UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

IN THE MATTER OF:	Docket No. CAA-09-2010-06
Columbus Manufacturing, Inc.,	**ADMINISTRATIVE COMPLIANCE ORDER ON CONSENT**
Respondent.	
Proceeding under Section 113 of the Clean Air Act, 42 U.S.C. §7413.	

JURISDICTION

1. Pursuant to Title I, Section 113(a)(3)(B) of the Clean Air Act, 42 U.S.C. §7413(a)(3)(B), and based upon available information, EPA hereby makes and issues the following Order ("Order"), with the expressed consent of Respondent, Columbus Manufacturing, Inc. Section 113(a)(3) grants to the Administrator of the U.S. Environmental Protection Agency ("EPA") the authority to make a finding of violation of a requirement or prohibition of Title I, and, upon such a finding, to issue an order requiring a person to comply with such requirement or prohibition. This authority was delegated by the Administrator to the Regional Administrators on August 4, 1994 by EPA Delegation 7-6-A, and, within EPA Region IX, was redelegated to, among others, the Director of the Superfund Division.

2. Pursuant to Section 112(r)(1) of the Clean Air Act, 42 U.S.C. § 7412(r)(1), the owners and operators of stationary sources producing, processing, handling or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

DEFINITIONS

3. Section 112(r)(2)(C) of the Clean Air Act, 42 U.S.C. § 7412(r)(2)(C), and the regulations at 40 C.F.R. § 68.3 define "stationary source" as, *inter alia*, any buildings, structures, equipment, installations or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control) and from which an accidental release may occur.

4. Section 112(r)(2)(A) of the Clean Air Act, 42 U.S.C. § 7412(r)(2)(A), defines "accidental release" as an unanticipated emission of a regulated substance, as defined below, or other extremely hazardous substance into the ambient air from a stationary source.

5. Section 112(r)(2)(B) of the Clean Air Act, 42 U.S.C. § 7412(r)(2)(B), defines "regulated substance" as a substance listed pursuant to Section 112(r)(3) of the Clean Air Act. The list of substances regulated under Section 112(r) of the Clean Air Act is set forth at 40 C.F.R. § 68.130.

6. As used herein, the term "extremely hazardous substance" shall mean an extremely hazardous substance within the meaning of Section 112(r)(1) of the Clean Air Act. Such substances include any chemical which may, as a result of short-term exposures because of releases to the air, cause death, injury or property damage due to its toxicity, reactivity, flammability, or corrosivity.

7. As used herein, the term "day" shall mean calendar day.

FINDINGS OF FACT

8. Respondent, a Delaware corporation, owns and/or operates a facility located at 493 Forbes Boulevard, in the City of South San Francisco, San Mateo County, California (the "Facility"). Respondent's Facility is a meat processing facility. The Facility is located within a densely populated commercial and light industrial area and is near a major highway. There are also a number of childcare facilities located near Respondent's Facility.

9. At the Facility, Respondent handles, stores, and uses, and has handled, stored, and used, anhydrous ammonia, a substance that is regulated by the Clean Air Act. Respondent operates two mechanical refrigeration systems, both of which use anhydrous ammonia, an extremely hazardous substance, at the Facility.

10. According to a 2008 Material Safety Data Sheet ("MSDS") provided by Respondent, anhydrous ammonia is harmful to humans who are exposed to it by inhalation, ingestion, or skin contact. The MSDS states that exposure to anhydrous ammonia vapor causes temporary blindness and eye damage, and irritation of the skin, mouth, throat, respiratory tract, and mucous membranes. Prolonged exposure to anhydrous ammonia vapor above certain concentrations can lead to death. The MSDS states that precautions to be utilized when handling anhydrous ammonia include mechanical ventilation, use of a respirator with ammonia chemical cartridges, and use of protective clothing, including gas tight goggles and rubber gloves.

11. In order to comply with the requirements of Section 112(r)(1) of the Clean Air Act, facility owners and operators of facilities which use extremely hazardous substances must, at a minimum, ensure that equipment and practices comply with recognized and generally accepted industry standards and practices.

12. Recognized industry standards and practices for mechanical refrigeration systems using anhydrous ammonia include, but are not limited to, those of the American National Standards Institute ("ANSI"), the American Society of Heating, Refrigerating, and Air-Conditioning Engineers ("ASHRAE"), and the International Institute of Ammonia Refrigeration ("IIAR").

13. The ANSI "National Standard Safety Requirements for the Storage and Handling of Anhydrous Ammonia" (ANSI K61.1, 1999) include, inter alia:

a. Part 4.2.2, which specifies that water should not be used on liquid ammonia spills;

b. Part 5.6.6, which specifies that any parts of valves which are subject to gas pressure should be made of steel, ductile (nodular) iron, or malleable iron; and

c. Part 5.8.16, which specifies that pressure relief valves should be replaced every five years or, in the alternative, disassembled, inspected, repaired and tested by the manufacturer, or a qualified repair organization, in a manner such that the valve's condition and performance is certified as being equivalent to the standards for the original valve.

14. The IIAR "Guidelines for: Start-up, Inspection and Maintenance of Ammonia Mechanical Refrigerating Systems" (Bulletin No. 110, 3/93) include, inter alia, Part 6.5.4, which specifies that pressure relief valves shall be replaced with a new or recalibrated valve at intervals not exceeding five years.

15. The IIAR "Guidelines for: IIAR Minimum Safety Criteria for a Safe Ammonia Refrigeration System" (Bulletin No. 109, 10/97) include, inter alia, Part 4.10.3 which specifies that the main shut-off valve ("King Valve") should be identified with a prominent sign having letters sufficiently large to be easily read.

16. The IIAR "Guidelines for: Identification of Ammonia Refrigeration Piping and System Components" (Bulletin No. 114, 9/91) set out uniform guidelines for identifying ammonia refrigeration piping and system components to facilitate maintenance and provide information to emergency service personnel. These guidelines, at Part 4.1, specify that piping markers shall be used to identify the refrigerant (i.e. ammonia), the physical state of the refrigerant, the relative pressure level, and the direction of flow. These guidelines also specify, at Part 4.2, that component markers shall bear the name of the equipment they identify and provide a pressure level designation.

17. Respondent has experienced accidental releases of anhydrous ammonia from its Facility to the air. Such releases occurred in February and August 2009.

18. On or about February 17, 2009, there was an accidental release of anhydrous ammonia from the Facility (the "February 2009 release").

19. In response to the February 2009 release, EPA conducted an inspection of the Facility on March 11, 2009. The San Mateo County Division of Environmental Health Services (the "County") also participated in this inspection.

20. During the March 2009 inspection, EPA inspectors reviewed, among other things, a "California Accidental Release Prevention Program Incident Investigation," dated March 4, 2009, which Respondent prepared in response to the February 2009 release. This incident investigation report indicated, among other things, that the February 2009 release of anhydrous

ammonia was of approximately 217 pounds and occurred at approximately 4:45 am from a point in the Facility's outdoor mezzanine area of engine room #1.

21. On or about April 6, 2009, Respondent prepared a "Root Cause Addendum" to the March 4, 2009 incident investigation report. The Root Cause Addendum identified the root cause of the February 2009 release as the failure of a corroded copper or brass fitting connecting stainless steel tubing to a pressure control switch which operates an ammonia recirculating pump located in the Facility's engine room #1.

22. Respondent commenced work in March 2009 on a project, which it had planned and approved in November 2008, to replace a significant number of the components of its refrigeration system, including the relocation of Valve Group 19 and associated piping from inside its main building to the roof of the building.

23. On or about August 28, 2009 there was a second accidental release of anhydrous ammonia from the Facility (the "August 2009 release"). As a result of this release, several members of the public sought medical treatment at local hospitals. One individual remained hospitalized for four days as a consequence of this release.

24. In response to the August 2009 release, EPA conducted inspections of the Facility on October 6, 2009 and January 5, 2010. The County also participated in each of these inspections.

25. During the October 2009 inspection, EPA inspectors reviewed, among other things, an incident investigation report dated September 25, 2009 which Respondent prepared in response to the August 2009 release. This incident investigation report indicated, among other things, that the August 2009 release of anhydrous ammonia was of approximately 200 pounds and occurred at approximately 5:30 am from a point within "Valve Group 19," located on the roof of the Facility's main building.

26. Following the January 2010 inspection, Respondent provided EPA inspectors with a copy of an "Incident Investigation Report Ammonia Release," dated October 30, 2009, which was prepared for Respondent by a consultant, R.A. Corbett Engineering. The October 30, 2009 incident investigation report identified the direct cause of the August 2009 release as a buildup of hydrostatic pressure in a section of piping within Valve Group 19 which caused the subsequent rupture of an in-line strainer. This incident investigation report further indicated that the critical buildup of hydrostatic pressure was caused by the failure to modify valve control sequencing after a change in design during the replacement and relocation of Valve Group 19 to the roof, coupled with the closure of certain solenoid valves in the Valve Group.

27. During the October 2009 and January 2010 inspections, a facility representative told EPA inspectors that the August 2009 release had been controlled within minutes when the Facility's refrigeration contractor went on to the roof and closed valves at Valve Group 19 in order to isolate the leaking portion of the system. During the January 2010 inspections, a facility representative told EPA inspectors that, after isolating the leaking portion of the system, the Facility's refrigeration contractor applied water from a hose to liquid anhydrous ammonia that had pooled on the roof, washing the liquid anhydrous ammonia from the roof via drainage downspouts and to the local storm sewer system. In applying water to the pool of liquid

anhydrous ammonia, the contractor increased the volatilization of the ammonia which resulted in an increase in the size and extent of the ammonia vapor cloud.

28. Information collected by EPA, including information collected during and in connection with EPA's March 2009, October 2009 and January 2010 inspections, revealed that Respondent or its contractor did not follow recognized industry standards and practices in designing and maintaining the Facility's anhydrous ammonia refrigeration processes. This failure to follow recognized industry standards and practices was the direct cause of the February and August 2009 releases of anhydrous ammonia and any harmful effects resulting therefrom, including:

a. Respondent failed to follow ANSI K61.1, 1999 Part 5.6.6 when it improperly used incompatible materials in various components of its anhydrous ammonia refrigeration system. The failure of a corroded copper or brass fitting at a pressure control valve which operates an ammonia recirculating pump was the direct cause of the February 2009 anhydrous ammonia release. Components made of copper or brass are not compatible with the use of anhydrous ammonia because they corrode in the presence of ammonia. As discussed below, EPA believes that additional components made of incompatible materials may remain throughout the Facility's anhydrous ammonia refrigeration systems.

b. Respondent, via its design/build contractor, did not follow recognized industry practice during the replacement of the piping, valves, and components of its main building refrigeration system. During that project, Respondent's contractor made a significant change in the configuration of Valve Group 19, but did not modify accordingly the valve control logic in the Process Logic Controller ("PLC") to address this change in configuration. The significant change to Valve Group 19, and the failure to modify the valve control logic in the PLC to address this change prior to start-up, was the direct cause of the August 2009 anhydrous ammonia release.

29. Information collected by EPA, including information collected during and in connection with EPA's March 2009, October 2009 and January 2010 inspections, revealed that other failures by Respondent to follow recognized industry standards and practices in designing and maintaining the Facility's anhydrous ammonia refrigeration processes continue to place the Facility at risk for further accidental releases of anhydrous ammonia:

a. Respondent did not follow ANSI K61.1, 1999 Part 5.6.6 when it improperly used incompatible materials in various components of its anhydrous ammonia refrigeration system. Components made of copper or brass are not compatible with the use of ammonia because they corrode in the presence of ammonia. During the October 2009 inspection EPA inspectors observed that fittings on each of the control valves in the building 1 ammonia system emergency control box are made of brass or another incompatible material.

b. Respondent did not follow ANSI K61.1 Part 5.8.16 and IIAR Bulletin No. 110 Part 6.5.4 when it failed to perform required maintenance on its refrigeration systems' pressure relief valves ("PRVs"). Improperly functioning PRVs have the potential to cause an uncontrolled or prolonged release should they fail to open in

the event of a pressure buildup, or fail to properly reseat after a release. During the October 2009 and January 2010 inspections EPA inspectors observed that tags on several PRVs indicated that they had not been replaced, or otherwise properly maintained, within the timeframes specified in the Part 6.5.4 standard.

c. Respondent did not follow IIAR Bulletins No. 109, 10/97 Part 4.10.3 and No. 114 when it failed to adequately label the piping, valves, and components of its anhydrous ammonia refrigeration systems. The absence of adequate component labeling and tagging can prevent Facility personnel or emergency responders from promptly stopping or isolating the flow of ammonia in the event of a release. During the October 2009 and January 2010 inspections EPA inspectors observed several instances of Respondent's failure to adequately label the piping, valves, and components of its anhydrous ammonia refrigeration systems.

30. Information collected by EPA, including information collected during EPA's October 2009 and January 2010 inspections, revealed that Respondent failed to implement adequate procedures to minimize the consequences of accidental releases such as the August 2009 release, including the following:

a. the Facility did not follow its adopted Emergency Response Plan which required providing immediate telephone notifications to the County, the National Response Center, and the security office at Genentech, Inc., its neighbor; and

b. during the release, an independent contractor at the Facility reportedly applied water to a pool of liquid ammonia that formed on the Facility roof as a result of the release, which increased the volatilization of the ammonia and resulted in an increase in the size and extent of the ammonia vapor cloud. ANSI K61.1, 1999 Part 4.2.2 indicates that water should not be used on liquid ammonia spills

CONCLUSIONS OF LAW

31. Respondent is, and at all times referred to herein was, a "person" as defined by Section 302(e) of the Clean Air Act, 42 U.S.C. § 7602(e), and the owner and/or operator of the Facility.

32. The Facility is a "stationary source" pursuant to Section 112(r)(2)(C) of the Clean Air Act and 40 C.F.R. § 68.3.

33. At its Facility, Respondent produces, processes, handles, and/or stores substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r), and other extremely hazardous substances.

34. The February 2009 Release resulted in at least 200 pounds of anhydrous ammonia being released to the air, creating the potential for injury or property damage.

35. The August 2009 Release resulted in at least 200 pounds of anhydrous ammonia being released to the air and caused injury and property damage.

36. Anhydrous ammonia is an extremely hazardous substance, listed at 40 C.F.R. Part 68 App. A pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r). In addition, ammonia is listed as an extremely hazardous substance at 40 C.F.R. Part 355 App. A pursuant to Section 302(a)(2) of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11002(a)(2), and as a hazardous substance at 40 C.F.R. § 302.4 pursuant to Section 102(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9602(a), and at 40 C.F.R. § 372.65 pursuant to Section 313 of EPCRA, 42 U.SC. § 11023.

37. Pursuant to Section 112(r)(1) of the Clean Air Act, Respondent had, at the time of the February and August 2009 releases and the periods leading up to them, and continues to have, a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to: (a) identify hazards which may result from accidental releases of a regulated substance or other extremely hazardous substance, using appropriate hazard assessment techniques, (b) design and maintain a safe facility taking such steps as are necessary to prevent releases, and (c) minimize the consequences of accidental releases which do occur.

38. Based on information available to EPA, including information gathered during the inspections performed by EPA at the Facility, the MSDS for anhydrous ammonia, other information provided by Respondent, and the Findings of Fact set forth above, EPA has determined that Respondent failed to satisfy the general duty referred to in Paragraph 29 above. Therefore, Respondent violated the provisions of Section 112(r)(1) of the Clean Air Act, 42 U.S.C. § 7412(r)(1).

ORDER

39. Based upon the foregoing Findings of Fact, Conclusions of Law, and other information available to EPA, it is agreed that Respondent shall comply with the requirements set forth below. All actions specified below shall be initiated and completed as soon as feasible, but in no event longer than the maximum time periods specified herein.

Parties Bound

40. The provisions of this Order shall apply to and be binding upon both EPA and the Respondent, including but not limited to its officers, agents, servants, employees, successors and to all persons, firms and corporations acting under, through or for Respondent. Respondent shall give notice of this Order to any successors.

Work to be Performed

41. Respondent shall take the following steps at the Facility to identify hazards which may result from accidental releases of regulated substances and other extremely hazardous substances from the Facility, design and maintain a safe facility taking such steps as are necessary to prevent releases, and minimize the consequences of accidental releases which do occur:

a. As soon as practicable, but in no event later than 15 days from the effective date of this Order, Respondent shall fully and completely implement, for each of its anhydrous ammonia refrigeration systems, all of the Operation and Maintenance

("O&M"), Inspection and Training Guidelines set out at Part 6 of IIAR Bulletin 110. Respondent shall hire appropriately trained and competent third parties to perform any of the referenced tasks that are beyond the capabilities of Facility staff.

b. As soon as practicable, but in no event later than 30 days from the effective date of this Order, Respondent shall, in conformance with ANSI K61.1 Part 5.8.16 and IIAR Bulletin 110 Part 6.5.4, replace or perform all required maintenance on all PRVs in each of the Facility's anhydrous ammonia refrigeration systems.

c. As soon as practicable, but in no event later than 60 days from the effective date of this Order, Respondent shall revise all Piping and Instrument Diagrams ("P&ID") for its ammonia refrigeration systems and, in accordance with IIAR Bulletins No. 109, 10/97 Part 4.10.3 and No. 114, identify and clearly and consistently tag and label all anhydrous ammonia refrigeration system piping and valves.

d. As soon as practicable, but in no event later than 30 days from the effective date of this Order, Respondent shall, in conformance with ANSI K61.1, 1999 Part 5.6.6, replace all components of the Facility's anhydrous ammonia refrigeration systems' emergency control boxes which are made of brass or other incompatible materials with components made of steel, ductile (nodular) iron, or malleable iron.

e. As soon as practicable, but in no event later than 60 days from the effective date of this Order, Respondent shall thoroughly inspect both anhydrous ammonia refrigeration systems at the Facility and:

   i. As soon as practicable, but in no event later than 60 days from the effective date of this Order, replace all additional components made of brass or other incompatible materials with components made of appropriate materials in conformance with ANSI K61.1, 1999 Part 5.6.6;

   ii. As soon as practicable, but in no event later than 90 days from the effective date of this Order, replace with components made of appropriate materials, or perform all appropriate maintenance on, any other components that show any visible signs of corrosion;

f. As soon as practicable, but in no event later than 90 days from the effective date of this Order, Respondent shall, if necessary, redesign and/or reprogram its anhydrous ammonia refrigeration system ammonia and pressure sensors and Supervisory Control and Data Acquisition ("SCADA") system such that, in the event of an out of bounds pressure event and/or an ammonia sensor high level alarm, it will automatically shutdown and/or isolate the source of a potential leak, and/or evacuate its anhydrous ammonia to the Facility's diffusion tank.

g. As soon as practicable, but in no event later than 90 days from the effective date of this Order, Respondent shall submit a feasibility and alternatives analysis for providing improved notification to the surrounding community, including

Respondent's employees, in the event of a hazardous substance release. This analysis shall, among other things, explore the feasibility of an automatic public alarm and notification system, such as "reverse 911" telephone notifications, which is triggered when pressure and/or ammonia level setpoints are exceeded. Respondent shall also explore the feasibility of a community-wide emergency notification system with its neighbors.

h. As soon as practicable, but in no event later than 90 days from the effective date of this Order, Respondent shall submit a feasibility and alternatives analysis for providing for the improved safety of the surrounding community, including Respondent's employees, in the event of a hazardous substance release. This analysis shall, among other things, explore the feasibility of installing containment structures to contain future releases from any of the valve groups on the roof as well as components on the Facility's open mezzanine. As an alternative to rooftop containment Respondent shall also assess the feasibility of relocating all the rooftop valve groups back inside of its building.

i. Prior to recharging Valve Group 19 with anhydrous ammonia, Respondent shall redesign and reconfigure the valve group, or take other actions as appropriate, to eliminate the factors that caused the August 28, 2009 release and to help ensure its safe operation. At a minimum, the redesign and reconfiguration of this valve group must provide that: (i) control valves in this valve group be redesigned so that, under any circumstance of control sequencing, any pressure buildup will be relieved to a suction line; and (ii) the Program Logic Controller for the operation of this valve group be re-programmed to match the redesign and reconfiguration of the valve group. Further, Respondent shall not recharge Valve Group 19 with anhydrous ammonia without first receiving written authorization from the County.

42. a. Within 15 days of the effective date of this Order, Respondent shall submit both a workplan and a health and safety plan that set out Respondent's plans for complying with subparagraphs 41.a – i, above. EPA shall review these plans and provide any comments or recommendations within 15 days of their receipt.

b. Within 15 days of completing the work required under subparagraphs 41.a – d, above, Respondent shall submit documentation verifying compliance with these requirements.

c. Within 15 days of completing the work required under subparagraphs 41.e & f, above, Respondent shall submit documentation verifying compliance with these requirements. This documentation shall include an indication of the established pressure and ammonia concentration setpoints that will trigger an automatic shutdown or isolation.

d. Within 15 days of first reintroducing anhydrous ammonia into Valve Group 19, Respondent shall submit notification to EPA along with a copy of the authorization from the County. This notification shall include a copy of the P&ID for the redesign and reconfiguration of this valve group.

e. All submittals made under this Order shall include the following certification, signed by an officer of Respondent:

> "I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

f. The submissions required by subparagraphs a – d, above, shall be made to the following, with the preference that all communications be made to the included email addresses in lieu of hard copies:

> Jeremy Johnstone (johnstone.jeremy@epa.gov)
> U.S. Environmental Protection Agency
> Superfund Division
> Emergency Prevention and Preparedness Section (SFD-9-3)
> 75 Hawthorne St.
> San Francisco, CA 94105

with copies to:

> Nicholas Vidargas (vidargas.nicholas@epa.gov)
> U.S. Environmental Protection Agency
> Office of Regional Counsel (ORC-3)
> 75 Hawthorne St.
> San Francisco, CA 94105

and

> William Lent (wlent@co.sanmateo.ca.us)
> San Mateo County Health Department
> Environmental Health Division
> 2000 Alameda de las Pulgas, Suite 100
> San Mateo, CA 94403

43. Respondent shall provide EPA and its representatives, including contractors, with access to the Facility for the purpose of assessing Respondent's compliance with this Order and with the Clean Air Act. Respondent shall also provide EPA and its representatives, including contractors, with access to all records relating to Respondent's implementation of this Order.

44. Respondent shall preserve all documents and information relating to the activities carried out pursuant to this Order, or relating to the February and August 2009 Releases, for six years after completion of the work required by this Order. At the end of the six-year period, Respondent shall notify EPA at least thirty (30) days before any such document or information is

destroyed that such documents and information are available for inspection. Upon request, Respondent shall provide EPA with the originals or copies of such documents and information.

45. All documents submitted by Respondent to EPA in the course of implementing this Order shall be available to the public unless identified as confidential by Respondent pursuant to 40 CFR Part 2, Subpart B, and determined by EPA to merit treatment as confidential business information in accordance with applicable law.

ENFORCEMENT

46. Section 113(a)(3) of the Clean Air Act provides that, upon failure to comply with an order issued under Section 113(a)(3)(B), the EPA Administrator may, *inter alia*: issue an administrative penalty order pursuant to Section 113(d) for civil administrative penalties of up to $37,500 per day of violation; or bring a civil action pursuant to Section 113(b) for injunctive relief and/or civil penalties of not more than $37,500 per day for each violation. See 40 CFR Part 19. In addition, Respondent may be subject to an administrative or civil action for similar penalties and/or injunctive relief, pursuant to Sections 113(b) and (d) of the Clean Air Act, based on the violations addressed by this Order. Furthermore, any person who knowingly violates the provisions of the Clean Air Act, as set forth in Section 113(c), may be subject to criminal penalties or imprisonment, or both, pursuant to Section 113(c).

47. This Order shall not relieve Respondent of its obligation to comply with all applicable federal, State, and local laws, regulations and other legal requirements, including but not limited to Section 112(r)(1) of the Clean Air Act, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, State or local permit.

48. Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of a regulated substance, other extremely hazardous substance, or other substance on, at, or from the Facility. EPA reserves the right to bring an action against Respondent assessing or seeking penalties and/or other relief for any violations, including, without limitation, the violations referred to in the Findings of Fact and Conclusions of Law set forth above. This Order shall not constitute or be construed as a release of any liability that the Respondent or any other person has under the Clean Air Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601-9675, or any other law. EPA also reserves all of its rights to obtain access to the Facility and require Respondent's submission of information to EPA.

EFFECTIVE DATE AND ADDITIONAL PROVISIONS

49. This Order shall be effective immediately after the Order is signed by the Regional Administrator or his/her delegate.

50. This Order represents the final form of the agreement between EPA and Respondent. No oral modifications to the Order will be binding upon either party. By its consent to entry of this Order, Respondent does not admit any liability under or violation of the Clean Air Act or its implementing regulations.

51. EPA and Respondent represent that they have examined this Order and agree to the terms by signing and dating below. Each person signing this Agreement represents that he or she is authorized to legally bind the party on whose behalf he or she is signing.

52. Nothing in this Order shall relieve Respondent of the duty to comply with all applicable provisions of the Clean Air Act, nor shall this Order affect the right of EPA or the United States to seek appropriate injunctive relief, other equitable relief, or criminal sanctions for any violations of law.

53. Respondent explicitly waives its right to request a hearing and/or to contest this Order, and waives its right to appeal this Order, provided, however, such waiver and consent to this Order is not an admission of liability by Respondent on any issue addressed in this Order. By consenting to this Order, Respondent does not admit, and reserves the right to controvert in any subsequent proceedings (including any administrative, civil or criminal proceeding), the validity of, or responsibility or liability for, any of the factual or legal determinations made herein. However, by its consent to this Order, Respondent agrees that it will not controvert or challenge, in any subsequent proceedings initiated by the EPA or the United States, the validity of this Order or the authority of EPA to issue and enforce this Order.

54. In any subsequent proceedings, Respondent expressly reserves the right to claim that no harm has been or will be caused by the potential releases described in this Order.

55. Each party shall bear its own costs and attorney fees in connection with this Order

Issued this _____ day of _____, 2010

_____
Keith Takata, Director, Superfund Division, Region IX
For: U.S. ENVIRONMENTAL PROTECTION AGENCY

Columbus Manufacturing, Inc. consents to the issuance of this Order, agrees to abide by this Order, and further agrees not to contest EPA's authority to issue this Order.

Signed this 18th day of FEB, 2010

_____
Ralph Denisco, President
For: COLUMBUS MANUFACTURING, INC.

Issued this 23 day of Feb, 2010

Keith Takata

Keith Takata, Director, Superfund Division, Region IX
For: U.S. ENVIRONMENTAL PROTECTION AGENCY

Columbus Manufacturing, Inc. consents to the issuance of this Order, agrees to abide by this Order, and further agrees not to contest EPA's authority to issue this Order.

Signed this _____ day of _____, 2010

_____

Ralph Denisco, President
For: COLUMBUS MANUFACTURING, INC.