

MAY 22 2009

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF: )  
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)  
)  
General Motors Automotive - North America )  
)  
300 Renaissance Center )  
Detroit, Michigan 48265-3000 )  
EPA ID MID 005 356 902 )  
MID 000 718 544 )  
MID 005 356 928 )  
OHD 041 063 074 )  
KSD 981 126 253 )  
MOT 300 010 261 )  
DED 0023692905 )  
GA GAD003310810 )  
)  
Respondent. )  
\_\_\_\_\_ )

DOCKET NOs.  
RCRA-03-2009-0099  
RCRA-04-2009-4007(b)  
RCRA-05-2004-0001  
RCRA-07-2009-0001  
Honorable Barbara A. Gunning  
Administrative Law Judge

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U.S. ENVIRONMENTAL  
PROTECTION AGENCY

CONSENT AGREEMENT

The United States Environmental Protection Agency (EPA) by and through the under-  
signed Complainants, and Respondent, General Motors Automotive – North America (GM),  
agree that settlement of the matters addressed herein without further delay is in their respective  
interests and in the public interest, and having consented to the entry to this Consent Agreement  
and the attached Final Order before taking any additional testimony and without further  
adjudication of any issues of law or fact herein, Complainants and Respondent agree to comply  
with the terms of this Consent Agreement and Final Order (CAFO).

I. Preliminary Statement

1. This is a civil administrative action instituted under Sections 3008(a) and (g) of the  
Solid Waste Disposal Act, as amended by the Resource Conservation Recovery Act of 1976 and

the Hazardous and Solid Waste Amendments of 1984 (HSWA) (collectively “RCRA”), 42 U.S.C. §§ 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (“Consolidated Rules”), 40 C.F.R. Part 22.

2. Complainants in this matter are:

- (a) Abraham Ferdas, Director, Land and Chemicals Division, Region 3;
- (b) Caroline Y.F. Robinson, Chief, RCRA & OPA Enforcement and Compliance Branch, Region 4;
- (c) Margaret Guerriero, Director, Land and Chemicals Division, Region 5; and
- (d) Donald Toensing, Chief, RCRA Enforcement and State Programs Branch, Region

7.

3. Complainants are, by lawful delegation, authorized to institute and settle civil administrative actions brought pursuant to Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

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

5. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of EPA (Administrator) may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. The States of Delaware, Georgia, Michigan, Ohio, Kansas and Missouri have been authorized to administer hazardous waste programs pursuant to Subtitle C of RCRA.

6. Although EPA has granted the States of Delaware, Georgia, Michigan, Ohio, Kansas and Missouri authority to enforce their own hazardous waste programs, EPA maintains

jurisdiction to enforce independent enforcement actions pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

7. Pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, the Administrator may issue an order assessing a civil penalty for any past or current violation and/or requiring compliance immediately or within a specified time period.

8. Pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, representatives of the Administrator may inspect at reasonable times any establishment or other place where hazardous wastes are or have been generated, stored, treated, disposed of, or transported from any establishment or other place.

9. Any violation of regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939(e), or of any state provision authorized pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided by Section 3008 of RCRA, 42 U.S.C. § 6928.

10. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by HSWA are immediately effective in a state upon their federal effective date regardless of such state's authorization status. EPA has jurisdiction immediately to implement and enforce those portions of the HSWA requirements before any such state receives final authorization, including regulations at 40 C.F.R. Part 265, Subparts BB, CC and J.

11. Pursuant to Sections 2002 and 3002 of RCRA, 42 U.S.C. §§ 6912 and 6922, EPA promulgated rules pertaining to generators of hazardous waste as set forth at 40 C.F.R. Part 262.

12. Pursuant to Sections 2002 and 3004 of RCRA, 42, U.S.C. §§ 6912 and 6924, EPA promulgated rules pertaining to owners and/or operators of treatment, storage and disposal

facilities as set forth at 40 C.F.R. Parts 264 and 265.

13. Pursuant to Section 3004(n) of RCRA, 42 U.S.C. § 6924(n), EPA promulgated regulations to monitor and control air emissions at certain hazardous waste treatment, storage, and disposal facilities. 40 C.F.R. Parts 264 and 265, Subparts AA, BB, and CC.

14. Pursuant to Section 3004 of RCRA, 42 U.S.C. § 6924, EPA promulgated regulations governing the management and monitoring of tanks and tank systems that store or treat hazardous waste. 40 C.F.R. Parts 264 and 265, Subpart J.

15. Respondent, GM, is incorporated in and doing business in the State of Delaware. Respondent also does business in Georgia, Illinois, Michigan, Ohio, Kansas and Missouri and is a “person” as that term is defined in 42 U.S.C. § 6903(15).

16. U.S. EPA, Region 5, filed a Complaint in RCRA-05-2004-0001 (“Complaint”) in this matter on October 17, 2003, alleging that Respondent had violated and was continuing to violate RCRA regulations set forth in 40 C.F.R. Parts 264 and 265, Subparts J, BB and CC (or the equivalent authorized State regulations) in its automotive painting operations at its facilities in Pontiac, Michigan; Orion, Michigan and Moraine, Ohio.

17. On or about November 21, 2003, Respondent filed an Answer in RCRA-05-2004-0001.

18. A hearing was held in RCRA-5-2004-0001 from June 20, 2005 through June 30, 2005 regarding the claims alleged in the Complaint. The Presiding Administrative Law Judge, the Honorable Barbara A. Gunning, issued an Initial Decision on April 14, 2006, and Respondent appealed that Initial Decision to the Environmental Appeals Board on May 19, 2006. On June 20, 2008, the EAB issued its Order remanding this matter to Judge Gunning for further consideration.

19. In 2006 and 2007 EPA issued many Section 3007 RCRA Information Requests (42 U.S.C. § 6927) to some of Respondent's automobile and truck assembly plants (Assembly Plants) throughout the United States concerning RCRA Subpart J, BB and CC compliance for use, storage and disposal of Purge Mixture as defined herein.

20. EPA and/or authorized states have conducted RCRA inspections of several of Respondent's Assembly Plants for RCRA Subpart J, BB and CC compliance since the late 1990's and EPA has issued several Notices of Violation against Respondent.

21. This Consent Agreement is entered into pursuant to Sections 3008(a) of RCRA, 42 U.S.C. § 6928(a), and the Consolidated Rules. Specifically, the Complainants and the Respondent (collectively referred to as the "Parties"), have determined that settlement is consistent with the provisions and objectives of RCRA and applicable regulations and, therefore, have agreed to the terms of this written Consent Agreement in accordance with 40 C.F.R. § 22.18(b).

22. EPA has provided notice concerning this action to the appropriate authorized states (listed in paragraph 5, above), pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

23. The Consolidated Rules provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a CAFO. 40 C.F.R. §§ 22.13(b) and 22.18(b)(2). In addition to the allegations set forth in the Complaint, this CAFO simultaneously commences and concludes new proceedings brought by Regions 3, 4, 5 and 7.

24. For purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint and this CAFO and agrees not to contest EPA's jurisdiction with respect to execution of this Consent Agreement, issuance of the attached Final Order, or the enforcement

thereof. 40 C.F.R. § 22.18.

25. Respondent waives any and all rights under any provision of law to any additional hearing on the allegations contained in the Complaint and this CAFO. Respondent also waives any right to contest the allegations in the Complaint and this CAFO and any right to appeal this Consent Agreement or the Final Order that accompanies this Consent Agreement. See 40 C.F.R. § 22.18.

26. For the purposes of this proceeding, Respondent neither admits nor denies the specific factual allegations contained in the Complaint or otherwise contained in this CAFO and does not contest the conclusions and determinations contained in this CAFO. 40 C.F.R. § 22.18(b).

27. Respondent agrees to pay the civil penalty specified in Section VII of this Consent Agreement. 40 C.F.R. § 22.18(b).

## **II. General Factual Basis**

28. Respondent is and was at all times relevant to this matter the owner and operator of the following facilities: the Pontiac East Assembly Plant, also known as the “Pontiac Assembly Center” (“Pontiac facility”), 2100 South Opdyke Road, Pontiac, MI 48341-3155 [MID 005 356 902]; the Orion Assembly Plant (“Orion facility”), 4555 Giddings Road, Lake Orion, Michigan 48359 [MID 000 718 544]; the Moraine Assembly Plant (“Moraine facility”), 2601 West Stroop Road, Moraine, Ohio 45439 [OHD 041 063 074]; the Wilmington Assembly Plant (“Wilmington facility”), 801 Boxwood, Wilmington, Delaware 19804 [DED 0023692905]; Doraville, 3900 Motors Industrial Way, Doraville, Georgia 30360 (“Doraville facility”) [EPA ID# GAD003310810]; the Fairfax Assembly Plant (“Fairfax facility”), 3201 Fairfax Trafficway, Kansas City, Kansas 66115 [KSD 981 126 253]; the Wentzville Assembly Plant (“Wentzville

facility”), 1500 East Route “A”, Wentzville, Missouri 63385 [MOT 300 010 261]; the GM Lansing Car Assembly Plant (“Lansing Facility”), 401 N. Verlinden Avenue, Lansing, Michigan 48915 [MID 005 356 928] (These facilities are collectively referred to as “the Facilities”).

29. Respondent has filed Notifications of Hazardous Waste Activities (Notifications) for the Facilities pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930. The Notifications specify the type of hazardous waste activity Respondent is engaged in at each of its Facilities and identify the hazardous waste(s) managed at each Facility.

30. The painting operations at each of Respondent’s Facilities identified in paragraph 28 above are substantially similar to the painting operations described in paragraphs 15 through 27 of the Complaint. The parties refer to the mixture of purge solvent, clearcoat, primer and paint which GM generates when it cleans its paint applicators and manifolds at each of the Facilities as "Purge Mixture."

31. EPA has conducted inspections at each of Respondent’s Facilities and has issued information requests to Respondent pursuant to RCRA § 3007 regarding some of those Facilities.

32. The Parties have engaged in settlement negotiations and have agreed that, in general, circumstances similar to those alleged in paragraphs 53 through 188 of the Complaint exist at each of Respondent’s Facilities; and have further agreed that, to the extent alleged violations of 40 C.F.R. Part 265, Subparts J, BB and CC (or the applicable analogous requirement of any applicable authorized state program) now exist or have existed at those Facilities, those alleged violations should be addressed in this CAFO.

33. Entry of this CAFO is an appropriate means of resolving the violations alleged in the Complaint; and without the issuance of further administrative complaints, entry of this CAFO is an appropriate means of settling Complainants’ civil claims for penalties under RCRA

Section 3008(a), 42 U.S.C. § 6928(a), as alleged below at Respondent's other Facilities identified in paragraph 28 of this CAFO.

### **III. Region 3 Allegations**

#### **A. Wilmington Assembly Plant - Owning and/or operating a hazardous waste storage facility without a permit or interim status**

34. The allegations of Paragraphs 1 through 33, above, are incorporated by reference as if fully set forth at length herein.

35. The Delaware Regulations Governing Hazardous Waste ("DRGHW") are authorized pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b) (53 Fed. Reg. 23837 (June 8, 1984), 61 Fed. Reg. 41345 (August 8, 1996), 63 Fed. Reg. 44152 (August 18, 1998), 65 Fed. Reg. 42871 (July 12, 2000), 67 Fed. Reg. 51478 (August 8, 2002), 69 Fed. Reg. 10171 (March 4, 2004), and 69 Fed. Reg. 60091 (October 7, 2004)). Certain provisions of Delaware's hazardous waste management program, through the authorizations referenced in the immediately preceding sentence, have become requirements of Subtitle C of RCRA and are, accordingly, enforceable by EPA pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g). Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and DRGHW Part 122 provide, in pertinent part, that a person may not own or operate a hazardous waste storage, treatment, or disposal facility unless such person has first obtained a permit for the facility or has qualified for interim status for the facility.

36. DRGHW § 262.34(a) provides that a generator may accumulate hazardous wastes on-site for 90 days or less without a permit or without interim status provided that certain conditions are met, including, *inter alia*, the condition in DRGHW § 262.34.(a)(1)(ii) that a generator who accumulates such hazardous waste in tanks must comply with the applicable requirements of Subpart J of DRGHW Part 265.



37. Tanks 1 and 2, are located at Respondent's Wilmington Facility in an area identified by Respondent as the "Purge Solvent Recovery Room."

38. At the time of the EPA inspection of the Wilmington Facility on August 17, 2006, Tanks 1 and 2 were and currently are used to store "waste clearcoat," "waste spent solvent mixture," "waste primer" and "primer waste spent solvent mixture," all of which are solid wastes and hazardous wastes as those terms are defined at DRGHW § 260.10 and § 261.2 and 3.

39. Tanks 1 and 2 are "tanks" and, along with the piping, fittings, flanges, connectors, valves and other pieces of ancillary equipment associated with Tanks 1 and 2, constitute a "tank system" used for the "storage" of "hazardous waste" within the meaning of DRGHW § 260.10.

40. DRGHW § 265.193(a) provides that secondary containment that meets the requirements of DRGHW § 265.193 must be provided for new and existing tank systems.

41. DRGHW § 193(d) provides that secondary containment for tanks must include one or more of the following devices: 1) a liner; 2) a vault; 3) a double-walled tank; or 4) an equivalent device as approved by the Secretary of the Delaware Department of Natural Resources and Environmental Control.

42. DRGHW § 265.193(e)(1)(iv) provides that an external liner system used as secondary containment for tanks must be designed and installed to completely surround the tanks and to cover all surrounding earth likely to come into contact with the waste if released from a tank (i.e. capable of preventing lateral as well as vertical migration of waste).

43. At the time of the EPA inspection of the Facility on August 17, 2006, Respondent failed to qualify for the "less than 90 day" generator accumulation exemption of DRGHW § 262.34(a) by failing to satisfy the condition for the exemption requiring that external liner secondary containment for tanks be designed and installed to completely surround Tanks 1 and 2 and cover all surrounding earth likely to come into contact with the waste if released from Tanks 1 and 2 (i.e., capable of preventing lateral as well as vertical migration of waste), as set forth in DRGHW § 262.34(a)(1)(ii), which references DRGHW Part 265, Subpart J, which in turn includes DRGHW § 265.193(e)(1). Respondent was required to have a permit or interim status

for the storage of hazardous waste in Tanks 1 and 2. At all relevant times, Respondent did not have a permit or interim status for Tanks 1 and 2. Respondent violated RCRA § 3005, 42 U.S.C. § 6925, and DRGHW § 270 by owning and operating a hazardous waste storage facility, i.e., Tanks 1 and 2, without a permit or interim status.

**B. Wilmington Assembly Plant - Tanks 1 and 2 – Improper Secondary Containment**

44. The allegations of Paragraphs 1 through 33, above, are incorporated by reference as if fully set forth at length herein.

45. DRGHW § 264.193(a) provides, with exceptions not relevant to this matter, that secondary containment that meets the requirements of DRGHW § 264.193(a) must be provided for new and existing tanks storing hazardous waste.

46. DRGHW § 264.193(d) provides that secondary containment for tanks must include one or more of the following devices: 1) a liner; 2) a vault; 3) a double-walled tank; or 4) an equivalent device as approved by the Secretary of the Delaware Department of Natural Resources and Environmental Control.

47. DRGHW § 264.193(e)(1)(iv) provides that external liner systems used as secondary containment for tanks must be designed and installed to completely surround the tanks and to cover all surrounding earth likely to come into contact with the waste if released from a tank (i.e. capable of preventing lateral as well as vertical migration of waste).

48. Respondent violated DRGHW § 264.193(e)(1)(iv) by failing to design and install secondary containment for Tanks 1 and 2 that completely surrounds Tanks 1 and 2 and to cover all surrounding earth likely to come into contact with the waste if released from Tanks 1 and 2 (i.e. capable of preventing lateral as well as vertical migration of waste).

#### IV. Region 4 Allegations

##### **Doraville – Owning and/or operating a hazardous waste storage facility without a permit or interim status**

49. The allegations of Paragraphs 1 through 33 above, are incorporated by reference as if fully set forth at length herein.

50. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), on August 21, 1984, the State of Georgia (the State) received final authorization from EPA to carry out certain portions of the State hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found in the Georgia Hazardous Waste Management Act (“GHWMA”), § 12-8-60 through § 12-8-83, and regulations set forth at Chapter 391-3-11 of the Georgia Hazardous Waste Management Rules (“GHWMR”).

51. Pursuant to 40 C.F.R. § 262.34(a) and Chapter 391-3-11-.8 of GHWMR, a generator may accumulate hazardous waste on site for ninety day or less without a permit or interim status, provided that certain conditions are met, including *inter alia*, that the generator complies with the requirements for owners and operators in 40 C.F.R. § 265, Subpart CC and Chapter 391-3-11-.10 of GHWMR.

52. Respondent owns and, up until September 26, 2008, operated an automobile assembly plant in Doraville, GA which contains a hazardous waste tank that was subject to the requirements of 40 C.F.R. § 265, Subpart CC and Chapter 391-3-11-.10 of GHWMR.

53. Pursuant to 40 C.F.R. § 265.1085(c)(4) and Chapter 391-3-11-.10 of GHWMR, owners or operators are required to perform inspections of their tanks and closure devices. Pursuant to 40 C.F.R. § 265.1085(c)(4)(ii) and Chapter 391-3-11-.10 of GHWMR, these inspections must be performed at least every year. Respondent failed to conduct these inspections for the years 2005, 2006, and 2007.

54. By failing to comply with the requirements of 40 C.F.R. § 265.1085(c)(4)(ii) and Chapter 391-3-11-.10 of GHWMR, Respondent failed to qualify for the “less than 90-day” generator accumulation exemption of 40 C.F.R. § 262.34(a)(1)(ii) and Chapter 391-3-11-.08 of GHWMR, which references 40 C.F.R. Part 265, Subpart J, and Chapter 391-3-11-.10 of GHWMR which in turn includes 40 C.F.R. § 265.1085(c)(4)(ii), and therefore was operating a storage facility without a permit in violation of Section 12-8-66 of the GHWA [Section 3005 of RCRA, 42 U.S.C. § 6925].

## **V. Region 5 Allegations**

### **A. Lansing Facility – Daily Tank Inspection Log violation**

55. The allegations of Paragraphs 1 through 33 above, are incorporated by reference as if fully set forth at length herein.

56. On or about June 22 through 23, 2004, EPA conducted a Multimedia Compliance Evaluation Inspection at the GM Lansing Car Assembly Plant, Lansing, Michigan.

57. At the time of the inspection the Lansing Facility did not have a hazardous waste storage license. The Lansing Facility subsequently closed and was demolished.

58. In order to avoid the need for a hazardous waste storage license, large quantity generators storing hazardous waste in a tank must inspect, where present, at least once each operating day: (1) Overfill/spill control equipment to ensure that it is in good working order; (2) The aboveground portions of the tank system, if any, to detect corrosion or releases of waste; (3) Data gathered from monitoring equipment and leak-detection equipment, to ensure that the tank system is being operated according to its design; and (4) The construction materials and the area immediately surrounding the externally accessible portion of the tank system including secondary containment structures (e.g., dikes) to detect erosion or signs of releases of hazardous

waste (e.g. wet spots, dead vegetation). See, MAC R 299.9306(1)(a)(ii) and 40 C.F.R. Part 265, Subparts J, AA, BB, and CC, except for the provisions of §§265.197(c) and 265.200, and the generator complies with the provisions of R 299.9615, except for R 299.9615(1). This is also a requirement of owners and operators of hazardous waste storage facilities, under MAC R 299.9601(1), (2)(h), and (3)(b); 299.9615(1); and 40 C.F.R. § 264.195(b)(2).

59. During the records review portion of the inspection, the inspectors reviewed “Plant 6 Hazardous Waste Storage Tank/Waste Thinner System Inspection” records. The inspectors observed that from 4/15/03 through 3/18/04, the GM Lansing inspector had noted for Tank B6-102 a “Leak sensor off” light was on. No corrective action was noted on the daily inspection logs.

60. Additionally, during the inspection, the inspectors observed an area on the east side of the containment area that appeared wet. The 6/22/04, daily tank inspection logs had indicated a “no” for signs of wet spots.

61. The GM Lansing Facility’s failure to comply with the provisions of the above referenced license exemption in that they did not ensure that Overfill/spill control equipment was in good working order is a violation of MAC R 299.9306(1)(a)(ii). [40 C.F.R. §265.201(c)]

**B. Lansing Facility - Failure to maintain adequate aisle space in the less than 90 day hazardous waste accumulation area in Building #22**

62. The allegations of Paragraphs 1 through 33 above, are incorporated by reference as if fully set forth at length herein.

63. In order to avoid the need for a hazardous waste storage license, a large quantity generator must comply with the provisions of MAC R 299.9306(1)(d). MAC R 299.9306(1) and 40 C.F.R. § 262.34(a)(4). Specifically, 40 C.F.R. § 262.34(a)(4) requires the generator comply with the requirements for owners or operators in Subparts C and D in 40 CFR Part 265,

with § 265.16, and with 40 CFR § 268.7(a)(5). In 40 CFR Part 265, Subpart C, § 265.35 requires that the owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes. This is also a requirement of owners and operators of hazardous waste storage facilities, under MAC R 299.9606(1).

64. At the time of the inspection, the inspectors observed inadequate aisle space in the less than 90 day hazardous waste accumulation area in Building #22. The inspectors observed 55-gallon containers of hazardous waste that were staged next to each other without any aisle space. These conditions resulted in inadequate aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment to the less than 90 day accumulation area.

65. GM Lansing therefore failed to comply with the above-referenced condition for a license exemption, and violated the storage facility aisle space requirement in MAC R 299.9306(1)(d). [40 CFR Part 265, Subpart C, § 265.35]

**C. Lansing Facility - Cracks and Gaps in the Surface Coating of the Building  
#22 Hazardous Waste Accumulation Area**

66. The allegations of Paragraphs 1 through 33 above, are incorporated by reference as if fully set forth at length herein.

67. In order to avoid the need for a hazardous waste storage license, large quantity generators storing containers of hazardous waste must have a hazardous waste storage area that includes an impervious base free of cracks or gaps. See, MAC R 299.9306(1)(a)(i) and 40 C.F.R. § 264.175(b)(1). This is also a requirement of owners and operators of hazardous waste storage facilities, under MAC R 299.9601(1), (2)(g), and (3)(b); 299.9614(1)(a); and 40 C.F.R.

§ 264.175(b)(1).

68. During the inspection of GM Lansing's hazardous waste accumulation area, located in Building #22, the inspectors observed several areas that were cracked or had gaps in the surface coating.

69. GM Lansing therefore failed to comply with the above-referenced condition for a license exemption, in that it violated the storage facility containment system requirement, MAC R 299.9306(1)(a)(i). [40 C.F.R. § 264.175(b)(1)].

## **VI. Region 7 Allegations**

### **A. GM Fairfax – Failure to maintain secondary containment for hazardous waste accumulation tank**

70. The allegations of Paragraphs 1 through 33 above, are incorporated by reference as if fully set forth at length herein.

71. On or about August 23 through 26, 2005, EPA conducted a RCRA Compliance Evaluation Inspection (CEI) at the GM Fairfax facility in Kansas City, Kansas.

72. Federal regulations (40 C.F.R. § 265.193(e)(1)(iii) and (iv)) and Kansas Administrative Regulations (KAR), Article 31, Chapter 28-31-4(g)(1)(B) require a large quantity generator to maintain secondary containment free of gaps and cracks and designed and installed to completely surround the tank and to cover all surrounding earth likely to come into contact with the waste if released from the tank (i.e., capable of preventing lateral as well as vertical migration of the waste). To meet these performance standards, concrete secondary containment structures must include an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete.

73. At the time of the inspection of the Fairfax facility on or about August 23 through 26, 2005, GM was operating the facility as a large quantity generator of hazardous waste.

74. At the time of the EPA inspection, the hazardous waste accumulation tank located within the tank farm that was used to accumulate the spent purge solvent at the Fairfax Facility, carrying the D001 and D035 waste codes, had a capacity of 12,000 gallons.

75. During the inspection of the Fairfax facility, the inspector noted two 6-inch long cracks in the concrete secondary containment structure for the purge solvent storage tank referenced in paragraph 74. The inspector also noted two expansion joints where the joint sealant was pulled away from the concrete, leaving gaps. The concrete structure did not have an impermeable coating or lining in place at the time of the inspection.

76. Failure to maintain secondary containment free of gaps and cracks and failure to have an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete is a violation of KAR 28-31-4(g)(1)(B). [40 CFR 265.193(e)(1)(iii) and (iv)]

**B. GM Fairfax – Failure to mark hazardous waste accumulation tank with start date**

77. The allegations of Paragraphs 1 through 33 and 71 above, are incorporated by reference as if fully set forth at length herein.

78. KAR 28-31-4(g)(2) requires that, in order for a large quantity generator of hazardous waste to accumulate hazardous waste for 90 days or less, without a permit or obtaining interim status, the date upon which each period of accumulation begins is clearly marked and visible for inspection on each tank.

79. During the inspection of the Fairfax facility, the inspector noted that the tank referenced in Paragraph 74 above was not marked with the date that hazardous waste began accumulating in the tank.



80. The inspector reviewed the daily tank inspection logs and the hazardous waste manifests but could not determine that all waste was removed from the tank every 90 days.

81. Respondent violated KAR 28-31-4(g)(2) by failing to mark the hazardous waste accumulation tank with the start date of accumulation.

**C. GM Wentzville - Owning and/or operating a hazardous waste storage facility without a permit or interim status**

82. The allegations of Paragraphs 1 through 33 above, are incorporated by reference as if fully set forth at length herein.

83. On or about February 8 through 11, 2005, EPA conducted a RCRA CEI at the GM Wentzville facility in Wentzville, Missouri.

84. Missouri Revised Statutes (RSMo) 260.390.1(1) and Section 3005 of RCRA provide, in pertinent part, that a person may not own or operate a hazardous waste storage, treatment, or disposal facility unless such person has first obtained a permit for the facility or has qualified for interim status for the facility

85. At the time of the inspection of the Wentzville facility on or about February 8 through 11, 2005, GM was operating the facility as a large quantity generator of hazardous waste.

86. During the inspection of the Wentzville facility, the inspector noted that Tank 12 contained 1964 gallons of hazardous purge solvent, carrying the D001 waste code.

87. According to facility records reviewed during the inspection, hazardous waste was placed into Tank 12 on March 29, 2004.

88. Respondent violated RSMo 260.390.1(1) and Section 3005 of RCRA by storing hazardous waste in Tank 12 for more than 90 days without interim status or a permit.

**D. GM Wentzville - Failure to document all inspection items in the operating record**

89. The allegations of Paragraphs 1 through 33 and 83, above, are incorporated by reference as if fully set forth at length herein.

90. Title 10 of the Missouri Code of State Regulations (CSR) 25-5.262(1) and 40 C.F.R. § 265.195(g) require that the facility document in the operating record of the facility the inspection of those items in 40 CFR 265.195(a) and (b).

91. During the inspection, the inspector reviewed multiple tank inspection logs, each log covering one calendar week. Multiple tank inspection logs lacked information required to be documented by 40 C.F.R. § 265.195(g).

92. Failure to document all inspection items in the operating record of the facility is a violation of 10 CSR 25-5.262(1). [40 C.F.R. § 265.195(g)]

**VII. Terms of Agreement**

93. Except as set forth in paragraphs 94 through 97, and 115 below, Respondent shall comply with the provisions of 40 C.F.R. Part 265, Subparts J and CC, or the analogous authorized state requirements, as applicable, for all tanks that are owned or operated by Respondent and that store Purge Mixture, and the equipment ancillary to the tanks, immediately prior to where the pipes exit and enter the tanks. Nothing in this CAFO shall be construed to impose any regulation under RCRA Subtitle C on the Purge Mixture in the pipes other than on those pipes immediately prior to the storage tanks.

94. Subject to Paragraphs 108 and 115 below, within three years of the effective date of this order, GM shall comply with the secondary containment requirements of DRGHW § 265.193 for Tanks 1 and 2 at the Wilmington Assembly plant. GM shall ensure that an external impermeable liner for the secondary containment for Tanks 1 and 2 completely

surrounds the tanks and covers all surrounding earth likely to come into contact with the hazardous waste if released from a tank (i.e., the liner shall be capable of preventing lateral as well as vertical migration of waste) as required by DRGHW § 265.193(e)(1)(iv). Alternately, if the tanks no longer store hazardous waste then such liner is not required.

95. Within three (3) years of the effective date of this order, Respondent shall submit to EPA a certification signed by the Wilmington Facility Plant Manager (or as otherwise permitted under 40 C.F.R. § 270.11(a)(1)), stating that the Wilmington Assembly Plant is in compliance with Paragraph 94 of this CAFO. This certification shall be sent to Jeanna Henry, Environmental Scientist, U.S. EPA, Region 3, 1650 Arch Street (MC 3LC70), Philadelphia, PA 19103, with a copy to Duncan Campbell, RCRA Branch (LR-8J), U.S.EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. The certification shall be as follows:

*I certify that the GM Wilmington, Delaware Assembly Plant is in compliance with Paragraph 94 of the Consent Agreement and Final Order filed In the Matter of General Motors Automotive, Docket No. RCRA-03-2009-0099. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

96. Subject to Paragraphs 108 and 115 below, within three (3) years of the effective date of this order, Respondent will comply with the secondary containment requirements of Kansas Administrative Regulations (KAR), Article 31, Chapter 28-31-4(g)(1)(B) and Title 40 of the Code of Federal Regulations (CFR) 265.193(e)(1)(iii) and (iv) at the Fairfax plant in Kansas City, Kansas. Compliance will consist of the application of an impermeable liner that is compatible with the stored waste and that will prevent migration of waste into the concrete, at the hazardous waste accumulation tank for the spent purge solvent. Alternately, if the tanks no longer store hazardous waste then such liner is not required.

97. On or before March 1, 2012, Respondent shall submit to EPA a certification signed by the Fairfax Facility Plant Manager (or as otherwise permitted under 40 C.F.R. § 270.11(a)(1), stating that the Fairfax Facility in Kansas City, Kansas is in compliance with Paragraph 96 of this CAFO. This certification shall be sent to Elizabeth Koesterer, (AWMD/RESP) U.S.EPA, Region 7, 901 North 5<sup>th</sup> Street, Kansas City, Kansas 66101, with a copy to Duncan Campbell, RCRA Branch (LR-8J), U.S.EPA,, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. The certification shall be as follows:

*I certify that the Fairfax Facility in Kansas City, Kansas is in compliance with Paragraph 96 of the Consent Agreement and Final Order (Docket No. RCRA-05-2004-0001). I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

98. Respondent shall pay a civil penalty in the amount of forty-eight thousand two hundred and sixty dollars (\$48,260) to resolve Complainants' claims for civil penalties arising from the violations of RCRA alleged in the Complaint or referenced above in this CAFO. Such civil penalty is based upon consideration of the factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), the RCRA Civil Penalty Policy, and 40 C.F.R. Part 19. Such civil penalty shall become due and payable within thirty (30) days of Respondent's receipt of a true and correct copy of the CAFO. Respondent must pay the civil penalty identified in this paragraph by check, or by electronic wire transfer, and it must be payable to "Treasurer, the United States of America." If payment is made by check, the check must be paid to:

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

The name of the Respondent, the billing document number and the Docket Number of this proceeding must be clearly marked on the face of the check. EPA will furnish Respondent with

the billing document number upon entry of this CAFO. Failure to pay the full amount of the civil penalty assessed under this Consent Agreement may subject Respondent to a civil action to collect any unpaid portion of the civil penalty. Furthermore, in order to avoid the assessment of interest, administrative costs and a late payment penalty in connection with such civil penalties, as described in paragraph 103 of this Consent Agreement, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of this CAFO is received by the Respondent.

99. Respondent shall send copies of the transmittal of the payment to:

- (a) Regional Hearing Clerk  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard, (E-13J)  
Chicago, Illinois 60604
  
- (b) Jeanna Henry  
Environmental Scientist  
U.S. Environmental Protection Agency  
1650 Arch Street (MC 3LC70)  
Philadelphia, PA 19103
  
- (c) Larry Lamberth  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. Environmental Protection Agency  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street  
Atlanta, GA 30303
  
- (d) Duncan Campbell  
U.S. Environmental Protection Agency  
RCRA Branch  
Land and Chemicals Division  
77 West Jackson Boulevard, (LR-8J)  
Chicago, Illinois 60604
  
- (e) Elizabeth Koesterer (AWMD/RESP)  
U.S. Environmental Protection Agency  
901 North 5<sup>th</sup> Street  
Kansas City, KS 66101

100. Respondent shall be liable for stipulated penalties to the EPA, as specified below, for failure to comply with the requirements of Section VII of this CAFO, unless excused by EPA, in its sole discretion.

101. For failure to comply with the requirements of this CAFO, Respondent shall pay stipulated penalties in the following amounts for each day during which the violations continue:

<u>Period of Failure to Comply</u>	<u>Penalty Per Violation Per day</u>
1 <sup>st</sup> through 7 <sup>th</sup> day	\$100.00
8 <sup>th</sup> through 21 <sup>st</sup> day	\$250.00
22 <sup>nd</sup> through 30 <sup>th</sup> day	\$500.00
Greater than 30 days	\$1,000.00

These stipulated penalties apply separately and fully to each of Respondent's Facilities, and may become due for violations at more than one Facility on a day of violation. Stipulated penalties accrue regardless of notice of the violation from EPA. For purposes of calculating interest, administrative costs and late payment penalty, the stipulated penalties become "due" upon receipt by the Respondent of a written notice from EPA that payment of such stipulated penalties is due.

102. Respondent's failure to timely comply with any material and substantial provision of this CAFO may subject Respondent to a civil action pursuant to Section 3008(c) of RCRA, 42 U.S.C. § 6928(c), to collect penalties for any noncompliance with the Order (as well as injunctive relief). The amount of any stipulated penalties Respondent has paid for any such failure to comply may be subtracted from any penalty amount sought by EPA for such failure to comply pursuant to Section 3008(c) of RCRA, 42 U.S.C. § 6928(c), at EPA's discretion, which discretion will not be unreasonably withheld.

103. EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim, and Respondent agrees to pay these amounts under this CAFO. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty agreed to herein and/or on any stipulated penalty imposed pursuant to this CAFO on the date a copy of this CAFO is received by Respondent (in the case of civil penalties) or a copy of the notice for stipulated penalties is received by Respondent. However, EPA will not seek to recover interest on any portion of the civil penalty or any stipulated penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

- (a) Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). 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).
- (b) Monthly Administrative Handling Charge. Respondent must pay an administrative handling charge of \$15.00 on any overdue debt, with an additional charge of \$15.00 for each subsequent thirty (30) calendar day period over which an overdue balance remains.
- (c) Late-Payment Penalty. On any portion of a civil penalty or stipulated penalty more than ninety (90) calendar days delinquent, Respondent must pay a late-payment penalty of six percent per annum, which will accrue from the date the penalty payment became delinquent. This late-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

104. Penalties paid pursuant to this CAFO are not deductible for federal purposes under 28 U.S.C. § 162(f).

105. Nothing in this agreement prohibits, alters, or in any way limits EPA's ability to seek any other remedies or sanctions available by virtue of Respondent's violation of this CAFO.

106. This CAFO represents a final settlement of Respondent's civil liability under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for: (a) the specific claims for the violations

alleged in the administrative complaint issued by Region 5 of the EPA; and (b) the allegations otherwise asserted in this CAFO. Nothing in this CAFO is intended to, nor shall be construed to, operate in any way to resolve any criminal liability of Respondent arising from the violations addressed in this CAFO. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to Federal or State laws and regulations, and it is the responsibility of Respondent to comply with such laws and regulations.

107. Nothing in this CAFO relieves Respondent from its obligation to comply with all applicable federal, state and local statutes and regulations, including the RCRA Subtitle C requirements at 40 C.F.R. Parts 260 through 279, and authorized State programs, at the Facilities.

108. If, in good faith, Respondent obtains a written variance, exemption, or waiver from an authorized state from any of the requirements set forth in this CAFO, and if Respondent complies with the terms of any such variance, exemption or waiver, Respondent shall not be liable for stipulated penalties which might accrue pursuant to paragraph 101 until EPA gives written notice to Respondent that Respondent is out of compliance with this CAFO. Stipulated penalties in such an instance will accrue beginning thirty days after EPA gives notice to Respondent that Respondent is out of compliance with this CAFO.

109. Respondent waives any rights it may possess in law or equity to challenge the authority of EPA to bring a civil action in the appropriate United States District Court to compel compliance with the CAFO or to seek an additional penalty for such noncompliance.

110. Each party agrees to bear its own costs and attorney's fees in the action(s) resolved by this CAFO.

111. This CAFO shall be binding upon all Parties to this matter, and their successors and assigns. The undersigned representative of each Party to this CAFO certifies that he or she



is duly authorized by the Party whom he or she represents to enter into the terms and bind that Party to them.

112. Notwithstanding any other provision of this Consent Order, EPA expressly reserves any all rights to bring an enforcement action pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority should EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at any of the Facilities may present an imminent and substantial endangerment to health or the environment. EPA also expressly reserves the right: (a) for any matters other than violations alleged in the Complaint, or resolved through this CAFO, to take any action authorized under Section 3008 of RCRA, 42 U.S.C. § 6928; (b) to enforce compliance with the applicable provisions of any applicable authorized state hazardous waste program; (c) to take any action under 40 C.F.R. Parts 124 and 270 and applicable analogous requirements of any authorized state hazardous waste program; EPA also expressly reserves the right to enforce compliance with this CAFO.

113. The contacts for the parties under this CA/FO are as follows:

EPA Region 3:            Jeanna Henry  
                                 Environmental Scientist  
                                 U.S. Environmental Protection Agency  
                                 1650 Arch Street (MC 3LC70)  
                                 Philadelphia, PA 19103

EPA Region 4:            Larry Lamberth  
                                 RCRA and OPA Enforcement and Compliance Branch  
                                 RCRA Division  
                                 U.S. Environmental Protection Agency  
                                 Sam Nunn Atlanta Federal Center  
                                 61 Forsyth Street  
                                 Atlanta, GA 30303

EPA Region 5: Duncan Campbell  
U.S. Environmental Protection Agency  
RCRA Branch  
Land and Chemicals Division  
77 West Jackson Boulevard, (LR-8J)  
Chicago, Illinois 60604

EPA Region 7: Elizabeth Koesterer (AWMD/RESP)  
U.S. Environmental Protection Agency  
901 North 5<sup>th</sup> Street  
Kansas City, KS 66101

GM: James Walle  
General Motors Corporation  
Mail Code 482-C24-D24  
300 Renaissance Center  
P.O. Box 300  
Detroit, Michigan 48265-3000

114. Respondent may request an extension of performance dates or other modification (not to include modification to the penalty provision in paragraph 98) to the terms of this CAFO for good cause. A request for the extension or modification must be addressed to the contact for the pertinent EPA Region, with a copy to the contact for OECA, be in writing and include, but not limited to: (a) if requesting an extension of any deadline specified in this CAFO, the anticipated date by which Respondent will complete the task; (b) the reason for the requested modification; and (c) any documentation to support the “good cause” to grant such modification request. Any decision by the pertinent EPA Region to allow an extension will be in its sole discretion and will not be unreasonably withheld. Any decision by EPA to allow an extension shall be in writing and signed by the Complainant for the pertinent Region and the Respondent.

115. Respondent shall be under no obligation imposed pursuant to this CAFO to manage Purge Mixture as a solid waste or a hazardous waste at a Facility referred to in this CAFO on and after the date that any regulation (e.g. the Revised Definition of Solid Waste: 40 C.F.R. 261.2(c)

(3) and 261.4(a)(23); 73 F.R. 64668 (Oct. 30, 2008)) promulgated by EPA which excludes or exempts Purge Mixture as a solid waste or a hazardous waste becomes effective and enforceable by EPA in the state in which any such Facility is located.

116. Respondent may request termination of the CAFO thirty (30) calendar days after it has certified that it is in compliance with 40 C.F.R. Part 265, Subparts J and CC, and the requirements of this CAFO. Respondent shall submit the written request for termination to Chief, Enforcement and Compliance Assurance Branch, Land and Chemicals Division, Region 5. Upon receipt of the written request and after reviewing all information, EPA will notify Respondent in writing regarding its decision with respect to the termination of the CAFO. EPA may request further information and/or documentation before deciding that compliance has been demonstrated. This CAFO shall terminate upon EPA's determination that Respondent has complied with the requirements of the CAFO.

117. Upon the effective date of this CAFO, EPA agrees to make appropriate corrections to the ECHO data base for the RCRA compliance status of the GM Facilities identified in this CAFO.

118. This Consent Agreement is effective upon the filing of the Final Order. 40 C.F.R. § 22.31(b).


119. Each undersigned representative of a party to this Consent Agreement and Final Order certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and Final Order and to legally bind such party to this document.

**IN THE MATTER OF: General Motors Automotive – North America**

**Docket Nos RCRA-03-2009-0099  
RCRA-04-2009-4007(b)  
RCRA-05-2004-0001  
RCRA-07-2009-0001**

Respondent: GM

Agreed to this 14<sup>th</sup> day of May, 2009.

By:   
Kenneth R. Knight  
Executive Director Global World Wide Facilities Group, General Motors Corp.

**IN THE MATTER OF: General Motors Automotive – North America**

**Docket Nos** RCRA-03-2009-0099  
RCRA-04-2009-4007(b)  
RCRA-05-2004-0001  
RCRA-07-2009-0001

For Complainant, United States Environmental Protection Agency, Region III:

Date: May 13, 2009

By: Joyce A. Howell  
Joyce A. Howell  
Senior Assistant Region Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Director, Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator of the Regional Judicial Officer issue the Final Order attached hereto.

Date: 5/14/09

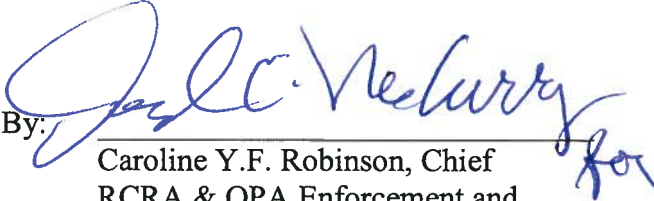
By: Abraham Ferdas  
Abraham Ferdas  
Director  
Land and Chemicals Division

**IN THE MATTER OF: General Motors Automotive – North America**

**Docket Nos RCRA-03-2009-0099  
RCRA-04-2009-4007(b)  
RCRA-05-2004-0001  
RCRA-07-2009-0001**

For Complainant, United States Environmental Protection Agency, Region 4:


Date: 5/19/09

By:   
Caroline Y.F. Robinson, Chief  
RCRA & OPA Enforcement and  
Compliance Branch

**IN THE MATTER OF: General Motors Automotive – North America**  
**Docket Nos RCRA-03-2009-0099**  
**RCRA-04-2009-4007(b)**  
**RCRA-05-2004-0001**  
**RCRA-07-2009-0001**

For Complainant, United States Environmental Protection Agency, Region V:

Agreed to this 21<sup>st</sup> day of May, 2009.

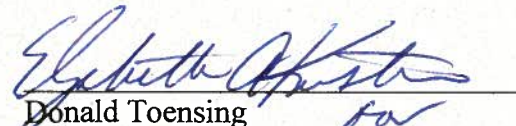
By:   
\_\_\_\_\_  
Margaret Guerriero  
Director, Land and Chemicals Division, Region 5

**IN THE MATTER OF: General Motors Automotive – North America**

**Docket Nos** RCRA-03-2009-0099  
RCRA-04-2009-4007(b)  
RCRA-05-2004-0001  
RCRA-07-2009-0001

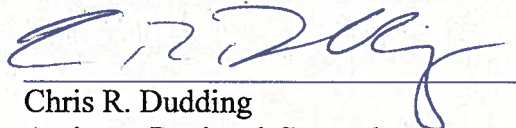
For the Complainant:  
The United States Environmental Protection Agency, Region 7

Date: May 19, 2009



Donald Toensing  
Chief, RCRA Enforcement and State Programs Branch  
Air and Waste Management Division  
U.S. Environmental Protection Agency  
Region 7

Date: 5/19/09



Chris R. Dudding  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region 7



**IN THE MATTER OF: General Motors Automotive – North America**

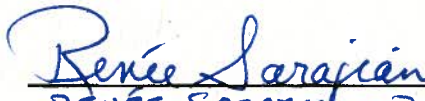
**Docket Nos RCRA-03-2009-0099  
RCRA-04-2009-4007(b)  
RCRA-05-2004-0001  
RCRA-07-2009-0001**

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order 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 (with specific reference to 40 C.F.R. Sections 22.13(b) and 22.18(b)(2) and (3)). The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31 [64 Fed. Reg. 40138 (July 23, 1999)].

Date:

5/21/09



RENÉE SARAJIAN, Regional Judicial Officer  
For EPA Region 3

**IN THE MATTER OF: General Motors Automotive – North America**

**Docket Nos RCRA-03-2009-0099  
RCRA-04-2009-4007(b)  
RCRA-05-2004-0001  
RCRA-07-2009-0001**

**FINAL ORDER**

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Date:

5/22/2009



For EPA Region 4

U.S. ENVIRONMENTAL  
PROTECTION AGENCY  
MAY 26 2009  
OFFICE OF REGIONAL  
COUNSEL

**IN THE MATTER OF: General Motors Automotive – North America**  
**Docket Nos RCRA-03-2009-0099**  
**RCRA-04-2009-4007(b)**  
**RCRA-05-2004-0001**  
**RCRA-07-2009-0001**

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Date: May 22, 09



\_\_\_\_\_  
For EPA Region 5

**IN THE MATTER OF: General Motors Automotive – North America**

**Docket Nos RCRA-03-2009-0099  
RCRA-04-2009-4007(b)  
RCRA-05-2004-0001  
RCRA-07-2009-0001**

**FINAL ORDER**

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Date: May 22, 2009 Robert J. Smith, Regional Judicial  
Officer  
For EPA Region 7

U.S. ENVIRONMENTAL  
PROTECTION AGENCY

MAY 28 2009

OFFICE OF REGIONAL  
COUNSEL

IN THE MATTER OF: General Motors Automotive – North America

Docket Nos RCRA-03-2009-0099  
RCRA-04-2009-4007(b)  
RCRA-05-2004-0001  
RCRA-07-2009-0001

RECEIVED  
MAY 26 2009

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

CERTIFICATE OF SERVICE

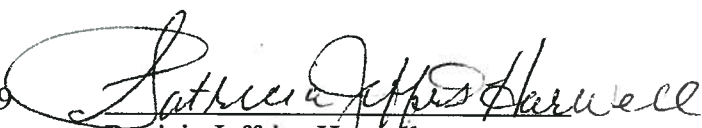
I hereby certify that today I filed the original of this Consent Agreement and Final Order and this Certificate of Service in the office of the Regional Hearing Clerk, United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604-3590, and that I then caused true and accurate copies of the filed document to be promptly mailed to the following by First Class Mail:

Honorable Barbara A. Gunning  
Administrative Law Judge (1900L)  
Office of the Administrative Law Judges  
Ariel Rios Building  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

James Walle  
General Motors Corporation  
Mail Code 482-C24-D4  
300 Renaissance Center  
P.O. Box 300  
Detroit, Michigan 48265-3000

Certified Mail #

Dated: May 26, 2009

  
Patricia Jeffries-Harwell  
Legal Technician (C-14J)  
United States Environmental Protection Agency  
77 W. Jackson Boulevard  
Chicago, Illinois 60604-3590