

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Philadelphia, Pennsylvania 19103**

<b>IN THE MATTER OF:</b>	)	<b>DOCKET NO.: RCRA-03-2022-0035</b>
	)	
<b>The Sherwin Williams Company</b>	)	
	)	
<b>Respondent,</b>	)	<b>EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER</b>
	)	
<b>Sherwin Williams</b>	)	<b>Proceeding under Section</b>
<b>2000 Westhall Street</b>	)	<b>3008(a) and (g) of the Resource</b>
<b>Pittsburgh, PA 15233</b>	)	<b>Conservation and Recovery Act, as</b>
	)	<b>amended, 42 U.S.C. § 6928(a) and (g)</b>
<b>Facility</b>	)	
	)	
	)	
	)	

**EXPEDITED SETTLEMENT AGREEMENT**

1. The Sherwin Williams Company (“Respondent”), and the Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 3008(a) and (g) of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C § 6928(a) and (g), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and (3)). The Administrator has delegated the authority to enter into this Agreement to the Regional Administrator who, in turn, has delegated it to the Complainant.
2. The U.S. Environmental Protection Agency, Region III (“EPA”) has jurisdiction over this matter pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), and 40 C.F.R. §§ 22.1(a)(4) and 22.4 of the Consolidated Rules of Practice.
3. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), EPA has authorized Pennsylvania to administer a hazardous waste management program in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g. The provisions of the current authorized Pennsylvania Hazardous Waste Management Regulations (“PaHWMR”) codified at 25 Pa. Code Ch. 260a-266a, 266b, and 268a-270a, have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). EPA last authorized revisions to the PaHWMR on June 29, 2009, including incorporation by reference of the federal regulations which were in effect as of October 12, 2005. The Code of Federal Regulation citations used herein are to the 2005 Federal regulations in place as of October

- 12, 2005, when referring to the Federal regulations incorporated by the Pennsylvania regulations.
4. On November 16, 2021, EPA sent a letter to Pennsylvania, through the Pennsylvania Department of Environmental Protection (“PaDEP”), giving prior notice of this enforcement action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
  5. At its facility, located at 2000 Westhall Street Pittsburgh, PA 15233 (“Facility”), Respondent owns and operates a paint and coating production facility with three main processes: Coiled Steel/Aluminum Coating, Mirror Coating Production, and Hardening MDI/HDI. Coiled Coatings are used in the interior lining of cans and beverages, while their Mirror Coatings are used in the manufacturing of Mirror and reflective products. The Hardening Cell uses hexamethylene diisocyanate (“HDI”) and methylene dicyclohexyl diisocyanate (“MDI”) in heavy machinery coatings and heavy Industrial Coatings. On August 18, 1980, Respondent submitted a notification to PaDEP that the Facility was a large quantity generator “LQG” of hazardous waste at the Facility, and PaDEP assigned RCRA ID No. PAD014989503 to the Facility.
  6. Complainant alleges that, at all times relevant to the allegations described in this Agreement, Respondent was and continues to be a corporation organized under the laws of the Commonwealth of Pennsylvania and is therefore a “person,” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 25 Pa. Code § 260a.10. Respondent was, at all times relevant to the allegations in this Agreement, the “operator” and the “owner” of a “facility,” described in Paragraph 5, as the terms “owner” and “operator” and “facility” are defined in 25 Pa. Code §§ 260a.1, 260a.10.
  7. At all times relevant to the allegations described in this Agreement, Respondent “stored” “hazardous waste” at the Facility, including but not limited to Methyl Ethyl Ketone, Aluminum Paste, Flammable Lab Trash, Hardener Solids, Hardener Solvents, Inorganic Mirror Containing Silver, Inorganic Mirror Solvents (non-silver containing), Paint Contaminated Debris, Phosphoric Acid, Waste Isocyanates, Waste Paints, Waste Paint Loosepack, Waste Paint Retain Samples, MDI Liquid Waste, Monomer waste, Mercury Containing devices, Fluorescent Lamps, Batteries, with EPA Hazardous Waste Number(s) D001, D002, D035, F003, F005, as the terms “storage” and “hazardous waste” are defined in 25 Pa. Code §§ 260a.1, 260a.10.
  8. On July 27, 2021, EPA representatives conducted a Compliance Evaluation Inspection at the Facility to determine compliance with the applicable hazardous waste regulations.
  9. Based on the observations during the Inspection, Complainant alleges and finds that Respondent failed to comply with specific requirements of Subtitle C of RCRA, 42 U.S.C. §§ 6921 *et seq.*, its implementing regulations at 40 C.F.R. Parts 262, 264, 265, and the federally-authorized Pennsylvania hazardous waste management regulations set forth in the Pennsylvania Hazardous Waste Management Regulations (“PaHWMR”), 25 Pa. Code Ch. 260a-266a, 266b, and 268a-270a.

10. Complainant has identified the following violation at the Facility: Respondent violated 42 U.S.C. § 6925(a) and 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), by operating a hazardous waste storage facility without a permit or valid exemption to the permitting requirement. Respondent failed to meet the following conditions of the generator permit exemption:
- a. On July 27, 2021, Respondent failed to meet a condition of the generator permit exemption in 25 Pa. Code § 262a.1, which incorporates by reference 40 C.F.R. § 262.34<sup>1</sup>(a)(3), when it failed to label a container of solvent contaminated wipes (EPA Hazardous Waste No. D001) being sent offsite for cleaning and reuse, as required by the regulations. Within the GTC building in the receiving room where the less-than 90-day storage of hazardous waste is located, the Inspectors observed a red container with rags that Facility personnel stated were to be laundered. The red container was labeled “oily rags”.
  - b. On at least July 27, 2021, Respondent failed to meet a condition of the generator permit exemption in 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(2), when it failed to mark two containers of hazardous waste with the accumulation start date. In the D Room at the Facility, within the 90-day storage area, there were two containers of waste paint (EPA Hazardous Waste No. D001, D035, F003, and F005) that were not marked with an accumulation date.
  - c. On at least July 27, 2021, Respondent failed to meet a condition of the generator permit exemption in 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(3), when it failed to mark containers accumulating hazardous waste with the words, “Hazardous Waste”. In the D Room at the Facility, within the 90-day storage area, there were three containers of waste paint (EPA Hazardous Waste No. D001, D035, F003, and F005) that were not marked with the words “Hazardous Waste”, and indication of the hazards of the contents. These containers had waste codes but no label with the words, “Hazardous Waste”.
  - d. On July 27, 2021, Respondent failed to meet a condition of the generator permit exemption in 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(c)(1), when it failed to keep a Satellite Accumulation Area (“SAA”) container at or near the point of generation and under the control of the operator of the process of generating the waste. One 55-gallon container used as the SAA container for the QC lab for the Hardening process, which contained Hardener solid waste (EPA Hazardous Waste No. D001), was located outside of the area of the process that generated the waste.
  - e. On July 27, 2021, Respondent failed to meet a condition of the generator permit exemption in 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(c)(1)(ii), when it failed to mark SAA containers with the words “Hazardous Waste.” In the GTC building at the Facility, in the west side laboratory, there were

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<sup>1</sup> On November 28, 2016, EPA re-codified the generator permit exemption, effective on May 30, 2017. The federal requirements previously found in 40 C.F.R. § 262.34 are now re-codified at 40 C.F.R. §§ 262.15 – 262.17.

four one-liter containers collecting waste from analytical label effluent (EPA Hazardous Waste Nos. D001) from the analysis equipment. There were no markings or labels on these containers to identify the waste. Also, within the Mirror Room at the Facility, under the fume hood, there was a waste container that contained solvents (EPA Hazardous Waste Nos. D001) not labeled as Hazardous waste.

11. Complainant also identified the following violations at the Facility:

- a. On July 27, 2021, Respondent failed to make hazardous waste determinations for several containers of solid waste, in violation of 25 Pa. Code § 262a.10 which incorporates by reference 40 C.F.R. § 262.11. During the Inspection, the EPA Inspectors found the following solid wastes in these areas of the Facility:
  - (1) In the Maintenance Area at the Facility, two aerosol cans in the regular trash container that had not been punctured.
  - (2) In the QC lab at the Facility, there were rags and pipettes that were contaminated with solvent and paint waste (EPA Hazardous Waste Nos. D001) in the regular trash.
  - (3) In the Resin Pilot Plant at the Facility, there were five 5-gallon open containers used to collect hexamethylene diisocyanate (“HDI”) and methylene dicyclohexyl diisocyanate (“MDI”) (EPA Hazardous Waste Nos. D001, D002, D035, F003, F005) from the open-ended piping coming from the reactors.

These containers were not marked or labeled with words to describe the content of each container. Respondent had not determined whether these solid wastes were hazardous wastes.

- b. From 2018 to 2021, Respondent failed to maintain the signed copy of manifest for three years from the date the waste was accepted by the initial transporter and failed to submit to EPA an Exception Report, in violation of 25 Pa. Code § 262a.1(a), which incorporates by reference 40 C.F.R. §§ 262.40(a), 262.42(a)(2). For the year 2018, there were eleven hazardous waste manifests that did not have signatures from the designated facility and one from the year 2019. Respondent failed to maintain signed Manifests or submit Exception Reports for shipments sent by Respondent using the following Manifest: 020634736JJK, 019606036JJK, 018361368JJK, 018361423JJK, 018361479JJK, 018361449JJK, 019606001JJK, 012108627FLE, 012108628FLE, 018626787JJK, 019606090JJK, 019606121JJK.
- c. On at least July 27, 2021, Respondent failed to provide written job descriptions for each position at the Facility with responsibility for hazardous waste management, as required by 25 Pa. Code § 264a.1(a), which incorporates by reference 40 C.F.R. § 264.16(d). Respondent only provided one job description, General Production Operator (Paint), and this job description did not include any mention of hazardous waste management duties.

- d. On at least July 27, 2021, Respondent failed to keep closed containers containing universal waste lamps, in violation of 25 Pa. Code § 266b.1, which incorporates by reference 40 CFR § 273.13(d)(1). Within the Facility’s universal waste collection area, the Inspectors observed an open container of universal waste lamps.
  - e. On at least July 27, 2021, Respondent failed to have a system to demonstrate the length of time that the universal waste has been accumulated, in violation of 25 Pa. Code § 266b.1, which incorporated by reference 40 CFR § 273.15(c). Within the facility’s universal waste collection area inspectors found a container of waste lamps without a start date for accumulation, and Respondent did not have another system to demonstrate the length of time that the universal waste had been accumulated.
  - f. On July 27, 2021, Respondent failed to manage sampling cups in the J Room Coil Process (EPA Hazardous Waste No. D001, D002, D035, F003, F005) as hazardous waste, and failed to empty these containers completely as to be considered ‘RCRA empty’ within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.7(b)(1). The Inspectors observed sampling cups in the regular trash in the J room Coil Process. Respondent considered these to be RCRA empty, but the Inspectors observed that the cups contained enough product such that they did not meet the definition of ‘RCRA empty’. As a result, Respondent failed to make a waste determination as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11.
12. Complainant and Respondent agree that settlement of this matter for a total penalty of **TWELVE THOUSAND FIVE HUNDRED DOLLARS (\$12,500.00)** is in the public interest. In calculating this amount, Complainant considered the statutory factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and with specific reference to EPA’s October 1990 RCRA Civil Penalty Policy, as revised in June 2003 (“RCRA Penalty Policy”), and the 2021 RCRA Expedited Settlement Agreement Pilot.
13. Respondent agrees that, within 30 days of the effective date of this Agreement, Respondent shall make a payment of **TWELVE THOUSAND FIVE HUNDRED DOLLARS (\$12,500.00)** by one of four methods: 1) electronic funds transfer (“EFT”), 2) Automated Clearinghouse, 3) Pay.gov, or 4) a cashier’s check or certified check made out to “**United States Treasury**” with the case name, address, and docket number of this Agreement (RCRA-03-2022-0035), for the amount specified above:
- a. Payment of the penalty amount by EFT:

Federal Reserve Bank of New York  
ABA 021030004  
Account 68010727  
SWIFT address FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Beneficiary: Environmental Protection Agency

b. Payment of the penalty amount by Automated Clearinghouse (“ACH”):

U.S. Treasury REX/Cashlink ACH Receiver

ABA: 051036706

Account Number: 310006, Environmental Protection Agency

CTX Format Transaction Code 22- Checking

Physical Location of the U.S. Treasury Facility

5700 Rivertech Court

Riverdale, MD 20737

Remittance Express (REX): 1-866-234-5681

c. Payments made through Pay.gov:

Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments. Follow these steps to make a payment:

- (1) You **DO NOT** need a username and password or account.
- (2) Enter **SFO 1.1** in the form search box on the top left side of the screen.
- (3) Open the form and follow the on-screen instructions.
- (4) Select your method of payment from the “Type of Payment” drop down menu.
- (5) Based on your selection, the corresponding line will open and no longer be shaded grey.
- (6) Enter the docket number of this Agreement into the field.

d. Payment of the penalty amount by regular U.S. Postal Service shall be sent via certified mail to:

U.S. Environmental Protection Agency

P.O. Box - Cincinnati Finance Center Box 979077

St. Louis, MO 63197-9000

e. Payment of the penalty amount by overnight mail (FedEx or other non-U.S. Postal Service express mail) shall be sent to:

U.S. Environmental Protection Agency

Government Lock Box - Cincinnati Finance Center Box 979077

1005 Convention Plaza

SL-MO-C2-GL

St. Louis, MO 63101

- f. A list of the payment methods is also provided at this website  
<https://www.epa.gov/financial/makepayment>.
14. Within 24 hours of payment, Respondent shall also send proof of payment (a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer), by electronic mail to:

Andrew Dutton Van Woert, Enforcement Officer (3ED22)  
U.S. EPA, Region III  
[vanwoert.andrew@epa.gov](mailto:vanwoert.andrew@epa.gov)

and


Regional Hearing Clerk (3RC00)  
U.S. EPA, Region III  
[R3\\_Hearing\\_Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov)

15. In signing this Agreement, Respondent: admits the jurisdictional allegations in this Agreement; neither admits nor denies the specific factual allegations in this Agreement, except as provided in the jurisdictional admission above; agrees not to contest EPA's jurisdiction with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement the Agreement; expressly waives its right to a hearing on any issue of law or fact in this Agreement and any right to appeal the accompanying Final Order; consents to the issuance of the Agreement and agrees to comply with its terms; agrees to bear its own costs and attorney's fees; and agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
16. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that (1) the alleged violations have been corrected, and (2) any documentation or information provided to EPA was true and accurate.
17. This Agreement and the attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations alleged in this Agreement.
18. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Sections 22.18(c) and 22.31(a) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the RCRA, the RCRA regulations promulgated, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Agreement, following its filing with the Regional Hearing Clerk.
19. Late payment of the agreed upon penalty may subject Respondent to interest, administrative costs and late payment penalties in accordance with 40 C.F.R. § 13.11.

20. This Agreement is effective upon filing, in accordance with 40 C.F.R. § 22.31(b).
21. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind The Sherwin Williams Company.
22. As permitted under 40 CFR § 22.6, the Regional Hearing Clerk will serve copies of this Agreement and Final Order by e-mail to the parties at the following valid e-mail addresses: vanwoert.andrew@epa.gov (EPA), and charles.bartusjr@valspar.com (The Sherwin Williams Company).

**For Respondent:** The Sherwin Williams Company

Date: 4/13/22

By:   
NAME: Stephen J. Perusutti  
TITLE: Assistant Secretary



**For Complainant: U.S. Environmental Protection Agency, Region III**

After reviewing the Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: \_\_\_\_\_  
Karen Melvin, Director  
Enforcement & Compliance Assurance Division

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Philadelphia, Pennsylvania 19103-2029**

**IN THE MATTER OF:**

**The Sherwin Williams Company**  
**Respondent,**

**Sherwin Williams**  
**2000 Westhall Street**  
**Pittsburgh, PA 15233**

) **DOCKET NO.: RCRA-03-2022-0035**  
)  
)  
) **EXPEDITED SETTLEMENT**  
) **AGREEMENT AND FINAL ORDER**  
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)  
) **Proceeding under Section**  
) **3008(a) and (g) of the Resource**  
) **Conservation and Recovery Act, as**  
) **amended, 42 U.S.C. § 6928(a) and (g)**  
)  
)  
)  
)

**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency - Region III, and Respondent, The Sherwin Williams Company, have executed a document entitled "Expedited Settlement Agreement," which I hereby ratify as a Consent Agreement 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 Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Expedited Settlement Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

Based upon the representations of the parties in the attached Expedited Settlement Agreement, the penalty agreed to therein took into account the statutory factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and with specific reference to EPA's October 1990 RCRA Civil Penalty Policy, as revised in June, 2003 ("RCRA Penalty Policy"), and the 2021 RCRA Expedited Settlement Agreement Pilot.

**NOW, THEREFORE, PURSUANT TO** 3008(g) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. Section 6991e, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **TWELVE THOUSAND FIVE HUNDRED DOLLARS (\$12,500.00)**, in accordance with the payment provisions set forth in the Expedited Settlement Agreement, and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Expedited Settlement Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable

provisions of Subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6921 et seq., and the regulations promulgated thereunder.

The effective date of the foregoing Expedited Settlement Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: \_\_\_\_\_

By: \_\_\_\_\_

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

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Philadelphia, Pennsylvania 19103-2029**

<b>IN THE MATTER OF:</b>	)	<b>DOCKET NO.: RCRA-03-2022-0035</b>
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<b>Respondent,</b>	)	<b>EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER</b>
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<b>Sherwin Williams</b>	)	<b>Proceeding under Section</b>
<b>2000 Westhall Street</b>	)	<b>3008(a) and (g) of the Resource Conservation</b>
<b>Pittsburgh, PA 15233</b>	)	<b>and Recovery Act, as amended, 42 U.S.C.</b>
	)	<b>§ 6928(a) and (g)</b>
<b>Facility</b>	)	

**CERTIFICATE OF SERVICE**

I certify that on \_\_\_\_\_, the foregoing *Consent Agreement and Final Order*, was filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Chuck Bartus, Plant Manager  
Sherwin Williams  
2000 Westhall Street Pittsburgh, PA 15233  
[charles.bartusjr@valspar.com](mailto:charles.bartusjr@valspar.com)

Andrew Dutton Van Woert  
Compliance Officer  
U.S. EPA, Region III  
[Vanwoert.andrew@epa.gov](mailto:Vanwoert.andrew@epa.gov)

Date: \_\_\_\_\_

\_\_\_\_\_  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region III