

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

<b>In the Matter of:</b>	:	
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<b>Henkel-Harris, LLC.</b>	:	<b>U.S. EPA Docket No. RCRA-03-2021-0041</b>
<b>2983 South Pleasant Valley Road</b>	:	
<b>Winchester, VA 22601</b>	:	<b>Proceeding under Section 3008(a) and (g) of the</b>
	:	<b>Resource Conservation and Recovery Act</b>
	:	<b>(RCRA), as amended,</b>
<b>Respondent</b>	:	<b>42 U.S.C. § 6928(a) and (g).</b>
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**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 Henkel-Harris, LLC. (“Respondent”), pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a), 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. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil penalty against any person who violates any requirement of Subtitle C of RCRA, and authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties required by this Consent Agreement. The Administrator has delegated the authority to assess penalties through a consent order to the Regional Administrator who, in turn, has delegated the authority to enter into consent agreements to the Complainant. This Consent Agreement and the attached Final Order resolve Complainant’s civil penalty claims against Respondent under Subtitle C of RCRA, as amended, 42 U.S.C. §§ 6901 et seq., the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260-266, 268 and 270-273, and the authorized Commonwealth of Virginia Hazardous Waste Management Program, 9 VAC-20-60-12 et seq. for the violations alleged herein.
  
2. On December 18, 1984, 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 Virginia was granted final

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authorization to administer a state hazardous waste management program in lieu of the federal hazardous waste program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. The provisions of Virginia's hazardous waste management program through this authorization, have become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). Amendments to the Virginia hazardous waste management program were reauthorized by EPA on June 20, 2003, on July 30, 2008 and again on November 4, 2013 (with revisions not relevant here), and the revisions became effective as requirements of RCRA Subtitle C on those dates.

3. 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**

4. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
5. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4) and RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g).
6. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated April 16, 2019, EPA notified the Virginia Department of Environmental Quality (“VADEQ”) of EPA’s intent to commence this administrative action against Respondent in response to violations of RCRA Subtitle C that are alleged herein.

#### **GENERAL PROVISIONS**

7. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
8. Except as provided in Paragraph 7, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
9. 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 Consent Agreement and Final Order.

10. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
11. 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.
12. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

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

13. 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.
14. When EPA last authorized the Virginia hazardous waste regulations on November 4, 2013, EPA approved Virginia's incorporation by reference of the then current federal regulations which were in effect as of July 1, 2010, including incorporation of 40 C.F.R. Parts 261 and 262 (the generator permit exemptions). On November 28, 2016, EPA re-codified the generator permit exemptions, effective on May 30, 2017. The federal requirements previously found in 40 C.F.R. §§ 261.5 and 262.34 are re-codified at 40 C.F.R. §§ 262.14 – 262.17. The regulatory citations referenced below for the alleged violations in this Consent Agreement refer to the currently federally enforceable version of Virginia hazardous waste regulations that incorporated by reference the federal regulations which were in effect as of July 1, 2010.
15. For the times relevant to the allegations set forth below, Respondent was a limited liability company, organized under the laws of the Commonwealth of Virginia.
16. Respondent was a 'person' as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. § Section 6903(15), 40 C.F.R. § 260.10 and 9 VAC 20-60-260.A.
17. Respondent was, for the time period relevant to the allegations set forth below, the "operator" and the "owner," as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 9 VAC 20-60-260.A, of a facility located at 2983 South Pleasant Valley Road, Winchester, Virginia 22601 (hereinafter "the Facility").
18. The Facility referred to in Paragraph 17, above, including its associated equipment and structures, is a furniture manufacturing facility.
19. Respondent is assigned EPA RCRA ID No. VAD003079902.

20. For the time period relevant to the allegations set forth below, Respondent was a “generator”, and has engaged in the accumulation in “containers” at the Facility, of materials described below that are “solid wastes” and “hazardous wastes,” as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference by 9 VAC 20-60-260.A.
21. Respondent is a conditionally exempt small generator within the meaning of 9 VAC 20-60-261, which incorporates by reference 40 C.F.R. § 261.5(a).
22. On September 13, 2017, EPA conducted a Compliance Evaluation Inspection (“CEI”) at the Facility, to examine the Facility’s compliance with Subtitle C of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. §§ 6901 et seq., the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260-266, 268 and 270-273, and the authorized Commonwealth of Virginia Hazardous Waste Management Program, 9 VAC-20-60-12 et seq.
23. On November 27, 2018, EPA issued Respondent a Request for Information pursuant to Section 3007(a) of RCRA, regarding the generation and management of hazardous waste by Respondent at the Facility.
24. Respondent generates, *inter alia*, waste solvents, resins, lacquers, and universal waste lamps at the Facility which are hazardous wastes as defined in 40 C.F.R. § 260.10, as incorporated by reference by 9 VAC 20-60-260.A.
25. On the basis of EPA’s findings during the CEI and Respondent’s response to EPA’s Request for Information, EPA alleges that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and certain federally-authorized VHWMR requirements promulgated thereunder.

### **Count I**

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

26. The allegations of Paragraphs 1 through 25 of this Consent Agreement are incorporated herein by reference.
27. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and VAC 20-60-270, which incorporates by reference 40 C.F.R. § 270.1(b) (pertaining to the Hazardous Waste Permit Program), 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.



28. Respondent has never had a permit or interim status, pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), or 9 VAC 20-60-270, which incorporates by reference 40 C.F.R. § 270.1(b), for the treatment or storage of hazardous waste at the Facility.

*Generator Permit Exemption Requirements: Generator Accumulation of Hazardous Waste*

29. 9 VAC 20-60-261, which incorporates by reference 40 C.F.R. § 261.5(g), with exceptions not relevant here, provides:

In order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of 100 kilograms or less of hazardous waste during a calendar month to be excluded from full regulation under this section, the generator must comply with the following:

\* \* \*

(2) The conditionally exempt small quantity generator may accumulate hazardous waste on-site. If he accumulates at any time 1,000 kilograms or greater of his hazardous wastes, all of those accumulated wastes are subject to regulation under the special provisions of [40 C.F.R.] part 262 applicable to generators of greater than 100 kilograms and less than 1000 kilograms of hazardous waste in a calendar month as well as the requirements of [40 C.F.R.] parts 263 through 268, and parts 270 and 124 of this chapter, and the applicable notification requirements of section 3010 of RCRA. The time period of [40 C.F.R.] 262.34(d) for accumulation of wastes on-site begins for a conditionally exempt small quantity generator when the accumulated wastes equal or exceed 1000 kilograms.

30. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(d), with exceptions not relevant here, provides that a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that, among other things, the quantity of waste accumulated on-site never exceeds 6,000 kilograms.
31. 9 VAC 20-60-262 which incorporates by reference 40 C.F.R. § 262.34(e) with exceptions not relevant herein, provides that a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and who must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more for off-site treatment, storage or disposal may accumulate hazardous waste on-site for 270 days or less without a permit or without having interim status provided that he complies with the requirements of 40 C.F.R. § 262.34(d).

32. 9 VAC 20-60-262 which incorporates by reference 40 C.F.R. § 262.34(f) with exceptions not relevant herein, provides that a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and who accumulates hazardous waste in quantities exceeding 6000 kg or accumulates hazardous waste for more than 180 days (or for more than 270 days if he must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of 40 C.F.R. Parts 264, 265 and 267, and the permit requirements of 40 C.F.R. Part 270 unless he has been granted an extension to the 180-day (or 270-day if applicable) period.
33. At the time of the CEI on September 13, 2017, the Facility's weekly inspection logs and hazardous waste manifests showed that the Respondent stored hazardous waste at the Facility in excess of 6,000 kilograms for greater than 270 days.
34. On September 8, 2017, Respondent shipped off-site a combined total of 17,010 pounds of F003, F005, D001, and D035 hazardous waste from the Facility, which Respondent accumulated on-site at the Facility since 2013.
35. Therefore, on or before September 8, 2017, Respondent did not meet the generator permit exemption requirements as required by 9 VAC 20-60-261 and 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. §§ 261.5, and 262.34 (2010), and thus did not qualify for the generator permit exemption. Since the Respondent did not have a permit or interim status, Respondent owned and operated a hazardous waste storage, treatment or disposal facility without a permit and was subject to the requirements of 40 C.F.R. Parts 264, 265 and 267, and the permit requirements of 40 C.F.R. Part 270 in violation of 9 VAC 20-60-270.A, which incorporates by reference 40 C.F.R. Part 270.
36. In failing to comply with 9 VAC 20-60-270.A, which incorporates by reference 40 C.F.R. Part 270, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

**Count II**  
**Failure to Submit a Biennial Report**

37. The allegations of Paragraphs 1 through 36 of this Consent Agreement are incorporated herein by reference.
38. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.41, a generator who ships any hazardous waste offsite to a treatment, storage or disposal facility within the United States must prepare and submit a single copy of a biennial report to the Director of the Virginia Department of the Environmental Quality (VADEQ) by

March 1 of each even numbered year. The Biennial Report shall cover generator activities during the previous year and shall include the information described in 40 C.F.R. § 262.41.

39. At the time of the CEI, Respondent had failed to prepare and submit a copy of a Biennial Report to the Director of VADEQ for reporting year 2016.
40. In failing to comply with 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.41, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

**Count III**  
**Failure to Provide Training**

41. The allegations of Paragraphs 1 through 40 of this Consent Agreement are incorporated herein by reference.
42. 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.16(a)(1), states that facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of 40 C.F.R. Part 264.
43. At the time of the CEI, Respondent had failed to provide Facility personnel classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the Facility's compliance with the requirements of 40 C.F.R. Part 264.
44. In failing to comply with 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.16(a)(1), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

**Count IV**  
**Failure to Document Job Titles and Job Descriptions**

45. The allegations of Paragraphs 1 through 44 of this Consent Agreement are incorporated herein by reference.
46. 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.16(d), provides, in pertinent part, that the owner or operator must maintain the following documents and records at the facility:

- 1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;

- 2) A written description for each position at the facility related to hazardous waste management; and
  - 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.
47. At the time of the CEI, Respondent did not have any records or documentation of the job title for each position at the Facility related to hazardous waste management, and the name of the employee filling each job, a written description for each position at the facility related to hazardous waste management, and 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.
48. In failing to comply with 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.16(d), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

**Count V**  
**Failure to have a Contingency Plan**

49. The allegations of Paragraphs 1 through 48 of this Consent Agreement are incorporated herein by reference.
50. 9 VAC 20-60-264, which incorporates by reference the federal regulation at 40 C.F.R. § 264.51, requires that each owner and operator must have a contingency plan for the facility.
51. At the time of the CEI, Respondent did not have a contingency plan for the Facility.
52. In failing to comply with 9 VAC 20-60-264, which incorporates by reference the federal regulation at 40 C.F.R. § 264.51, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

**Count VI**  
**Failure to Document Weekly Inspections of Hazardous Waste Accumulation Areas**

53. The allegations of Paragraphs 1 through 52 of this Consent Agreement are incorporated herein by reference.
54. According to the provisions of 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.174, provides, in pertinent part, that the owner or operator must inspect areas where containers are stored at least weekly.

55. According to the provisions of 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.15(d), requires that the owner or operator must record inspections in an inspection log or summary that must be kept for at least 3 years from the date of the inspection.
56. At the time of the CEI, Respondent did not have an inspection log or summary for the inspections performed in the past 3 years from the date of the CEI for the container storage accumulation area at the Facility.
57. In failing to comply with 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.15(d), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

#### CIVIL PENALTY

58. 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 ONE THOUSAND dollars (\$1,000.00), which Respondent shall be liable to pay in accordance with the terms set forth below.
59. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in the RCRA, Section 3008, including, the following: the seriousness of the violation(s) and any good faith effort(s) by the Respondent to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October 1990 RCRA Civil Penalty Policy, as revised in June 2003 ("RCRA Penalty Policy"), which reflects the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 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.
60. The civil penalty set forth in Paragraph 58, above, is also based upon an analysis of Respondent's ability to pay a civil penalty. This analysis was based upon information submitted to EPA by Respondent.
61. Based upon this analysis EPA has determined that the Respondent is unable to pay a civil penalty in excess of the dollar amount set forth in Paragraph 58, above, in settlement of the above-captioned action. Complainant has relied upon the financial information provided by Respondent and, based upon that information, it is Complainant's conclusion that the Respondent has established that it is unable to pay a civil penalty in excess of the dollar amount set forth in Paragraph 58, above.

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62. 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.*, EPA Docket No. RCRA-03-2021-0041;
- 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  
Sr. Assistant Regional Counsel  
U.S. EPA, Region III (3RC40)  
1650 Arch Street  
Philadelphia, PA 19103-2029  
[Ramalho.Louis@epa.gov](mailto:Ramalho.Louis@epa.gov)

63. 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.

64. 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 Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order 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).
65. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of the fully executed and filed Consent Agreement and Final Order 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
66. 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).
67. 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.
68. 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).
69. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

#### **GENERAL SETTLEMENT CONDITIONS**

70. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.

71. 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 Consent Agreement and Final Order, 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**

72. 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**

73. Nothing in this Consent Agreement and Final Order 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 Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the RCRA, or any regulations promulgated thereunder.

#### **RESERVATION OF RIGHTS**

74. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. 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 Consent Agreement and



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Final Order after its effective date. Respondent reserves whatever rights or defenses it may have to defend itself in any such action.

**EXECUTION/PARTIES BOUND**

75. This Consent Agreement and Final Order 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 Consent Agreement and Final Order.

**EFFECTIVE DATE**

76. The effective date of this Consent Agreement and Final Order 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**

77. This Consent Agreement and Final Order 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 Consent Agreement and Final Order.

For Respondent:

Henkel-Harris, LLC.

Date: 12-8-20

By:   
David Gum, Managing Member

In re: Henkel-Harris, LLC.  
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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: 12/15/20

By: KAREN MELVIN Digitally signed by KAREN MELVIN  
Date: 2020.12.15 16:00:36 -05'00'  
Karen Melvin  
Director, Enforcement and Compliance Assurance Division  
U.S. EPA – Region III  
Complainant

Attorney for Complainant:

Date: 12/10/20

By: LOUIS RAMALHO Digitally signed by LOUIS RAMALHO  
Date: 2020.12.10 10:17:29 -05'00'  
Louis F. Ramalho  
Sr. Assistant Regional Counsel  
U.S. EPA – Region III



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**(\$1,000.00)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

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.

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

Date: 12/16/20

By:

**JOSEPH LISA** Digitally signed by JOSEPH LISA  
Date: 2020.12.16 11:17:45 -05'00'

\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA Region III

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

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: (g) of the Resource Conservation and  
: Recovery Act, as amended, 42 U.S.C.  
: Section 6928(a) and (g)  
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CERTIFICATE OF SERVICE

I certify that on 12/16/20, 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 served a true and correct copy of the foregoing to the following person, in the manner specified below, at the following electronic email addresses:

Copy served via Electronic Mail to:

Todd O. Maiden, Esq.  
Reed Smith LLP  
101 Second Street  
Suite 1800  
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