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UNITED STATES REGIONAL HEARING CLERK  
ENVIRONMENTAL PROTECTION AGENCY EPA REGION VI  
REGION 6  
DALLAS, TEXAS

IN THE MATTER OF:

Axiall, LLC

RESPONDENT

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Consent Agreement and Final Order  
USEPA Docket No. RCRA-06-2021-0918

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**CONSENT AGREEMENT AND FINAL ORDER**

**I. PRELIMINARY STATEMENT**

1. This Consent Agreement and Final Order (CAFO) is entered into by the United States Environmental Protection Agency, Region 6 (the EPA or Complainant) and Respondent, Axiall, LLC (Respondent or Axiall) and concerns the facility located at 26100 Highway 405, Plaquemine, LA 70764 (Facility).
2. Notice of this action has been given to the State of Louisiana, under Section 3008(a)(2) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(2)<sup>1</sup>.

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<sup>1</sup> On January 24, 1985, the State of Louisiana received final authorization for its base Hazardous Waste Management Program (50 FR 3348). Subsequent revisions have been made to the Louisiana Hazardous Waste Program and authorized by the EPA. Except as otherwise provided, all citations found within this order are to the "EPA-Approved Louisiana Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" dated November 2015, incorporated by reference under 40 C.F.R. § 272.951(c)(1)(i) effective on December 26, 2018. 83 Fed. Reg. 66143 (December 26, 2018); 40 C.F.R. 272.951: Louisiana State-Administered Program: Final Authorization. References and citations to the "EPA-Approved Louisiana Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" may vary slightly from the State of Louisiana's published version. The corresponding C.F.R. citations are also provided.

Axiall, LLC  
RCRA-06-2021-0918

3. For the purpose of this CAFO, Respondent admits the jurisdictional allegations herein; however, Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.
4. Respondent waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO and waives all defenses which have been raised or could have been raised to the claims in the CAFO.
5. The CAFO resolves only those violations which are alleged herein.
6. Respondent consents to the issuance of this CAFO as the most appropriate means of settling the EPA's allegations without any adjudication of issues of law or fact, consents to the assessment and payment of the civil penalty in the amount and by the method set out in this CAFO, and consents to the compliance order in this CAFO.
7. The EPA and Respondent agree to the use of electronic signatures for this matter. The EPA and Respondent further agree to electronic service of this Consent Agreement and Final Order, pursuant to 40 C.F.R. § 22.6, by email to the following addresses:

To EPA:

Charlotte Goudeau  
goudeau.charlotte@epa.gov

To Respondent:

Rebecca Moring  
rmoring@westlake.com

With copy to:

M. Dwayne Johnson  
dwayne.johnson@keanmiller.com

Axiall, LLC  
RCRA-06-2021-0918

## II. JURISDICTION

8. This CAFO is issued by the EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), as amended by the Hazardous and Solid Waste Amendments of 1984 and is simultaneously commenced and concluded through the issuance of this CAFO under 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b) and 22.18(b)(2) and (3).
9. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by the EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of the EPA to issue or enforce this CAFO and agrees not to contest the validity of this CAFO or its terms or conditions.

## III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

10. Respondent is a corporation authorized to do business in the State of Louisiana.
11. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and Title 33 of the Louisiana Administrative Code (LAC) LAC 33: V.109 [40 C.F.R. § 260.10].
12. Respondent owns and operates the Facility.
13. The Facility is a manufacturer of vinyl chloride.
14. The Facility is assigned the EPA ID Number LAD057117434.
15. The Facility is a "facility" within the meaning of LAC 33: V.109 [40 C.F.R. § 260.10].
16. From February 25, 2020 through February 28, 2020, the EPA conducted an unannounced inspection of the Facility for compliance with RCRA, which included walkthroughs of the facility's hazardous waste generation, management, and thermal treatment units; a review of the facility's records related to hazardous waste management; and a specific evaluation of the

Axiall, LLC  
RCRA-06-2021-0918

facility's compliance with the RCRA air pollution control requirements, as a generator of hazardous waste in the State of Louisiana and a facility permitted to treat, store, and dispose of hazardous waste.

17. On December 9, 2020, the EPA sent Respondent a Notification of Potential Violations and Opportunity to Confer letter (dated December 8, 2020) and began discussions with Respondent regarding the violations alleged herein and provided an opportunity for Respondent to submit additional information or materials.
18. Respondent generates hazardous waste streams in quantities that exceed the threshold amount of 1000 kilograms per calendar month of non-acute hazardous waste, corresponding to Large Quantity Generator (LQG) status under Title 33 of LAC Part V, Subpart 1, Chapter 11 [40 C.F.R. Part 262].
19. Respondent is a "generator" of "hazardous waste" as those terms are defined in LAC 33: V.109 [40 C.F.R. § 260.10].
20. As a generator of hazardous waste, Respondent is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth in Title 33 of LAC Part V, Subpart 1, Chapter 11 [40 C.F.R Part 262].
21. As a generator who treats, stores or disposes of hazardous waste, Respondent is subject to Section 3004 of RCRA, 42 U.S.C. § 6924, and the regulations set forth in Title 33 of LAC Part V, Subpart 1, Chapter 15 [40 C.F.R. Part 264].
22. As a generator who stores containers of hazardous waste, Respondent is subject to the regulations set forth in Title 33 of LAC Part V, Subpart 1, Chapter 21 [40 C.F.R. Part 264, Subpart I].

Axiall, LLC  
RCRA-06-2021-0918

23. Respondent is a “used oil generator,” and had containers of “used oil” at the Facility as the terms are defined in LAC 33: V.4001.A. [40 C.F.R. § 279.1].
24. As a used oil generator, Respondent is subject to the regulations set forth in Title 33 of LAC Part V, Subpart 1, Chapter 40 [40 C.F.R. Part 279].

#### IV. VIOLATIONS

##### **Claims 1. Failure to Label Hazardous Waste Containers with Accumulation Date**

25. The allegations in Paragraphs 1-24 are re-alleged and incorporated herein by reference.
26. Pursuant to LAC 33:V.1109.E.1.c [40 C.F.R. § 262.34(a)(2)], a generator who generates 1,000 kg or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in LAC 33:V.4901.B or E in a calendar month, may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container and tank.
27. During the February 2020 inspection, the EPA inspectors identified five less than 90-day hazardous waste containers which were not labeled with the accumulation start date: one roll-off container located next to the central waste container accumulation area containing K019 refractory waste from the hazardous waste incinerator, three hazardous waste coke/carbon drums located in the VCM unit, and one drum of EDC contaminated dirt in the VCM unit.
28. The EPA finds that at the time of the February 2020 inspection, Respondent failed to properly label five hazardous waste containers with the accumulation dates, in violation of LAC 33:V.1109.E.1.c [40 C.F.R. § 262.34(a)(2)].

Axiall, LLC  
RCRA-06-2021-0918

**Claims 2. Failure to Carry Out Immediately the Provisions of the Facility's Contingency Plan**

29. The allegations in Paragraphs 1-24 are realleged and incorporated herein by reference.
30. Pursuant to LAC 33:V.1513.A.3 [40 C.F.R. § 264.51(b)], the provisions of the contingency plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.
31. During the February 2020 inspection, the EPA inspectors found evidence of spills and releases of EDC heavies in two separate locations in the VCM Unit: the first identified on February 25, 2020, during the inspection of the manufacturing areas and the second on February 27, 2020, at the VCM unit tank farm.
32. The EPA finds that at the time of the February 2020 inspection, Respondent failed to immediately carry out the provisions of the Facility's contingency plan, in violation of LAC 33:V.1513.A.3 [40 C.F.R. § 264.51(b)].

**Claims 3. Failure to Maintain and Operate the Facility in a Manner to Minimize the Possibility of an Unplanned Sudden, or Non-sudden Release of Hazardous Waste**

33. The allegations in Paragraphs 1-24 are realleged and incorporated herein by reference.
34. Pursuant to LAC 33:V.1511.B [40 C.F.R. § 264.31], facilities must be designed, constructed, maintained, and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.
35. During the February 2020 inspection, the EPA inspectors determined that the discharge of the weak liquor in the chlorine/caustic unit to the surface impoundment that serves as the secondary containment to the chlorine cell line posed a significant risk of release to the environment. Due

Axiall, LLC  
RCRA-06-2021-0918

to the degradation of the concrete the EPA inspectors observed during the inspection, the EPA inspectors determined that the impoundment could provide a pathway for the weak liquor to migrate into the soils beneath the unit. The weak liquor showed a pH of greater than 12.5 and would demonstrate the hazardous waste characteristic of corrosivity if discarded. The EPA inspectors determined that any unmitigated release of the weak liquor could constitute an act of disposal under RCRA.

36. The EPA finds that at the time of the February 2020 inspection, Respondent failed to maintain and operate the Facility in a manner to minimize the possibility of an unplanned sudden or non-sudden release of hazardous waste which could threaten human health or the environment, in violation of LAC 33:V.1511.B [40 C.F.R. § 264.31].

**Claims 4. Failure to Meet the Requirements of Personnel Training**

37. The allegations in Paragraphs 1-24 are realleged and incorporated herein by reference.
38. Pursuant to LAC 33:V.1515.D.4 [40 C.F.R. § 264.16(d)(4)], the owner or operator must maintain records documenting that the training or job experience required under LAC 33:V.1515.A, B, and C have been given to, and completed by, facility personnel.
39. During the February 2020 inspection, the EPA inspectors requested additional records from Respondent to facilitate additional offsite compliance determinations in lieu of a protracted onsite records review. The EPA requested training records for personnel tasked with specific duties pertaining to RCRA compliance and emergency response.
40. Respondent provided additional information to the EPA on March 12, 2020 and September 2, 2020.
41. After a review of this additional information, the EPA determined that Respondent is missing training records for two annual RCRA training events for one employee.

Axiall, LLC  
RCRA-06-2021-0918

42. The EPA finds that at the time of the February 2020 inspection and subsequent records review, Respondent failed to meet the requirements of personnel training, in violation of LAC 33: V.1515 [40 C.F.R. § 264.16(d)(4)].

**Claims 5. Failure to Label a Used Oil Container with the words “Used Oil”**

43. The allegations in Paragraphs 1-24 are realleged and incorporated herein by reference.
44. Pursuant to LAC 33: V.4013.D.1 [40 C.F.R. § 279.22(c)], containers used to store used oil at generator facilities must be labeled or marked clearly with the words “Used Oil.”
45. During the February 2020 inspection, the EPA inspectors observed one container of used oil located in the northwest corner of the VCM unit was not labeled with the words “Used Oil.”
46. The EPA finds that at the time of the February 2020 inspection, Respondent failed to properly label one used oil container with the words “Used Oil,” in violation of LAC 33:V.4013.D.1 [40 C.F.R. § 279.22(c)].

**Claims 6. Failure to Transfer Hazardous Waste from a Container in Poor Condition to a Container in Good Condition**

47. The allegations in Paragraphs 1-24 are realleged and incorporated herein by reference.
48. Pursuant to LAC 33:V.2103 [40 C.F.R. § 264.171], if a container holding hazardous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition or manage the waste in some other way that complies with the requirements of LAC Title 33 Part V, Subpart 1, Chapter 21.
49. During the February 2020 inspection, the EPA inspectors identified one container used for the accumulation of cumene waste, located in the wastewater treatment unit, visibly corroded and in poor condition.



Axiall, LLC  
RCRA-06-2021-0918

50. The EPA finds that at the time of the February 2020 inspection, Respondent failed to transfer hazardous waste from a container in poor condition to a container in good condition, in violation of LAC 33: V.2103 [40 C.F.R. § 264.171].

**Claims 7. Failure to Close Hazardous Waste Containers**

51. The allegations in Paragraphs 1-24 are realleged and incorporated herein by reference.

52. Pursuant to LAC 33: V.2107.A [40 C.F.R. § 264.173(a)], a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

53. During the February 2020 inspection, the EPA inspectors found that two hazardous waste containers were open during the inspection: one carbon/coke waste drum in the VCM unit and one drum of hazardous waste neutralizer insulation in the VCM unit.

54. The EPA finds that at the time of the February 2020 inspection, Respondent failed to close two hazardous waste containers, in violation of LAC 33: V.1109.E.1.c [40 C.F.R. § 262.34(a)(2)].

**V. COMPLIANCE ORDER**

55. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within 90 calendar days of the effective date of this CAFO, Respondent shall provide in writing the following:

- A. Respondent shall certify that it has assessed all its solid waste streams at the Facility to determine the accurate waste codes and has developed and implemented standard operating procedures (SOPs) to ensure that Respondent is operating the Facility in compliance with RCRA and the regulations promulgated thereunder, including, but not limited to, procedures for: (a) making hazardous waste determinations; (b) managing hazardous wastes; (c) reporting, transporting, and disposing of hazardous waste; (d) preparing its manifests; and (e) meeting the requirements of the land disposal requirements;

Axiall, LLC  
RCRA-06-2021-0918

- B. Respondent shall certify that it has accurately and adequately complied with its RCRA Section 3010 notification for the Facility; and
- C. Respondent shall provide, with its certification, a copy of Respondent's SOPs as described in subparagraph A above.

56. In all instances in which this CAFO requires written submission to the EPA, the submittal made by Respondent shall be signed by an owner or officer of the Respondent and shall include the following certification:

"I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Copies of all documents required by this CAFO shall be sent to the following:

U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Enforcement and Compliance Assurance Division (ECDSR)  
ATTN: William Mansfield  
Dallas, Texas 75270-2102

Where required, notice shall be sent electronically by email to Enforcement Officer William Mansfield, respectively at [mansfield.william@epa.gov](mailto:mansfield.william@epa.gov).

Axiall, LLC  
RCRA-06-2021-0918

## VI. TERMS OF SETTLEMENT

### A. Penalty Provisions

57. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of **Forty-Nine Thousand Six Hundred and Two Dollars (\$49,602.00)**.
58. The penalty shall be paid within thirty (30) calendar days of the effective date of this CAFO and made payable to the Treasurer, United States of America.
59. The EPA web address, <https://www.epa.gov/financial/additional-instructions-making-payments-epa>, provides a list of options available for transmitting payment of penalties. Options for payment include:
- Electronic payments via Pay.gov. <https://www.pay.gov/public/search>
- Remittance by Regular Mail, U.S. Postal Mail (including certified mail) or U.S. Postal Service Express Mail, the check should be remitted to:

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

Axiall, LLC  
RCRA-06-2021-0918

Overnight Mail (non-U.S. Postal Service), the check should be remitted to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines and Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
314-418-1028

Wire Transfer:

Federal Reserve Bank of New York  
ABA: 021030004  
Account No. 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

The case name and docket number (**In the Matter of Axiall, LLC, Docket No. RCRA-06-2021-0918**) shall be clearly documented on or within the chosen method of payment to ensure proper credit.

60. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn  
Regional Hearing Clerk (ORC)  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102  
vaughn.lorena@epa.gov

U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Enforcement and Compliance Assurance Division (ECAD-SR)  
ATTN: William Mansfield  
Dallas, Texas 75270-2102  
mansfield.william@epa.gov

Respondent's adherence to this request will ensure proper credit is given when penalties are received by EPA.

61. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, the EPA will assess interest and late payment penalties on outstanding debts owed to the United

Axiall, LLC  
RCRA-06-2021-0918

States and a charge to cover the cost of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by the EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and 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).

62. Moreover, the costs of the Agency's administrative handling overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). The EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent (6%) per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

#### **B. Costs**

63. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

#### **C. Termination and Satisfaction**

64. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall also certify this in writing and in accordance with the certification language set forth in

Axiall, LLC  
RCRA-06-2021-0918

Section III (Compliance Order). Unless the EPA, Region 6 objects in writing within sixty (60) days of the EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

**D. Effective Date of Settlement**

65. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

Axiall, LLC  
RCRA-06-2021-0918

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:**

FOR THE RESPONDENT:

Date: April 23, 2021

DocuSigned by:  
*Doug Knitting*  
Axiall, LLC

Axiall, LLC  
RCRA-06-2021-0918

FOR THE COMPLAINANT:

STEPHEN  
GILREIN

Digitally signed by STEPHEN GILREIN  
DN: c=US, o=U.S. Government,  
ou=Environmental Protection Agency,  
cn=STEPHEN GILREIN,  
6.9.2342.19200300.100.1.1+68001003651794  
Date: 2021.04.28 16:44:03 -0500

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Cheryl T. Seager  
Director  
Enforcement and  
Compliance Assurance Division  
U. S. EPA, Region 6



Axiall, LLC  
RCRA-06-2021-0918

**FINAL ORDER**

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing CAFO is hereby ratified. This Final Order shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 C.F.R. § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Rucki,  
Thomas

Digitally signed by Rucki, Thomas  
DN: cn=Rucki, Thomas,  
email=Rucki.Thomas@epa.gov  
Date: 2021.04.27 09:27:38 -05'00'

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Thomas Rucki  
Regional Judicial Officer

Axiall, LLC  
RCRA-06-2021-0918

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was electronically delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that a true and correct copy was sent this day in the following manner to the email addresses:

Copy via Email to Complainant:  
goudeau.charlotte@epa.gov

Copy via Email to Respondent:  
rmoring@westlake.com

Copy via Email to:  
dwayne.johnson@keanmiller.com

Copy via Email to the EPA, Region 6, Regional Hearing Clerk:  
vaughn.lorena@epa.gov

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EPA Region 6

*Electronic service was agreed to by the parties in lieu of service by certified mail to the following:*

Westlake Chemical/Axiall, LLC  
Attn: Rebecca H. Moring, Senior Counsel Environmental  
2801 Post Oak Blvd., Ste. 600  
Houston, Texas 77056