September 25, 2017

DayGlo Color Corporation
ATTN: Wayne R. Likavec
4515 St. Clair Avenue
Cleveland, OH 44103

Re: Day-Glo Color Corp.
Director's Final Findings and Orders (DFFO)
DFFO
RCRA C - Hazardous Waste
Cuyahoga County
OHD004197257

Subject: Final Findings and Orders of the Director

Dear Sir:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for DayGlo Color Corp.

If you have any questions, please contact Andrea Smoktonowicz at (614) 644-3037.

Sincerely,

Tonya Andrews, Administrative Professional 3
Division of Environmental Response & Revitalization

Enclosure

cc: Mitch Mathews, DERR, CO
    Tammy McConnell, DERR, CO
    Karen Nesbit, DERR, NEDO
    Andrea Smoktonowicz, Legal
BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:
DayGlo Color Corp.
4515 St. Clair Avenue
Cleveland, Ohio 44103

Director's Final
Findings and Orders

I certify this to be a true and accurate copy of the
official documents as filed in the records of the Ohio
Environmental Protection Agency.

PREAMBLE

It is hereby agreed by and among the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to DayGlo Color Corp.
(Respondent) pursuant to the authority vested in the Director of the Ohio Environmental
Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.02(G),
3734.13, and 3745.01.

II. PARTIES

These Orders shall apply to and be binding upon the Respondent and successors in
interest liable under Ohio law. No change in ownership of the Respondent, or of the
Facility, shall in any way alter the Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning
as used in ORC Chapter 3734 and the rules promulgated thereunder.

IV. FINDINGS OF FACT

The Director of Ohio EPA ("Director") has determined the following findings:

1. Pursuant to ORC § 3734.02(G) and Ohio Administrative Code (OAC) rule 3745-
50-31, the Director, by order, may exempt any person generating, storing,
treating, disposing of, or transporting hazardous waste, in such quantities or
under such circumstances that, in the determination of the Director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a permit or comply with other requirements or ORC Chapter 3734. Such an exemption shall be consistent with and equivalent to rules promulgated under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C. Section 6921 et seq., as amended.

2. Respondent is the owner and operator of the facility located at 4515 St. Clair Avenue, Cleveland, Ohio 44103 (Facility). Respondent notified of its hazardous waste activities and was assigned U.S. EPA identification number OHDD004197257. At the Facility, Respondent accumulates hazardous waste, including ignitable hazardous waste (D001) as identified in OAC rule 3745-51-21, in various containers including pails, drums, and tanks.

3. On November 29, 2016, Ohio EPA conducted a compliance evaluation inspection at the Facility. During the inspection, Ohio EPA discovered Respondent had, inter alia, violated Ohio’s hazardous waste laws, specifically, OAC rule 3745-66-76, while inspecting the less than 90-day hazardous waste accumulation room for adequate aisle space. There were two windows in the room and the building next door appeared to be only a few feet away. OAC rule 3745-66-76 requires that containers holding ignitable hazardous waste or reactive hazardous waste shall be located at least 15 meters, i.e., 50 feet, from a facility’s property line. The hazardous waste accumulation area in question is a less than 90-day hazardous waste storage area located in Plant 1 and known as the Flammable Liquids room. The inspector verified that Plant 1 is closer than 50 feet to the property line.

4. By letter dated January 19, 2017, Respondent was notified of the violations discovered during the inspection referenced in Finding No. 3. of these Orders. This letter explained that to resolve the violation of OAC rule 3745-66-76, Respondent could request an exemption by the Director from OAC rule 3745-66-76 to keep the present location as the hazardous waste accumulation area.

5. On April 18, 2017, Ohio EPA received an e-mail from Michael Kelley, of the Cleveland Fire Department, explaining that he inspected DayGlo in regards to our concerns for their Flammable Liquids storage room. He further explained their agreement to remove the windows and replace them with cement block filled with cement to meet the Fire rating of the room. He confirmed that he reinspected the room and the windows were removed and cement block installed and filled and that he approved the room. He also attached pictures of the room.
6. On April 28, 2017, Ohio EPA received a letter from the Respondent requesting an exemption (See Exhibit 1) from the requirement in OAC rule 3745-66-76 to locate containers holding ignitable hazardous waste at least 50 feet from the Facility's property line. The exemption request included information justifying the exemption. According to the exemption request submitted by Respondent:

"The Lieutenant Kelly from Cleveland Fire Department inspected the less than 90-day accumulation area in Plant 1 and requested that we replace the two glass windows that are in the room with fire rated block. This work has been completed (See Exhibit 2 for pictures) and the Lieutenant Kelly has re-inspected (See Exhibit 3 for e-mail received from Michael Kelley confirming reinspection) the less than 90-day accumulation area and indicated that he is satisfied with the change. The less than 90-day accumulation area is now a solid block room with one fire rated man door and one overhead drop-down fire door. It is segregated from the work areas minimizing the potential for release. The room is protected by a wet sprinkler system and the ignitable waste containers are protected by secondary containment."

7. Upon the effective date of these Orders, the violation of OAC rule 3745-66-76 is resolved.

8. Pursuant to ORC § 3734.02(G) and OAC rule 3745-50-31, the Director has determined that Respondent's accumulation of ignitable hazardous waste less than 50 feet from the Facility's property line is unlikely to adversely affect public health or safety or the environment.

V. ORDERS

1. Respondent is hereby exempted from the requirement to accumulate ignitable hazardous waste at least 50 feet from the Facility's property line, as required by OAC rule 3745-66-76, provided that the ignitable hazardous waste is managed in accordance with all other applicable hazardous waste laws and Ohio Fire Code and National Fire Protection Association requirements and standards.

2. The Director may revoke the exemption granted in Order No. 1. of these Orders for any reason, including but not limited to, a determination that Respondent's activities at the Facility adversely affect public health or safety or the environment, and/or activities are not being conducted in accordance with these Orders.
3. The exemption from the State of Ohio’s hazardous waste requirements provided by these Orders shall terminate when one of the following events occurs:
   a. Respondent ceases to accumulate ignitable hazardous waste at the Facility;
   b. Any change in ownership of the Facility or adjacent property;
   c. The Cleveland Fire Department determines the location of this hazardous waste accumulation area is no longer suitable;
   d. Any change in use of the adjacent property, such as a building is erected on the adjacent property; or
   e. The Director revokes the exemption granted to Respondent under these Orders.

4. The issuance of these Orders by the Director does not release Respondent of any liability it may have incurred for any violations which may have occurred at the Facility prior to the effective date of these Orders. The issuance of these Orders does not release Respondent from any obligation it has to comply with the State of Ohio’s environmental laws, except as otherwise specifically provided herein.

5. These Orders do not exempt Respondent from any other local, state, or federal laws or regulations which are otherwise applicable.

VI. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent’s Facility.

VII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.
VIII. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges, and causes of action except as specifically waived in Section IX. of these Orders.

IX. WAIVER

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative and judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

X. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's Journal.

XI. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

[Signature]

Craig W. Butler
Director
IT IS SO AGREED:

DayGlo Color Corp.

Signature: Wayne R. Likavec
Date: 8/17/17

Printed or Typed Name: Wayne R. Likavec
Title: Director of EHS Regulatory & QA
Exhibit 1
Dear Director Butler,

On November 29, 2016, Karen Nesbit from the Northeast District Office conducted a Compliance Evaluation Inspection of our facility at 4515 St. Clair Ave., Cleveland Ohio. As a result of this inspection, DayGlo Color was given a notice of violation for OAC Rule 3745-66-76, Special Requirements for Ignitable or Reactive Wastes. Ms. Nesbit suggested that I submit an Exemption Request.

I am requesting an Exemption from OAC Rule 3745-66-76. This rule states that containers holding ignitable or reactive waste shall be located at least fifty feet from the facility’s property line. Our less than 90-day accumulation area in Plant 1 is used to store ignitable waste and is within 50 feet of our property line. Lieutenant Kelly from the Cleveland Fire Department inspected the less than 90-day accumulation area in Plant 1 and requested that we replace the two glass windows that are in the room with fire rated block. This work has been completed and Lieutenant Kelly has re-inspected the less than 90-day accumulation area and indicated that he is satisfied with the change. The less than 90-day accumulation area is now a solid block room with one fire rated man door and one overhead drop-down fire door. It is segregated from the work areas minimizing the potential for release. The room is protected by a wet sprinkler system and the ignitable waste containers are protected by secondary containment.

Sincerely,

Wayne R. Likavec, Ph.D.
Director of EH&S, Regulatory and Quality Assurance
DayGlo Color Corp

Enclosure: Site Map
From: Mathews, Mitchell
To: Mathews, Mitchell
Subject: FW:

From: Oryshkewych, Natalie
Sent: Thursday, April 20, 2017 3:36 PM
To: Nesbit, Karen <karen.nesbit@epa.ohio.gov>
Subject: FW:

From: Natalie Oryshkewy [mailto:natalieo@cox.net]
Sent: Thursday, April 20, 2017 3:35 PM
To: Oryshkewych, Natalie <Natalie.Oryshkewych@epa.ohio.gov>
Subject:
Exhibit 3
From: Kelley, Michael [mailto:mkelley@city.cleveland.oh.us]
Sent: Tuesday, April 18, 2017 8:40 AM
To: Nesbit, Karen <karen.nesbit@epa.ohio.gov>
Subject: DayGlo Corp.

Karen,

I inspected DayGlo Corp. located 4732 St. Clair ave.in regards to your concerns for their Flammable Liquids storage room located on the first floor in which windows were located on the east side of the room and the proximity to the neighboring building to the east was 3 feet. I discussed your concerns with Joe Shaw plant manager and the our agreement was that DayGlo would remove the windows and replace them with cement block filled with cement to meet the Fire rating of the room. The windows were removed and cement block installed and filled. I have reinspected and approved the room. Please contact me at 216/857-7381 so I may forward pictures of the room.

Michael Kelley Lieutenant
UST/AST BUSTR Inspector
WMD/ Haz Mat Specialist
Cleveland Fire Department
216/664-3542