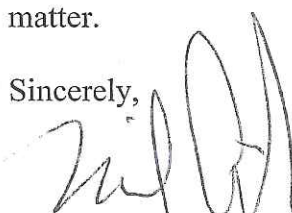
Re: Consent Agreement and Final Order
Colors, Incorporated
Docket No: **RCRA-05-2014-0007**

Dear Mr. Hancock:

Enclosed, please find a copy of the signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The original was filed on May 13, 2014, with the Regional Hearing Clerk.

Please pay the civil penalty in the amount of \$39,096 in the manner prescribed in Paragraphs 64 through 70 of the CAFO, and reference all checks with the docket number **RCRA-05-2014-0007**. Your payment is due within thirty (30) calendar days of the effective date of the CAFO. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Thank you for your cooperation in resolving this matter.

Sincerely,


for Gary J. Victorine, Chief
RCRA Branch

Enclosures

cc: Gregory P. Cafouros, Kroger (w/CAFO), Gardis & Regas, LLP (gcafouros@kgrlaw.com)
Ms. Nancy Johnston (w/CAFO), IDEM (njohnsto@idem.in.gov)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. RCRA-05-2014-0007
)	
Colors, Inc.)	Proceeding to Commence and Conclude
5780 Massachusetts Avenue)	an Action to Assess a Civil Penalty
Indianapolis, Indiana,)	Under Section 3008(a) of the Resource
)	Conservation and Recovery Act,
U.S. EPA ID: INR 000 128 496)	42 U.S.C. § 6928(a)
)	
Respondent.)	
<hr/>)	



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, as amended, 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. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. U.S. EPA provided notice of commencement of this action to the State of Indiana pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
4. Respondent is Colors, Inc., a corporation doing business in the State of Indiana.
5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the

issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. 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.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 2002(a)(1), 3006(b) and 3008 of RCRA, 42 U.S.C. §§ 6912(a)(1), 6926(b) and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO 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.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6939e, and with the regulations at 40 C.F.R. Parts 260 - 279.

Statutory and Regulatory Background

12. 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, pursuant to Sections 3002 – 3004, of RCRA, 42 U.S.C. §§ 6922 – 6924.

13. 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.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Indiana final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986. [51 Fed. Reg. 3953 (January 31, 1986)]. Subsequent program revisions were approved effective on December 31, 1986, January 19, 1988, September 11, 1989, September 23, 1991 (two separate revisions), September 27, 1991, September 30, 1991, October 21, 1996, November 30, 1999, and January 4, 2001. The U.S. EPA-authorized Indiana regulations are codified at Title 329 of the Indiana Administrative Code (IAC), Article 3.1-7-1 et seq. See also 40 C.F.R. § 272.700 et seq.

15. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), provides U.S. EPA with the authority to enforce State regulations in those States authorized to administer a hazardous waste program. Any violation of regulations promulgated pursuant to Subtitle C, Sections 3002-3004 of RCRA, 42 U.S.C. §§ 6922-6924, or any State program approved by EPA pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, constitutes a violation of RCRA, subject to the assessment of civil or criminal penalties and compliance orders as provided in § 3008 of RCRA, 42 U.S.C. § 6928.

16. 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.

17. 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. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. Part 19, U.S. 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, and, \$37,500 per day for each violation of Subtitle C of RCRA that occurred after January 12, 2009.

Factual Allegations and Alleged Violations

18. Respondent owns and operates a business located at 5780 Massachusetts Avenue, Indianapolis, Indiana (hereinafter referred to as “the Colors Site” or “Site”), with operations that include aluminum anodizing on stainless steel, and bright dip anodizing.

19. Respondent is a corporation and therefore is a “person” as defined by 329 IAC § 3.1-4-1 [40 C.F.R. 260.10], and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

20. On or about June 18, 2010, Respondent shipped nine 55-gallon drums containing chromic acid flakes, chromic/sulfuric acid and anodizing sludge off-site to Heritage Environmental Services (HES). These drums contained solid waste as defined by 329 IAC § 3.1-6-1 and 40 C.F.R. §261.2. The solid waste exhibited the characteristic of corrosivity (D002) as defined by 329 IAC § 3.1-6-1 and 40 C.F.R. §§ 261.3 and 261.22. The total amount of waste shipped off-site to HES was 1877 kilograms or 4140 pounds. This amount made the Respondent a large quantity generator. The Respondent shipped the drums off-site without completing a uniform hazardous waste manifest or a land disposal restriction certification.

21. The Site is a “facility” as defined by 329 IAC § 3.1-4-1 and 40 C.F.R. § 260.10 since Respondent stored at the Site, for a temporary period of time, the drums of hazardous wastes identified in the preceding paragraph and other similar hazardous wastes over time.

22. Respondent is, and was at all times relevant to this Complaint, the owner of the business and operated a variety of processes at its facility and thus was an owner or operator of a “facility” as defined by 329 IAC §§ 3.1-4-1 and 3.1-4-1(b), and 40 C.F.R. § 260.10.

23. Respondent is, and was at all times relevant to this Complaint, a “generator” of solid and hazardous waste as defined in 329 IAC §§ 3.1-4-1 and 3.1-6-1, and 40 C.F.R. §§ 260.10, 261.2, 261.3 and 261.22, since its processes produced sulfuric and nitric acid wastes and process sludges, including but not limited to the nine drums of hazardous wastes identified above, and aluminum waste sludge EPA observed outside on a pallet.

24. On June 23, 2010, Respondent had not submitted a notification of hazardous waste activity form.

25. Under 329 IAC §§ 3.1-6-1, 3.1-7-1, 3.1-13-1, 3.1-13-2 and 40 CFR §§ 261.5(g), 262.34(b), 270.1(c) and 270.10, a generator, including a small quantity generator, must apply for and obtain a hazardous waste storage permit if the generator fails to meet the requirements for permit exemptions.

26. Respondent generated and managed hazardous waste at the Facility after November 19, 1980.

27. At all times relevant to this Complaint, the State of Indiana had not issued a permit to Respondent to treat, store, or dispose of hazardous waste at its Facility.

28. At all times relevant to this Complaint, Respondent did not have interim status for the treatment, storage, or disposal of hazardous waste at its Facility.

29. During a U.S. EPA conducted Compliance Evaluation Inspection on June 23, 2010, the U.S. EPA inspector conducted a record review and determined that the Respondent did not:

- a. sample its own waste streams;
- b. have land disposal restriction notifications for any waste streams it shipped off-site;
- c. conduct hazardous waste training as required by RCRA;
- d. have a contingency plan;
- e. file biennial hazardous waste reports; or,
- f. document weekly inspections of hazardous waste storage areas.

30. On November 7, 2011, U.S. EPA issued a Notice of Violation to Respondent alleging certain violations of RCRA identified as a result of the Inspection.

31. Respondent submitted to U.S. EPA a written response to the Notice of Violation, dated November 11, 2011.

Count 1: Failure to Determine if a Waste is a Hazardous Waste.

32. Complainant incorporates Paragraphs 1 through 31 above as though set forth in this paragraph.

33. The regulation at 329 IAC § 3.1-7-1 and 40 C.F.R. § 262.11 requires that a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste.

34. On or about June 18, 2010, the Respondent failed to properly determine that the nine drums identified above contained characteristic hazardous waste. Additionally, during the June 23, 2010, EPA inspection, Respondent failed to characterize other wastes located on-site, including but not limited to, a five gallon bucket containing a liquid, open and located near the galvanizing process line near the acid storage tank; liquids located in the secondary containment for the acid storage tanks; soda ash used to absorb spills located on the floor in the raw material

storage tank area; and grit on the floor, in open containers and on equipment located in the Buff Shop.

35. Respondent's failure to make a proper waste determination as alleged in the preceding paragraphs violated 329 IAC § 3.1-7-1 and 40 C.F.R. § 262.11.

Count 2: Offered Hazardous Waste, for Transportation,

without an EPA Identification Number.

36. Complainant incorporates Paragraphs 1 through 31 of this CAFO as though set forth in this paragraph.

37. The regulations at 329 IAC §§ 3.1-7-1, 3.1-7-10, 3.1-7-11, 3.1-7-12 and 3.1-7-13 and 40 C.F.R. § 262.12(a) require that a generator must not offer for transportation hazardous waste without having received an EPA identification number from the Administrator.

38. Respondent offered for transportation the nine drums of hazardous waste identified in preceding paragraphs, without having received an EPA identification number. Respondent may have also offered for transportation other shipments of hazardous waste, without having received an EPA identification number prior to it receiving an EPA identification number on July 7, 2010.

39. Respondent's offering hazardous waste for transportation as alleged in the preceding paragraphs, without having received an EPA identification number, violated 329 IAC §§ 3.1-7-1, 3.1-7-10, 3.1-7-11, 3.1-7-12 and 3.1-7-13 [40 C.F.R. § 262.12(a)].

Count 3: Failure to Ship Hazardous Waste on a Required Manifest.

40. Complainant incorporates Paragraphs 1 through 31 of this CAFO as though set forth in this paragraph.

41. The regulations at 329 IAC § 3.1-7-1 and 40 C.F.R. § 262.20(a) require that a generator who transports, or offers for transport, a hazardous waste for off-site treatment, storage, or disposal, or a treatment, storage, and disposal facility must prepare a Manifest on EPA Form 8700-22 (OMB Control Number 2050-0039) and, if necessary, EPA Form 8700-22A, according to the instructions included in the appendix to this part and must follow all requirements of the Manifest.

42. On June 18, 2010, Respondent failed to ship the nine containers of hazardous waste identified in the preceding paragraphs on a required Manifest (EPA Form 8700-22).

43. Respondent's failure to ship hazardous waste as alleged in the preceding paragraph on a required Manifest (EPA Form 8700-22) violated 329 IAC § 3.1-7-1 and 40 C.F.R. § 262.20(a).

Count 4 – Storing Hazardous Waste without a Permit or Interim Status.

44. Paragraphs 1 through 31 are incorporated by reference as if fully presented in this paragraph.

45. The regulations found at 329 IAC §§ 3.1-1-7 and 13-1 and 40 C.F.R. § 270.1(c) require owners and operators of hazardous waste management units to have a permit for the storage of hazardous waste. Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), and the regulations at 40 C.F.R. Part 270, prohibit the treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a permit.

46. In addition to the nine drums identified in previous paragraphs, at the time of U.S. EPA's inspection there were other solid wastes located on-site, including but not limited to, drums containing aluminum sludge from the clean-out of process tanks; spent sulfuric and nitric acid held in storage tanks prior to discharge to the sewer system; nitric and sulfuric acid on the floor with soda ash; grit, ash and debris in the Buff Shop; and aluminum sludge stored in drums

outside on pallets. These wastes were solid wastes as defined by 329 IAC §§ 3.1-4-1 and 3.1-6-1 and 40 C.F.R. § 261.2.

47. The area where the nine drums of chromic acid flakes, chromic acid solution and anodizing sludge were stored on-site was a hazardous waste management unit as defined by 329 IAC §§ 3.1-1-7 and 3.1-4-1, 40 C.F.R. § 260.10. Respondent's facility, therefore, was a hazardous waste storage facility with a hazardous waste storage unit as defined by 329 IAC §§ 3.1-4-1 and 40 C.F.R. § 260.10.

48. Respondent owned or operated the equipment and hazardous wastes at its facility and was responsible for the overall operation of the facility. Respondent was an owner or operator as those terms are defined in 329 IAC §§ 3.1-4-1 and, 40 C.F.R. § 260.10.

49. Respondent did not have a permit or interim status to operate a hazardous waste storage unit at its facility. Consequently, Respondent was in violation of 329 IAC §§ 3.1-13-1 and 40 C.F.R. § 270.1(c) and Section 3005 of RCRA, 42 U.S.C. § 6925.

50. Including but not limited to June 18, 2010, Respondent was a generator of hazardous waste at its facility as these terms are defined in 329 IAC §§ 3.1-1-7 and 4-1, 40 C.F.R. § 260.10. At that time Respondent had accumulated more than 1000 kilograms of hazardous waste. Consequently, Respondent was subject to either the special requirements for large quantity generators (LQGs) found at 329 IAC § 3.1-7-1 and 40 C.F.R. § 262.34(a) or for small quantity generators (SQGs) found at 329 IAC § 3.1-7-1 and 40 C.F.R. § 262.34(d).

51. All generators storing hazardous waste in containers are required to label the containers with the words, "Hazardous Waste," 329 IAC §§ 3.1-6-1 and 3.1-7-1, 40 C.F.R. §§ 262.34(a)(3), 262.34(d)(3) and 261.5(g)(2). On June 18, 2010, Respondent shipped nine containers of hazardous waste off-site as non-hazardous waste without including a label with the

words, "Hazardous Waste." Consequently, Respondent failed to meet the conditions of 329 IAC §§ 3.1-1-6 and 3.1-7-1 and 40 C.F.R. § 262.34(a)(3), 262.34(d)(3) and 261.5(g)(2) and therefore did not qualify for a permit exemption.

52. All generators of hazardous waste in containers are required to comply with 40 C.F.R. 265, Part C, "Preparedness and Prevention," 329 IAC § 3.1-6-1 and 3.1-7-1 and 40 C.F.R. §§ 262.34(a)(4), 262.34(d)(4) and §261.5(g)(2). All generator facilities must be maintained and operated so as to minimize the possibility of a fire, explosion, or unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water which could threaten human health or the environment pursuant to 40 C.F.R. § 265.31.

53. At the time of the inspection, the cover on the acid waste storage tank was not completely covering the tank; a five gallon bucket containing a liquid was open and located near the galvanizing process line near the acid storage tank; liquids were located in the secondary containment for the acid storage tanks; soda ash used to absorb spills was located on the floor in the raw material storage tank area; and grit was on the floor, in open containers and on equipment located in the Buff Shop. As a result of these conditions, Respondent had not maintained and operated the facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment. Consequently, Respondent failed to meet the conditions of 329 IAC § 3.1-6-1 and 3.1-7-1 and 40 C.F.R. §§ 262.34(a)(4) 262.34(d)(4) and § 261.5(g)(2) and therefore did not qualify for a permit exemption.

54. All generators of hazardous waste in containers are required to comply with 40 C.F.R. 265, Part I, "Use and Management of Containers," 329 IAC §§ 3.1-6-1 and 3.1-7-1 and

40 C.F.R. §§ 262.34(a)(1) 262.34(d)(3) and 261.5(g)(2). Facilities are required to conduct weekly inspections of the areas where the containers were stored pursuant to 40 C.F.R.

§ 265.174.

55. During the June 23, 2010, inspection and subsequently, Respondent did not produce any records that it adequately conducted weekly inspections as required by 40 C.F.R. § 265.174. Consequently, Respondent did not conduct the weekly inspections as required by 40 C.F.R. § 265.174. Respondent failed to meet the conditions of 329 IAC §§ 3.1-6-1 and 3.1-7-1 and 40 C.F.R. §§ 262.34(a)(1), 262.34(d)(3) and 261.5(g)(2) and therefore did not qualify for a permit exemption.

56. 329 IAC §§ 3.1- 7-1, and, 40 C.F.R. §§ 262.34(a)(4) and 265.51 and 265.53 require an LQG to have a contingency plan. At the time of the inspection, Respondent did not have a contingency plan. Consequently, when it shipped over 1000 kg of hazardous waste off-site on June 18, 2010, Respondent, as an LQG, did not meet the requirements of 329 IAC §§ 3.1- 7-1 and 40 C.F.R. §§ 262.34(a)(4), 265.51 and 265.53 and therefore did not qualify for a permit exemption.

57. 329 IAC §§ 3.17-1 and 10-1and 40 C.F.R. §§ 262.34(a)(4), 265.16 (a), (b) and (c) require an LQG to provide initial and annual training for its employees with duties involving hazardous waste management that teaches them to perform their duties in a way that ensures compliance with 40 C.F.R. Part 265. At the time of the inspection and previously, Respondent did not conduct this training. Consequently, Respondent, as an LQG, failed to meet the conditions of 329 IAC §§ 3.17-1 and 10-1, 40 C.F.R. §§ 262.34(a)(4) and 265.16(a)-(c) and did not qualify for a permit exemption.

58. 329 IAC §§ 3.1-7-1, 40 C.F.R. §§ 265.16(d)(1) require an LQG to maintain documentation that the training required by this section has been completed and a document that lists the job title for each position related to hazardous waste management and the name of the person filling that position. Respondent did not have this documentation. Consequently, at the time of the inspection and previously, Respondent as an LQG, failed to meet the conditions of 329 IAC §§ 3.1-1-7, 40 C.F.R. §§ 262.34(a)(4) and 265.16(d)(1) and did not qualify for a permit exemption.

59. As alleged in paragraphs 44 through 58 above, Respondent failed to comply with the conditions necessary for an on-site generator to qualify for an exemption from a hazardous waste storage permit under 35 IAC §§ 3.1-6-1 and 3.1-7-1 and 10-1, 40 C.F.R. §§ 261.5(g) and 262.34. Respondent did not and does not have a permit for the storage of hazardous waste.

Consequently, Respondent did not meet the requirements of 329 IAC §§ 3.16-1 and 3.1-7-1 and 10-1; 40 C.F.R. §§ 261.5(g)(2) and 262.34(a) as alleged in paragraphs 44 through 58 above and did not qualify for a permit exemption. Consequently, Respondent violated 329 IAC §§ 3.1-13-1, 40 C.F.R. § 270.1(c).

**Count 5: Failure to Have A Record On-Site of a
Land Disposal Restriction Notification.**

60. Paragraphs 1 through 31 of this Complaint are incorporated herein as though set forth in this paragraph.

61. The Indiana regulations at 329 IAC § 3.1-12-1 and 40 C.F.R. § 268.7(a)(2) and (3) require generators to send a one-time written notice to each treatment or storage facility of whether their waste meets or does not meet the applicable treatment standards in 40 C.F.R. Part 268 (“LDR notification”).

62. The Indiana regulations at 329 IAC § 3.1-12-1 and 40 C.F.R. § 268.7(a)(8) require that generators retain on-site a copy of a LDR notification for shipments of hazardous waste shipped off-site.

63. Respondent shipped off-site nine drums of characteristic hazardous waste on June 18, 2010. The Indiana regulations at 329 IAC § 3.1-12-1 and 40 C.F.R. §§ 268.9(c) and (d) require characteristic hazardous waste to be treated before being land disposed and comply with 40 C.F.R. §268.7, *inter alia*. At the time of the Inspection, Respondent failed to have on-site at the Facility a copy of any land disposal notification for, chromic acid flakes, sulfuric acid solution and anodizing sludge that it shipped off-site on June 18, 2010. Respondent's failure to retain such notification violated 329 IAC § 3.1-12-1 and [40 C.F.R. § 268.7(a)(8)].

Civil Penalty

64. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$39,096. In determining the penalty amount, Complainant took into account the seriousness of the violation; Respondent's good faith efforts to demonstrate and achieve compliance with the applicable requirements; and other factors as justice may require. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy dated June 23, 2003.

65. Within thirty (30) days after the effective date of this CAFO, Respondent must pay a \$39,096 civil penalty for the RCRA violations by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

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

66. The check must state the case name, the docket number of this CAFO and the billing document number.

67. A transmittal letter, stating the case name, Respondent's complete address, the case docket number and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-13J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Jamie Paulin (LR-8J)
RCRA Branch
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Richard J. Clarizio (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

69. If Respondent does not timely pay the civil penalty, 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 the civil penalty are not reviewable in a collection action.

70. 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 thirty (30) days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount ninety (90) days past due.

General Provisions

71. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

72. 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.

73. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws or permits. Respondent certifies that it is in compliance with RCRA.

74. 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).

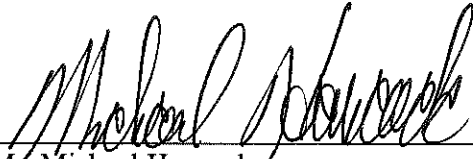
75. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

76. Each party agrees to bear its own costs and attorney's fees in this action.

77. This CAFO constitutes the entire agreement between the parties.


Colors, Inc., Respondent

4/3/2014
Date


Mr. Michael Hancock
Quality/Human Resources Manager
Colors, Inc.

United States Environmental Protection Agency, Complainant

5/1/2014
Date


Margaret M. Guerriero
Director
Land and Chemicals Division

CASE NAME: Colors, Incorporated
DOCKET NO: RCRA-05-2014-0007

CERTIFICATE OF SERVICE

I hereby certify that today I filed the original of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed to the following:

Mr. Michael Hancock
Quality/Human Resources Manager
Colors, Incorporated
5780 Massachusetts Avenue
Indianapolis, Indiana 46218

Certified Mail # 7009 1680 0000 7669 3370

Mr. Gregory P. Cafouros
Kroger, Gardis & Regas, LLP
111 Monument Circle
Indianapolis, Indiana 46204-5125

Certified Mail # 7009 1680 0000 7669 2472

Dated: MAY 13th, 2014


Rub B. Aridge
Ruben B. Aridge
Office Automation Assistant
United States Environmental Protection Agency
Region V
Land and Chemicals Division LR-8J
RCRA Branch
77 W. Jackson Blvd, Chicago, IL 60604-3590

In the Matter of:
Colors, Inc.
Docket No. RCRA-05-2014-0007

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.

5-7-2014
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5