

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

<b>In the Matter of:</b>	:	
	:	
<b>Gelest Inc.</b>	:	<b>U.S. EPA Docket No. RCRA-03-2020-0045</b>
<b>11 East Steel Road</b>	:	
<b>Morrisville, PA 19067</b>	:	<b>Proceeding under Section 3008(a) and (g) of the</b>
	:	<b>Resource Conservation and Recovery Act, as</b>
<b>Respondent.</b>	:	<b>amended, 42 U.S.C. § 6928(a) and (g)</b>
	:	
<b>11 East Steel Road</b>	:	
<b>Morrisville, PA 19067</b>	:	
	:	
<b>Facility.</b>	:	
	:	
	:	
	:	

U.S. EPA-REGION 3-RHC  
FILED-7JAN2020PM1:31

**CONSENT AGREEMENT**

**PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Gelest, Inc. (“Respondent”) (collectively the “Parties”), pursuant to Section 3008(a) and (g) of the Resource Conservation and Recovery Act (“RCRA” or the “Act”), as amended, 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.
2. Section 3008(a) of RCRA authorizes the Administrator of the U.S. Environmental Protection Agency (“EPA” or the “Agency”) to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant.
3. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil monetary penalty against any person who violates 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.

4. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “CAFO”) resolve Complainant’s civil penalty claims against Respondent under RCRA for the violations alleged herein.
5. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

### **JURISDICTION**

6. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
7. Section 3008(a) of RCRA authorizes EPA to assess penalties. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
8. 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 were authorized by EPA pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A. The Commonwealth of Pennsylvania has revised, and EPA has re-authorized, the Commonwealth of Pennsylvania Hazardous Waste Regulations several times subsequent to this original authorization. The most recent authorized (revised) regulations became effective on June 29, 2009 (74 Fed. Reg. 19453). The provisions of the current authorized (revised) Commonwealth of Pennsylvania Hazardous Waste Management Regulations, codified at 25 Pa. Code Chapters 260a-266a, 266b, and 268a-270a (“PAHMWR”), have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
9. On June 12, 2019, EPA sent a communication to the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (“PADEP”), giving prior notice of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

### **GENERAL PROVISIONS**

10. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
11. Except as provided in Paragraph 10, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.

12. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
13. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CAFO and waives its right to appeal the accompanying Final Order.
14. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
15. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

16. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
17. Respondent is, and at all times relevant to the allegations set forth against it in this Consent Agreement was, a Commonwealth of Pennsylvania corporation.
18. Respondent manufactures industrial inorganic chemicals at its facility located at 11 East Steel Road, Morrisville, Pennsylvania 19067 (the "Facility").
19. The Facility is a Large Quantity Generator ("LQG") (RCRA ID No. PAR000506329).
20. On July 31, 2018 through August 1, 2018, an EPA representative conducted a Compliance Evaluation Inspection at the Facility ("Inspection"), to examine the Facility's compliance with Subtitle C of RCRA, the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260-266, 268 and 270-273, and the authorized PAHWMR.
21. Respondent is, and at all times relevant to the allegations set forth in this Consent Agreement, was a "person," as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 25 Pa. Code § 260a.10.
22. The Respondent is, and at all times relevant to the allegations set forth in this Consent Agreement, was a "generator" of "solid waste" and "hazardous waste," as these terms are defined in 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
23. The Respondent was, at all times relevant to the allegations set forth in this Consent Agreement, engaged in the generation of "solid waste" and "hazardous waste," as those terms are defined in 25 Pa. Code § 260a.1, which incorporates by reference the definitions of those terms as set forth in 40 C.F.R. § 260.10.

24. From approximately 2002 through the present, Respondent was the “owner” and “operator” of a “facility”, as those terms are defined in 25 Pa. Code § 260a.1, which incorporates by reference the definitions of those terms as set forth in 40 C.F.R. § 260.10.

**COUNT I**

**(Operating a Treatment, Storage, and Disposal Facility without a Permit or Interim Status)**

25. The allegations in Paragraphs 1 through 24 are incorporated herein by reference, as though fully set forth at length.
26. 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, in pertinent part, that a person may not own or operate a facility for the treatment, storage or disposal of hazardous waste unless such person has first obtained a permit for such facility or has qualified for interim status for the facility.
27. Respondent has never had a permit or interim status, pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), or 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), for the storage of hazardous waste at the Facility.
28. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a) (pertaining to “Accumulation Time”), provides in applicable and relevant part:

Except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:

(1) The waste is placed:

- (i) In containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265; and/or
- (ii) In tanks and the generator complies with the applicable requirements of subparts J, AA, BB, and CC of 40 CFR part 265 . . . .

\* \* \*

- (2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
- (3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, “Hazardous Waste”; and
- (4) The generator complies with the requirements for owners or operators in subparts C and D in 40 CFR part 265, with § 265.16, and with all applicable requirements under 40 CFR part 268.

29. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(c)(1) (pertaining to “Satellite Accumulation”), provides in pertinent part, that a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste without a permit or interim status provided the generator (i) complies with 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. §§ 264.171, 264.172, and 264.173(a), and (ii) marks the containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.
30. In addition, 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), (pertaining to “Management of Containers”), provides: “A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.”
31. At the time of the Inspection on July 31, 2018, Respondent was storing on its waste pad at the Facility at least 25 containers of hazardous waste in excess of the 90-day storage limit requirement set forth in 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), without a permit or without having interim status.
32. At the time of the Inspection on July 31, 2018, Respondent was accumulating hazardous waste containers on the waste pad at the Facility and managing such hazardous waste containers as satellite accumulation containers even though such containers of hazardous waste were not marked either with the words “Hazardous Waste” or with other words that identify the contents of the containers, and not at or near any point of generation where such wastes initially accumulate at the Facility and under the control of the operator of the process generating such wastes at the Facility.
33. At the time of the Inspection on July 31, 2018, Respondent was storing in the Production QC Lab at the Facility four (4) open one-liter glass containers of hazardous waste solvents when it was not necessary to add or remove waste from such containers in storage at the Facility.
34. On July 31, 2018, for each of the reasons identified in Paragraphs 31 through 33, above, Respondent engaged in the operation of a hazardous waste storage facility (*i.e.*, the Facility) without having interim status or obtaining a permit for the Facility pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), or 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b).
35. For each of the reasons and during each of the dates and time periods identified in Paragraphs 31 through 33, above, Respondent failed to comply with the permit exemption conditions set forth in 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), as identified in Paragraphs 31 through 33, above, (*i.e.*, 90 days or less and satellite accumulation of hazardous waste by a generator at the Facility), and



therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such sections.

**COUNT II**  
**(Failure to Keep Containers Closed During Storage, Except  
When Necessary to Add or Remove Hazardous Waste)**

36. The allegations in Paragraphs 1 through 35 are incorporated herein by reference, as though fully set forth at length.
37. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), (pertaining to “Management of Containers”), provides: “A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.”
38. During the Inspection on July 31, 2018, Respondent was storing in the Production QC Lab at the Facility four (4) open one-liter glass containers of hazardous waste solvents when it was not necessary to add or remove waste from such containers in storage at the Facility.
39. On July 31, 2018 (date of the Inspection), 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 containers of hazardous waste closed except when adding or removing hazardous waste.

**COUNT III**  
**(Failure to Make a Hazardous Waste Determination)**

40. The allegations in Paragraphs 1 through 39 are incorporated herein by reference, as though fully set forth at length.
41. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11, 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 using the following methods:

- (a) The person should first determine if the waste is excluded from regulation under 40 C.F.R. § 261.4.
  - (b) The person must then determine if the waste is listed as a hazardous waste in subpart D of 40 C.F.R. Part 261.
  - (c) For purposes of compliance with 40 C.F.R. Part 268, or if the waste is not listed in subpart D of 40 C.F.R. Part 261, the generator must then determine whether the waste is identified in subpart C of 40 C.F.R. Part 261 by either:
    - (1) Testing the waste according to the methods set forth in subpart C of 40 C.F.R. Part 261, or according to an equivalent method approved by the Administrator under 40 C.F.R. § 260.21; or
    - (2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.
42. At the time of the Inspection on July 31, 2018, Respondent was storing (1) 55-gallon container labeled as “XG-2631 Aq Waste” on the waste pad at the Facility among the hazardous waste containers in the Facility’s 90-day HWAA that was not labeled as a hazardous waste.
43. At the time of the Inspection on July 31, 2018, Respondent’s representatives did not know the identity of the contents of the container labeled as “XG-2631 Aq Waste” on the waste pad at the Facility.
44. On July 31, 2018 (date of the Inspection), Respondent violated the requirements of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11, by failing to make a hazardous waste determination of the 55-gallon container labeled as “XG-2631 Aq Waste” at the time it was generated by Respondent at the Facility.

**COUNT IV**  
**(Failure to Post a “No Smoking” Sign)**

45. The allegations in Paragraphs 1 through 44 are incorporated herein by reference, as though fully set forth at length.
46. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.17(a), states, in pertinent part, that the owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. “No Smoking” signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

47. At the time of the Inspection on July 31, 2018, Respondent did not have “No Smoking” signs posted at the Facility’s 90-day hazardous waste accumulation area where there was a hazard from ignitable or reactive wastes stored on the waste pad at the Facility.
48. On July 31, 2018 (date of the Inspection), Respondent violated the requirements of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.17(a), by failing to post “No Smoking” signs conspicuously at the Facility’s 90-day hazardous waste accumulation area where there was a hazard from ignitable or reactive wastes stored on the waste pad at the Facility.

### COMPLIANCE ORDER

49. Respondent agrees to, and shall, perform the following Compliance Tasks within the time periods specified:
  - a. Immediately (*i.e.*, upon the effective date of the Consent Agreement) cease the treatment, storage or disposal of hazardous wastes (in containers, in tanks or in any other unit or location) at the Facility except in accordance with a valid permit issued pursuant to 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), or a valid exemption or exclusion from the permitting/interim status requirements provided by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a). In keeping with this Compliance Order provision, Respondent immediately (*i.e.*, upon the effective date of the Consent Agreement) shall:
    - i. cease using the waste pad at the Facility as a satellite accumulation area for any and all hazardous wastes generated at the Facility.
  - b. Within thirty (30) calendar days after the effective date of this Consent Agreement, Respondents shall:
    - i. ***Certify to EPA***, in writing, that all hazardous wastes at the Facility are being treated and accumulated/stored in accordance with 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b) or a valid exemption or exclusion from the permitting/interim status requirements of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a).
    - ii. ***Submit to EPA*** a written description of the measures being taken by Respondent to:
      1. ensure that hazardous wastes are not spilled or leaked from containers during the filling, emptying or transporting of any containers to the waste pad at the Facility; and



2. document, if applicable, where satellite accumulation in containers will be performed at the Facility at or near the point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste.

50. EPA may review the content of each requirement under this Compliance Order, certification or submission and may notify the Respondent, through written correspondence, of any deficiency(ies) in any such required certification or submission. In the event that EPA notifies the Respondent of any deficiency(ies) in any required certification or submission, Respondent shall, within seven (7) calendar days of its receipt of any such notification, modify the deficient certification(s) and/or submission(s) to remedy the identified deficiency(ies), therein providing any additional information deemed necessary by EPA, and re-submit such modified required certification(s) and/or submission(s) to EPA.

51. Any notice, submission, certification, data presentation, or other document submitted by Respondent to EPA pursuant to this Compliance Order which discusses, describes, demonstrates, or supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirements of this Compliance Order shall be certified by a responsible corporate officer of the Respondent. A responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. The aforesaid certification shall provide the following statement above the signature of the responsible corporate officer signing the certification on behalf of Respondent:

I certify under penalty of law that this document and all attachments are true, accurate and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

52. Any notice, submission, certification, data presentation, or other document submitted by Respondent to EPA pursuant to this Compliance Order shall be sent to the attention of:

Eric Greenwood (3ED22)  
RCRA Enforcement and Compliance Officer  
U.S. Environmental Protection Agency, Region III  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103

and

Louis F. Ramalho  
Senior Assistant Regional Counsel  
Office of Regional Counsel  
U.S. EPA, Region III (3RC40)  
1650 Arch Street  
Philadelphia, PA 19103-2029  
ramalho.louis@epa.gov

#### CIVIL PENALTY

53. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **Thirteen Thousand Nine Hundred Fifty (\$13,950.00) Dollars**, which Respondent shall be liable to pay in accordance with the terms set forth below.
54. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), including, the following: 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), the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
55. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
  - a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2020-0045;

- b. All checks shall be made payable to the "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  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously to:

Louis F. Ramalho  
Senior Assistant Regional Counsel  
Office of Regional Counsel  
U.S. EPA, Region III (3RC40)  
1650 Arch Street  
Philadelphia, PA 19103-2029  
[ramalho.louis@epa.gov](mailto:ramalho.louis@epa.gov)

56. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.

57. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed CAFO. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed CAFO, with a date stamp indicating the date on which the CAFO was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
58. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of the fully executed and filed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).
59. ADMINISTRATIVE COSTS: The costs of the EPA'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 – Case 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.
60. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
61. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this CAFO.

#### **GENERAL SETTLEMENT CONDITIONS**

62. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and represents that, to the best of Respondent's knowledge and belief, this CAFO does not contain any confidential business information or personally identifiable information from Respondent.
63. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute

further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this CAFO, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

#### **CERTIFICATION OF COMPLIANCE**

64. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

#### **OTHER APPLICABLE LAWS**

65. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This CAFO does not constitute a waiver, suspension or modification of the requirements of RCRA, or any regulations promulgated thereunder.

#### **RESERVATION OF RIGHTS**

66. This CAFO resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this CAFO. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. 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, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this CAFO after its effective date.



**EXECUTION/PARTIES BOUND**

72. This CAFO shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this CAFO.

**EFFECTIVE DATE**

73. The effective date of this CAFO is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

**ENTIRE AGREEMENT**

74. This CAFO constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this CAFO.

For Respondent:

GELEST, INC.

Date: 12/13/2019

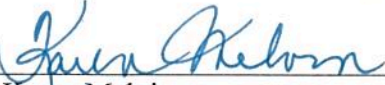
By:   
Kevin King  
Executive Vice President of Operations

In Re: Gelest, Inc.  
EPA Docket No. RCRA-03-2020-0045

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: JAN 2 2020

By:   
Karen Melvin  
Director, Enforcement and Compliance  
Assurance Division  
U.S. EPA – Region III  
Complainant

Attorney for Complainant:

Date: 12/26/19

By:   
Louis F. Ramalho  
Sr. Assistant Regional Counsel  
U.S. EPA – Region III

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

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<b>Gelest Inc.</b>	:
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FILED-7JAN2020pm1:31

**FINAL ORDER**

The Complainant, the Director for the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III and Respondent Gelest, Inc. have executed a document entitled, "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if set forth fully herein.

**WHEREFORE**, pursuant to the authority of Section 3008(a) and (g) of the Resource Conservation and Recovery Act ("RCRA" or the "Act"), as amended, 42 U.S.C. § 6928(a) and (g), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **Thirteen Thousand Nine Hundred Fifty Dollars (\$13,950.00)** in accordance with the payment provisions set forth in the attached Consent Agreement, including payment of any applicable interest, and complying with each of the additional terms and conditions as specified in the attached Consent Agreement.


This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA, and the regulations promulgated thereunder.

**Gelest, Inc.**

**U.S. EPA Docket No. RCRA-03-2020-0045**

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the CAFO is filed with the EPA Regional Hearing Clerk.

Date: Jan 7, 2020

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

**In the Matter of:**

**Gelest Inc.**  
**11 East Steel Road**  
**Morrisville, PA 19067**

**Respondent.**

**11 East Steel Road**  
**Morrisville, PA 19067**

**Facility.**

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: **U.S. EPA Docket No. RCRA-03-2020-0045**  
:  
: **Proceeding under Section 3008(a) and (g) of the**  
: **Resource Conservation and Recovery Act, as**  
: **amended, 42 U.S.C. § 6928(a) and (g)**  
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**CERTIFICATE OF SERVICE**

I certify that on JAN 07 2020, the original and one (1) copy of the foregoing *Consent Agreement and Final Order*, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copy served via UPS Next Day Delivery, to:

Thomas M. Duncan, Esquire  
Manko, Gold, Katcher, Fox, LLP  
401 City Avenue, Suite 901  
Bala Cynwyd, PA 19004

Copies served via Hand Delivery or Inter-Office Mail to:

Louis F. Ramalho  
Senior Assistant Regional Counsel  
ORC – 3RC40  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103

Eric Greenwood  
ECAD – 3ED22  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103

Dated: JAN 07 2020

Bevin Esposito

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region III

TRACKING NUMBER: 12A43F712498071719