

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Sealed Air Corporation
803 North Maple Street
Simpsonville, South Carolina 29681
EPA ID No.: SCD047554753

Respondent.

Docket No. **RCRA-04-2021-2109(b)**

Proceeding Under Section 3008(a) of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6928(a)

CONSENT AGREEMENT

I. NATURE OF ACTION

1. This is an administrative penalty assessment proceeding brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a) (RCRA or the Act) and Sections 22.13(b) and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.
3. The parties have conferred for the purposes of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CAFO, and Respondent hereby agrees to perform the actions required under the CAFO.

II. PARTIES

4. Complainant is the Chief of the Chemical Safety and Land Enforcement Branch, Enforcement and Compliance Assurance Division, United States Environmental Protection Agency, Region 4, who has been delegated the authority on behalf of the Administrator of the EPA to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 3008(a) of the Act. Complainant hereafter shall be referred to as the EPA for purposes of this agreement.
5. Respondent is Sealed Air Corporation (Respondent), a corporation doing business in the State of South Carolina. This proceeding pertains to Respondent's facility located at 803 North Maple Street, Simpsonville, South Carolina 29681 (Facility).

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of South Carolina (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at SCHWMA, S.C. Code Ann. § 44-56-10 *et seq.*, and S.C. Code Ann. Regs. 61-79.260-270, 61-79.273 and 61-107.279.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. The State has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), EPA has given notice of this action to the State before issuance of this CAFO.
11. Sections 44-56-30 of the SCHWMA, S.C. Code Ann. § 44-56-30 [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at S.C. Code Ann. Regs. 61-79 Part 262 [40 C.F.R. Part 262].
12. Section 44-56-60(a)(2) and (b)(3) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b)(3) [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at S.C. Code Ann. Regs. 61-79 Part 264 (permitted) and S.C. Code Ann. Regs. 61-79 Part 265 (interim status)] [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].
13. Pursuant to S.C. Code Ann. Regs. 61-79.261.2 [40 C.F.R. § 261.2], a "solid waste" is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned.
14. Pursuant to S.C. Code Ann. Regs. 61-79.261.3 [40 C.F.R. § 261.3], a solid waste is a "hazardous waste" if it meets any of the criteria set forth in S.C. Code Ann. Regs. 61-79.261.3(a)(2) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by S.C. Code Ann. Regs. 61-79.261.4(b) [40 C.F.R. § 261.4(b)].
15. Pursuant to S.C. Code Ann. Regs. 61-79.261.3(a)(2)(i) and 261.20[40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in S.C. Code Ann. Regs. 61-79.261.21-24 [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.

16. Pursuant to S.C. Code Ann. Regs. 61-79.261.20 and 21 [40 C.F.R. §§ 261.20 and 261.21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.
17. Pursuant to S.C. Code Ann. Regs. 61-79.261.20 and 61-79.261.24 [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to S.C. Code Ann. Regs. 61-79.261.24 [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for methyl ethyl ketone is identified with the EPA Hazardous Waste Number D035.
18. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in S.C. Code Ann. Regs. 61-79.261 [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
19. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “facility” includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.
20. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “person” includes a corporation.
21. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], an “owner” is “the person who owns a facility or part of a facility” and an “operator” is “the person responsible for the overall operation of a facility.”
22. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “storage” means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
23. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “container” means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
24. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “tank” means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials which provide structural support.
25. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “tank system” is defined as a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.
26. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “ancillary equipment” is defined as any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to a storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal offsite.
27. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “universal waste” means any of the following hazardous waste that are managed under the universal waste requirements of S.C.

Code Ann. Regs. 61-79.273 [40 C.F.R. Part 273]: batteries, pesticides, mercury-containing equipment, lamps, and aerosol cans.

28. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10] and to S.C. Code Ann. Regs. 61-79.273.9 [40 C.F.R. § 273.9], a “lamp”, also referred to as “universal waste lamp”, is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium and metal halide lamps.
29. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “universal waste handler” means a generator of universal waste or the owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.
30. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], “used oil” means any oil that has been refined from crude oil, or any synthetic oil, that has been used and, as a result of such use, is contaminated by physical or chemical impurities.
31. Pursuant to S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10], a “solvent-contaminated wipe” means (1) a wipe that, after use or after cleaning up a spill, either (i) contains one or more of the F001 through F005 solvents listed in S.C. Code Ann. Regs. 61-79.261.31 [40 C.F.R. § 261.31] or the corresponding P- or U- listed solvents found in S.C. Code Ann. Regs. 61-79.261.33 [40 C.F.R. § 261.33]; (ii) exhibits a hazardous characteristic found in S.C. Code Ann. Regs. 61-79.261 Subpart C [40 C.F.R. Part 261 Subpart C] when that characteristic results from a solvent listed in S.C. Code Ann. Regs. 61-79.261 [40 C.F.R. Part 261]; and/or (iii) exhibits only the hazardous waste characteristic of ignitability found in S.C. Code Ann. Regs. 61-79.261.21 [40 C.F.R. § 261.21] due to the presence of one or more solvents that are not listed in S.C. Code Ann. Regs. 61-79.261 [40 C.F.R. Part 261]. (2) Solvent-contaminated wipes that contain listed hazardous waste other than solvents, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents, are not eligible for the exclusions at S.C. Code Ann. Regs. 61-79.261.4(a)(26) [40 C.F.R. § 261.4(a)(26)] and S.C. Code Ann. Regs. 61-79.261.4(b)(18) [40 C.F.R. § 261.4(b)(18)].
32. Pursuant to S.C. Code Ann. Regs. 61-79.261.4(a)(26) [40 C.F.R. § 261.4(a)(26)] solvent-contaminated wipes are excluded from being solid waste and may be accumulated without a permit or without having interim status, as required by Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in S.C. Code Ann. Regs. 61-79.261.4(a)(26)(i)-(vi) [40 C.F.R. § 261.4(a)(26)(i)-(vi)] (hereinafter referred to as the “Solvent-Contaminated Wipes Exclusion”).
33. Pursuant to S.C. Code Ann. Regs. 61-79.261.4(a)(26)(i) [40 C.F.R. § 261.4(a)(26)(i)], which is a condition of the Solvent-Contaminated Wipes Exclusion, a generator of solvent contaminated wipes is required to keep containers of solvent contaminated wipes closed and labeled with the words “Excluded Solvent-Contaminated Wipes.”

34. Pursuant to S.C. Code Ann. Regs. 61-79.262.11 [40 C.F.R. § 262.11], a person who generates a solid waste, as defined in S.C. Code Ann. Regs. 61-79.261.2 [40 C.F.R. § 261.2], must determine if that waste is a hazardous waste using the following methods in S.C. Code Ann. Regs. 61-79.262.11 [40 C.F.R. § 262.11].
35. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a) [40 C.F.R. § 262.34(a) (2016)¹], a generator of 1,000 kilograms or greater of hazardous waste in a calendar month is a Large Quantity Generator (LQG) and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in S.C. Code Ann. Regs. 61-79.262.34(a)(1-5) [40 C.F.R. § 262.34(a)(1)-(4) (2016)], (hereinafter referred to as the “LQG Permit Exemption”).
36. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(c)(1) [40 C.F.R. § 262.34(c)(1) (2016)], a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with SCHWMR, S.C. Code Ann. Regs. 61-79.262.34(a) [40 C.F.R. § 262.34(a) (2016)], provided that the generator complies with the satellite accumulation area (SAA) conditions listed in SCHWMR, S.C. Code Ann. Regs. 61-79.262.34(c)(1)(i)-(iii) [40 C.F.R. § 262.34(c)(1)(i)-(ii) (2016)] (hereinafter referred to as the “SAA Permit Exemption”).
37. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(c)(1)(i) [40 C.F.R. § 262.34(c)(1)(i) (2016)], which incorporates S.C. Code Ann. Regs. 61-79.265.173(a) [40 C.F.R. § 265.173(a)] and is a condition of the SAA Permit Exemption, a generator must keep containers of hazardous waste closed when waste is not being added or removed.
38. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(c)(1)(ii) [40 C.F.R. § 262.34(c)(1)(ii) (2016)], which is a condition of the SAA Permit Exemption, a generator is required to mark containers of hazardous waste with the words “Hazardous Waste” or with other words that identify the contents of the containers.
39. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34 (a)(4) (2016)], which incorporates S.C. Code Ann. Regs. 61-79.265.31 [40 C.F.R. § 265.31], and is a condition of the LQG Permit Exemption, facilities must be 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.
40. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(1)(i) [40 C.F.R. § 262.34(a)(1)(i) (2016)], which incorporates S.C. Code Ann. Regs. 61-79.265.171 [40 C.F.R. § 265.171], and is a condition of the

¹ South Carolina’s newly adopted Generator Improvement Rule (GIR) regulations were effective in South Carolina as of May 24, 2019 but were not federally enforceable at the time of the EPA and State inspection at Sealed Air Corporation. As such, and for ease of reference and consistency with the State’s Inspection Report, this CAFO will cite to the South Carolina hazardous waste regulations that were federally enforceable at the time of the State inspection, and the corresponding federal regulations, prior to the amendments by the GIR. The federal requirements prior to the GIR are noted with their most recent effective date.

LQG Permit Exemption, if a container holding hazardous waste is not in good condition, 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 this regulation.

41. Pursuant to S.C. Code Ann. Regs. R.61-79.262.34(a)(2) [40 C.F.R. § 262.34(a)(2) (2016)], which is a condition of the LQG Permit Exemption, a generator is required to ensure that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.
42. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4) (2016)], which incorporates S.C. Code Ann. Regs. 61-79.265.15(d) [40 C.F.R. § 265.15(d)], and is a condition of the LQG Permit Exemption, the owner or operator must record inspections in an inspection log or summary. Records must be kept at the Facility for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.
43. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4) (2016)], which incorporates S.C. Code Ann. Regs. 61-79.265.16(c) and (d) [40 C.F.R. § 265.16(c) and (d)], and is a condition of the LQG Permit Exemption, facility personnel must take part in an annual RCRA refresher training; and the generator must maintain training records that include, among others: the job title, written job description, and name of each employee filling the job for each position related to hazardous waste management; and documentation that the training required has been given to and completed by Facility personnel.
44. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4) (2016)], which incorporates S.C. Code Ann. Regs. 61-79.265.52(d) and (f) [40 C.F.R. § 265.52(d) and (f)], and is a condition of the LQG Permit Exemption, (d) the contingency plan must list names, addresses, and telephone numbers of all persons qualified to act as emergency coordinator, and this list must be kept up to date and (f) the contingency plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary.
45. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4) (2016)], which incorporates S.C. Code Ann. Regs. 61-79.265.53(b) [40 C.F.R. § 265.53(b)], and is a condition of the LQG Permit Exemption, a generator is required to submit a copy of the contingency plan and all revisions to the plan to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.
46. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(1)(ii) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates S.C. Code Ann. Regs. 61-79.265.1050(c) [40 C.F.R. § 265.1050(c)], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste with organic concentrations of at least 10 percent by weight in tanks must comply with the RCRA Subpart BB Organic Air Emission Standards for Equipment Leaks, including, but not limited to, ensuring each piece of equipment to which this subpart applies is marked in such a manner that it can be distinguished readily from other pieces of equipment.
47. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(1)(ii) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates S.C. Code Ann. Regs. 61-79.265.1052(a) [40 C.F.R. § 265.1052(a)], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste with organic

concentrations of at least 10 percent by weight in tanks must comply with the RCRA Subpart BB Organic Air Emission Standards for Equipment Leaks, including, but not limited to, ensuring each pump in light liquid service is monitored monthly to detect leaks by the methods specified in S.C. Code Ann. Regs. 61-79.265.1063(b) [40 C.F.R. § 265.1063(b)] and is checked by visual inspection each calendar week for indications of liquids dripping from the pump seal.

48. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(1)(ii) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates S.C. Code Ann. Regs. 61-79.265.1057(a) [40 C.F.R. § 265.1057(a)], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste with organic concentrations of at least 10 percent by weight in tanks must comply with the RCRA Subpart BB Organic Air Emission Standards for Equipment Leaks, including, but not limited to, ensuring each valve in gas/vapor or light liquid service is monitored monthly to detect leaks by the methods specified in S.C. Code Ann. Regs. 61-79.265.1063(b) [40 C.F.R. § 265.1063(b)].
49. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(1)(ii) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates S.C. Code Ann. Regs. 61-79.265.1064(b)(1) [40 C.F.R. § 265.1064(b)(1)], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste with organic concentrations of at least 10 percent by weight in tanks must comply with the RCRA Subpart BB Organic Air Emission Standards for Equipment Leaks, including, but not limited to, recording the following information in the facility operating record and for each piece of equipment to which subpart BB of part 265 applies: equipment identification number and hazardous waste management unit identification; approximate locations within the facility; type of equipment; percent-by-weight total organics in the hazardous waste stream at the equipment; hazardous waste state at the equipment; and the method of compliance with the standard.
50. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(1)(ii) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates S.C. Code Ann. Regs. 61-79.265.1080 [40 C.F.R. Part 265, Subpart CC], which is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste that contains an average volatile organic concentration of at least 500 part per million by weight in tanks must comply with the RCRA Subpart CC Organic Air Emission Standards for Tanks, including following waste determination procedures to determine average volatile organic (VO) concentration of hazardous waste at the point of waste origination specified in S.C. Code Ann. Regs. 61-79.265.1084 [40 C.F.R. § 265.1084].
51. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(1)(ii) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates S.C. Code Ann. Regs. 61-79.265.1085(c)(1-4) [40 C.F.R. § 265.1085(c)(1-4)], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste that contains an average volatile organic concentration of at least 500 part per million by weight in tanks must comply with the RCRA Subpart CC organic air emission standards for tanks, including, but not limited to, controlling air pollutant emissions from a tank using Tank Level 1 controls meeting the requirements specified in S.C. Code Ann. Regs. 61-79.265.1085(c)(1-4) [40 C.F.R. § 265.1085(c)(1-4)]: the owner or operator shall determine the maximum organic vapor pressure for a hazardous waste to be managed in the tank using Tank Level 1 controls before the first time the hazardous waste is placed in the tank. The maximum organic vapor pressure shall be determined using the procedures specified in S.C. Code Ann. Regs. 61-79.265.1084(c) [40 C.F.R. § 265.1084(c)] of this subpart; the tank shall be equipped with a fixed roof designed to meet the specifications in S.C. Code Ann. Regs. 61-79.265.1085 (c)(2)(i-iv) [40 C.F.R. § 265.1085(c)(2)(i-iv)]; whenever a hazardous waste is in the tank, the fixed roof shall be installed with each closure device secured in the closed position as specified in S.C. Code Ann. Regs. 61-79.265.1085(c)(3)(i-iii) [40 C.F.R.

§ 265.1085(c)(2)(i-iii)]; and the fixed roof and its closure devices shall be visually inspected by owners or operators using Tank Level I control requirement to check for defects that could result in air pollutant emissions at least once every year and shall maintain a record of the inspection in accordance with the requirements specified in S.C. Code Ann. Regs. 61-79.265.1090(b) [40 C.F.R. § 265.1090(b)].

52. Pursuant to S.C. Code Ann. Regs. 61-79.262.34(a)(1)(ii) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates S.C. Code Ann. Regs. 61-79.265.1090 [40 C.F.R. § 265.1090], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste that contains an average volatile organic concentration of at least 500 part per million by weight in tanks must comply with the RCRA Subpart CC organic air emission standards for tanks, including, but not limited to, each owner or operator of a facility subject to requirements in this subpart shall record and maintain the information specified in paragraphs (b) through (j) of this section, as applicable to the facility.
53. Pursuant to S.C. Code Ann. Regs. 61-79.273.9 [40 C.F.R. § 273.9], a “Small Quantity Handler of Universal Waste” (SQHUW) is a Universal Waste handler who does not accumulate 5,000 kilograms or more of Universal Waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.
54. Pursuant to S.C. Code Ann. Regs. 61-79.273.13(d)(1) [40 C.F.R. § 273.13(d)(1)], a SQHUW must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.
55. Pursuant to S.C. Code Ann. Regs. 61-79.273.14(e) [40 C.F.R. § 273.14(e)], a SQHUW must label or mark each lamp or container of lamps or package containing lamps clearly with one of the following phrases: “Universal Waste-Lamp(s),” or “Waste Lamp(s),” or “Used Lamps.”
56. Pursuant to S.C. Code Ann. Regs. 61-79.273.15(a) & (c) [40 C.F.R. § 273.15(a) & (c)], a SQHUW may accumulate universal waste no longer than one year and must be able to demonstrate the length of time that the universal waste has accumulated from the date that it became a waste or was received.
57. Pursuant to S.C. Code Ann. Regs. 61-79.279.22(c)(1) [40 C.F.R. § 279.22(c)(1)], containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words “Used Oil.”
58. Pursuant to S.C. Code Ann. Regs. 61-79.279.22(b)(3) [40 C.F.R. § 279.22(b)(3)], containers and aboveground tanks used to store used oil at generator facilities must be closed to prevent spillage or contamination from precipitation.

IV. FACTUAL ALLEGATIONS

59. Respondent is a corporation that manufactures plastic packaging film, deli packaging, and film wrap for the food industry. Respondent’s facility receives resin pellets by railcar which are off-loaded into storage tanks located in the resin storage tank farm. The resin pellets are extruded into a plastic film for the three primary lines which are film, bags and roll stock. The roll stock and bag lines include printing operations of solvent-based ink associated with the product.

60. Respondent is a LQG of hazardous waste with the EPA ID Number SCD047554753, who generates greater than or equal to one thousand (1,000) kilograms (2,200 pounds) of hazardous waste per calendar month.
61. Respondent accumulates less than 5,000 kilograms of Universal Waste and therefore is a SQHUW.
62. The Respondent does not have interim status, nor does it have a RCRA permit.
63. At the time of the compliance evaluation inspection referenced below in paragraph 66, EPA asserts that Respondent had containers, a tank, and a tank system for the accumulation of hazardous waste.
64. The Respondent submitted a RCRA Subtitle C Site Identification Form (EPA Form 8700-12) that was received by the South Carolina Department of Health and Environmental Control (SCDHEC) on July 8, 2017. The Respondent notified as a LQG of hazardous waste.
65. Respondent uses solvents in its operations at the Facility. EPA asserts that certain “spent solvents” must be managed as Hazardous Waste, as number D001 flammable liquid (ethanol, propanol, and propyl acetate). Throughout the entirety of this document, Sealed Air denies any and all allegations that solvent being legitimately recycled is subject to any solid or hazardous waste requirements.
66. On March 28-29, 2019, the EPA and SCDHEC inspectors (the inspectors) conducted a compliance evaluation inspection (CEI) at Respondent’s facility. The EPA’s findings of the CEI were documented in a report mailed to Respondent, dated June 4, 2019.
67. Following receipt of the CEI report, Respondent met with the EPA to respond to the alleged violations identified in the CEI and Respondent has provided numerous responses to these allegations and information requests made by EPA over the prior three-year period.
68. At the time of the CEI, the inspectors observed the Respondent was storing one open 25-gallon container marked “Excluded Solvent Contaminated Wipes” in a processing area called the MDH Area (MDH Area), one open 25-gallon container marked “Excluded Solvent-Contaminated Wipes” in the Printing P34 Area, two open 25-gallon containers marked “Excluded Solvent-Contaminated Wipes” in the Press Printing Ink Room, two open 25-gallon containers marked “Excluded Solvent Contaminated Wipes” in the Roll Stock Printing Area.
69. At the time of the CEI, the inspectors observed the Respondent was storing one 5-gallon container of solvent-laden rags not marked “Excluded Solvent-Contaminated Wipes” in the Roll Stock Converting Area and one 25-gallon container of solvent-laden rags not marked “Excluded Solvent-Contaminated Wipes” in the Ink Room.
70. At the time of the CEI, the inspectors observed the Respondent failed to determine if solid wastes stored in the following containers were hazardous waste: a 55-gallon container marked “Trash Only – Free Liquid,” which contained hazardous waste ink and ink solids and one 21-gallon step can marked “Oily Waste,” which contained spent solvent rags in the MDH Area; one 55-gallon drum marked “Trash Only,” which contained various discarded ink liquids in paper cups and wet paper with a strong solvent smell in the Printing P34 Area; and one unlabeled 25-gallon container, which contained spent solvent laden rags and paper in the Press Printing Ink Room. Following the CEI, Respondent provided waste determinations indicating the wastes identified in this paragraph are all D001 hazardous waste.

71. At the time of the CEI, the inspectors observed the Respondent was storing one open 5-gallon container of dirty solvent under the Ink Matching Station and one open 55-gallon drum marked “Reclaim Solvent” in the Press Printing Ink Room; one open 5-gallon container of sludge-like spent solvent under Tank J; and one open 5-gallon container of waste solvent in the Ink Room. None of these D001 hazardous waste containers in satellite accumulation were closed.
72. At the time of the CEI, the inspectors observed that the Respondent had not clearly marked the following containers in satellite accumulation with the words “Hazardous Waste” or other words that identified the contents: five 5-gallon waste solvent buckets, and two 25-gallon container of spent solvent laden rags in the Press Printing Ink Room; one 5-gallon container of sludge-like spent solvent under Tank J; one open 5-gallon container of waste solvent in the Ink Room; four 5-gallon containers of spent solvent in the Roll Stock Maintenance Room.
73. At the time of the CEI, the inspectors observed that the Respondent failed to minimize the possibility of a release of D001 spent ink and solvent on the floor in the SAA Press Printing Ink Room.
74. At the time of the CEI, the inspectors observed the Respondent was storing D001 hazardous waste in three dented 55-gallon containers in the Less Than 90-day Storage Accumulation Area.
75. At the time of the CEI, the inspectors observed the Respondent was storing D001 hazardous waste in one 55-gallon container with a missing start accumulation date in the Less Than 90-Day Storage Accumulation Area.
76. At the time of the CEI, the inspectors observed the Respondent’s weekly inspection records did not include the full name of the inspector, date and time of the inspection, or any damage, repairs, or remedial actions.
77. At the time of the CEI, the inspectors found that the Respondent did not provide Annual RCRA refresher training for two employees that manage hazardous waste. The Respondent did not have Annual RCRA refresher training records for the two employees.
78. At the time of the CEI, the inspectors determined that the Respondent’s contingency plan had not been updated since 2018 to reflect staff changes, the list of emergency equipment, and a facility evacuation plan.
79. At the time of the CEI, the inspectors determined that the Respondent failed to make arrangements, by providing a copy of the contingency plan, with the local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.
80. At the time of the CEI, EPA asserts that the Facility as part of the cleaning process transferred a volatile organic hazardous waste, with an organic concentration of at least 10 percent by weight, through ancillary equipment. The Respondent did not mark the ancillary equipment in a manner that would allow it to be distinguished readily from other pieces of equipment in the Tank Farm.
81. At the time of the CEI, the EPA inspectors observed the ancillary equipment associated with the tank system. The Respondent’s records did not include documentation that each pump in light liquid service was monitored monthly to detect leaks by the methods specified in S.C. Code Ann. Regs. 61-79.265.1063(b) [40 C.F.R. § 265.1063(b)] and each pump in light liquid service was checked by

visual inspection each calendar week for indications of liquids dripping from the pump seal in the Tank Farm.

82. At the time of the CEI, the Respondent's records did not include that each valve in gas/vapor or light liquid service was monitored monthly to detect leaks in the Tank Farm by the methods specified in S.C. Code Ann. Regs. 61-79.265.1063(b) [40 C.F.R. § 265.1063(b)].
83. At the time of the CEI, the EPA inspectors observed that the Respondent did not maintain records for each piece of equipment to which S.C. Code Ann. Regs. 61-79.265 [40 C.F.R. Part 265, Subpart BB] applies in the Facility's operating record.
84. At the time of the CEI, the Respondent utilized solvent (ethanol) to clean printing press, ink conveyance pipes, and equipment. EPA asserts that the spent solvent was characterized as D001 hazardous waste. The chemical composition of the spent solvent consists of 75-95% organic compounds at greater than 500 parts per million by weight of volatile organic compounds (VOCs). Upon using the solvents to clean the Respondent's printing press, ink conveyance pipes, and equipment, the spent ethanol is collected and transferred through ancillary equipment to the on-site 10,000-gallon hazardous waste storage tank, Tank J. As explained, Respondent denies any and all allegations that solvent being legitimately recycled is subject to any solid or hazardous waste requirements.
85. At the time of the CEI, the EPA inspectors observed that the Respondent failed to determine the average volatile organic concentration of ethanol, which EPA asserts was a D001 hazardous waste, at the point of waste origination before it entered Tank J.
86. At the time of the CEI, the Respondent's records did not include annual visual inspections of the fixed roofs and closure devices on the storage units or records determining the maximum organic vapor pressure of what EPA asserts was hazardous waste inside the storage units.
87. At the time of the CEI, the Respondent's records did not include recording and maintaining the information specified in S.C. Code Ann. Regs. 61-79.265.1090(b) through (j) [40 C.F.R. § 265.1090(b) through (j)], as applicable to Tank J.
88. At the time of the CEI, the inspectors observed the Respondent storing fifteen open boxes of universal waste lamps in the North Plant HVAC Maintenance Room. Inspectors also observed the Respondent storing eighteen universal waste lamps in the North Plant HVAC Maintenance Room and eight universal waste lamps in the Roll Stock Maintenance Room, all of which were not containerized.
89. At the time of the CEI, the inspectors observed the Respondent storing eight universal waste lamps in the Roll Stock Maintenance Room that were not clearly marked with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)" in the Roll Stock Maintenance Room.
90. At the time of the CEI, the inspectors observed the Respondent was not able to demonstrate the length of time the universal waste had been stored in the following areas: eight universal waste lamps in the Roll Stock Maintenance Room, fifteen boxes of universal waste lamps in the North Plant HVAC Maintenance Room, and eighteen universal waste lamps in the North Plant HVAC Maintenance Room.

91. At the time of the CEI, the inspectors observed the Respondent storing one 55-gallon container of used oil in the HP Imaging Press 36 Room and two 55-gallon containers of used oil in the M & N Bag Extrusion Maintenance Shop that were not marked with the words “Used Oil.”
92. At the time of the CEI, the inspectors observed the Respondent storing one open 55-gallon container of used oil in the HP Imaging Press 36, one open 55-gallon container of used oil in the M & N Bag Extrusion Maintenance Shop, one open 55-gallon container of used oil in the E-Shop Satellite Area, and one open 55-gallon container of used oil in the Maintenance Film Room.
93. Notwithstanding the Respondent’s position in Paragraph 65 and Paragraph 84, on June 26, 2020, Respondent provided notification to the SCDHEC, with a copy to EPA, for managing recycled solvent as a hazardous secondary material under S.C. Reg. 61-79.261.4(a)(23) [40 C.F.R. 261.4(a)(23)], the generator-controlled exclusion. The generator-controlled exclusion provides that a material is excluded from the definition of solid waste when it is a hazardous secondary material generated and legitimately reclaimed and under the control of the generator, provided it complies with section (i) and (ii) of paragraphs (a)(23).

V. ALLEGED VIOLATIONS

94. Respondent is a “person” as defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
95. Respondent is the “owner/operator” of a “facility” located at 803 North Maple Street, Simpsonville, SC 29681, as those terms are defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
96. Respondent discards “solid waste” as defined in S.C. Code Ann. Regs. 61-79.261.2 [40 C.F.R. § 261.2].
97. Respondent is a “generator” of “hazardous waste” as those terms are defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10] and S.C. Code Ann. Regs. 61-79.261.3 [40 C.F.R. § 261.3].
98. Respondent is a “large quantity generator” of “hazardous waste” who generates greater than or equal to one thousand (1,000) kilograms (2,200 pounds) of non-acute hazardous waste as those terms are defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
99. At the time of the CEI, Respondent had a “tank” as defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
100. At the time of the CEI, Respondent had a “tank system” as defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
101. Respondent is a “universal waste handler” as defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
102. Respondent is a “generator” of “used oil” as defined in S.C. Code Ann. Regs. 61-79.260.10 [40 C.F.R. § 260.10].
103. Respondent failed to close six 25-gallon “Excluded Solvent-Contaminated Wipes” containers in the MDH Area, in the Printing P34 Area, in the Press Printing Room, and in the Roll Stock Printing Area. The Respondent also failed to mark a 25-gallon container and one 5-gallon container storing

solvent-contaminated wipes/rags with the words “Excluded Solvent-Contaminated Wipes.” The EPA therefore alleges that the Respondent violated Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent did not meet the conditions of the Solvent-Contaminated Wipes Exclusion pursuant to S.C. Code Ann. Regs. 61-79.261.4(a)(26)(i) [40 C.F.R. § 261.4(a)(26)(i)] by failing to keep six containers of solvent-contaminated wipes closed and failing to mark two containers with the words “Excluded Solvent-Contaminated Wipes.”

104. The Respondent failed to conduct a hazardous waste determination on one 55-gallon container marked “Trash Only – Free Liquid,” which contained hazardous waste ink and ink solids (D001); one 21-gallon step can marked “Oily Waste,” which contained spent solvent rags (D001) in the MDH Area; one 55-gallon drum marked “Trash Only,” which contained various discarded ink liquids (D001) in paper cups and wet paper with a strong solvent smell in the Printing P34 Area; and one unlabeled 25-gallon container, which contained spent solvent laden rags (D001) and paper in the Press Printing Ink Room. The EPA therefore alleges that Respondent violated S.C. Code Ann. Regs. 61-79.262.11 [40 C.F.R. § 262.11] by failing to make a hazardous waste determination on solid waste generated at its Facility.
105. The Respondent failed to keep one 5-gallon container of dirty solvent and one 55-gallon drum marked “Reclaim Solvent” in the Press Printing Ink Room, one 5-gallon container of sludge-like spent solvent under Tank J, and one 5-gallon container of waste solvent in the Ink Room, closed when hazardous waste was not being added or removed. The EPA therefore alleges that the Respondent violated Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption set forth in S.C. Code Ann. Regs. 61-79.262.34(c)(1)(i) [40 C.F.R. § 262.34(c)(1)(i) (2016)], by failing to keep containers of hazardous waste closed when waste is not being added or removed as required by S.C. Code Ann. Regs. 61-79.265.173(a) [40 C.F.R. § 265.173(a)].
106. The Respondent had fourteen SAA containers which either had no label or were labeled improperly in the Press Printing Ink Room, in the Ink Room, in the Roll Stock Maintenance Room, and under Tank J. The EPA therefore alleges Respondent violated Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption set forth in S.C. Code Ann. Regs. 61-79.262.34 (c)(1)(ii) [40 C.F.R. § 262.34(c)(1)(ii) (2016)], by failing to mark containers of hazardous waste with the words “Hazardous Waste” or with other words that identify the contents of the containers.
107. The Respondent failed to minimize the possibility of a release of D001 spent ink and solvent on the floor in the Press Printing Ink Room. The EPA therefore alleges Respondent violated Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4) (2016)], by not complying with the maintenance and operation requirements of S.C. Code Ann. Regs. 61-79.265.31 [40 C.F.R. § 265.31].
108. The Respondent was storing three dented 55-gallon containers of D001 hazardous waste in the Less Than 90-day Storage Accumulation Area. The EPA therefore alleges Respondent violated Section

44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b), S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in S.C. Code Ann. Regs. 61-79.262.34(a)(1)(i) [40 C.F.R. § 262.34(a)(1)(i) (2016)], by failing to comply with the requirement that when a container holding hazardous waste is not in good condition, or if it begins to leak, the generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way as required by in S.C. Code Ann. Regs. 61-79.265.171 [40 C.F.R. § 265.171].

109. The Respondent failed to mark a container of D001 hazardous waste stored in the Less Than 90-Day Storage Accumulation Area with the start accumulation date. The EPA therefore alleges Respondent violated Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption by not complying with the dating requirements of S.C. Code Ann. Regs. 61-79.262.34(a)(2) [40 C.F.R. § 262.34(a)(2) (2016)].
110. The Respondent did not document on its weekly container inspection records the full name of the inspector, date and time of the inspection, or any damage, repairs or remedial actions. The EPA therefore alleges Respondent violated Section 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. 262.34(a)(4) (2016)], by failing to record the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions as required by S.C. Code Ann. Regs. 61-79.265.15(d) [40 C.F.R. § 265.15(d)].
111. The Respondent did not provide Annual RCRA refresher trainings to two employees that manage hazardous waste and could not provide appropriate training plans and records. The EPA therefore alleges that Respondent violated Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4) (2016)], by not complying with the personnel training requirements of S.C. Code Ann. Regs. 61-79.265.16(c) and (d) [40 C.F.R. § 265.16(c) and (d)].
112. The Respondent failed to update the Facility specific contingency plans to reflect staff changes, the list of emergency equipment, and a facility evacuation plan. The EPA therefore alleges Respondent violated Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4) (2016)], by not complying with the contingency plan requirements of S.C. Code Ann. Regs. 61-79.265.52(d) and (f) [40 C.F.R. § 265.52(d) and (f)].
113. The Respondent failed to submit a copy of the contingency plan and all revisions to the plan to local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services. The EPA therefore alleges that Respondent violated Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b)

[Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet conditions of the LQG Permit Exemption set forth in S.C. Code Ann. Regs. 61-79.262.34(a)(4) [40 C.F.R. § 262.34(a)(4) (2016)], by not complying with the requirement to make arrangement with the local authorities in S.C. Code Ann. Regs. 61-79.265.53(b) [40 C.F.R. § 265.53(b)].

114. The Respondent did not mark ancillary equipment used to transfer hazardous waste that contains an organic concentration of at least 10 percent by weight, in a manner that allowed it to be readily distinguishable from other pieces of equipment. The EPA therefore alleges that the Respondent violated Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in S.C. Code Ann. Regs. 61-79.262.34(a)(1)(ii) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by failing to mark each piece of equipment in such a manner that it can be distinguished readily from other pieces of equipment as required by S.C. Code Ann. Regs. 61-79.265.1050(c) [40 C.F.R. § 265.1050(c)].
115. The Respondent did not provide records of any monthly air monitoring activities and records of weekly visual inspections of the pump in light liquid service used to transfer hazardous waste containing organic concentrations of at least 10 percent by weight. The EPA therefore alleges that the Respondent violated Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in S.C. Code Ann. Regs. 61-79.262.34(a)(1)(ii) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by failing to monitor each pump in light liquid service monthly to detect leaks by the methods specified in S.C. Code Ann. Regs. 61-79.265.1063(b) [40 C.F.R. § 265.1063(b)], and by visual inspection each calendar week for indications of liquids dripping from the pump seal, as required by S.C. Code Ann. Regs. 61-79.265.1052(a) [40 C.F.R. § 265.1052(a)].
116. The Respondent did not provide records of any monthly air monitoring activities of each valve in light liquid service. The EPA therefore alleges that the Respondent violated Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in S.C. Code Ann. Regs. 61-79.262.34(a)(1)(ii) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by failing to monitor each valve in gas/vapor or light liquid service monthly to detect leaks by the methods specified in 15A NCAC 13A .0110 [40 C.F.R. § 265.1063(b)], as required by S.C. Code Ann. Regs. 61-79.265.1057(a) [40 C.F.R. § 265.1057(a)].
117. The Respondent did not record information for each piece of equipment subject to air monitoring under Subpart BB and did not meet recordkeeping requirements under Subpart BB. The EPA therefore alleges that the Respondent violated Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in S.C. Code Ann. Regs. 61-79.262.34(a)(1)(ii) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by failing to record, in the facility operating record, the equipment identification number and hazardous waste management unit identification; the approximate locations within the facility; the type of equipment; the percent-by weight total organics in the hazardous waste stream at the equipment; the hazardous waste state at the equipment; and the method of compliance with the standard for each piece of equipment to which subpart BB of part

265 applies, as required by S.C. Code Ann. Regs. 61-79.265.1064(b)(1) [40 C.F.R. § 265.1064(b)(1)].

118. The Respondent failed to determine the average volatile organic concentration of ethanol, a D001 hazardous waste, at the point of waste origination, and therefore failed to implement waste determination procedures specified in S.C. Code Ann. Regs. 61-79.265.1084 [40 C.F.R. § 265.1084]. The EPA therefore alleges that the Respondent violated Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in S.C. Code Ann. Regs. 61-79.262.34(a)(1)(ii) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by not complying with the requirements of Subpart CC Organic Air Emission Standards for Tanks in S.C. Code Ann. Regs. 61-79.265.1084 [40 C.F.R. § 265.1084].
119. The Respondent did not provide records for the initial inspection and reoccurring annual inspections of Tank J's fixed roof and closure devices; Tank J stores D001 hazardous waste with an average volatile organic concentration of at least 500 parts per million by weight. The EPA therefore alleges that the Respondent violated Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in S.C. Code Ann. Regs. 61-79.262.34(a)(1)(ii) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by failing to visually inspect the fixed roof and its closure devices using Tank Level 1 control requirements to check for defects that could result in air pollutant emissions initially and at least once every year; and by failing to maintain a record of the inspection in accordance with the requirements specified in S.C. Code Ann. Regs. 61-79.265.1090(b) [40 C.F.R. § 265.1090(b)], as required by S.C. Code Ann. Regs. 61-79.265.1085(c)(1-4) [40 C.F.R. § 265.1085(c)(4)(1-4)].
120. The Respondent did not provide records associated with the hazardous waste storage tank, Tank J, which included recording and maintaining the information specified in in S.C. Code Ann. Regs. 61-79.265.1090(b) through(j) [40 C.F.R. § 265.1090(b) through (j)] as applicable to the facility. The EPA therefore alleges that the Respondent violated Sections 44-56-60(a)(2) and (b) of the SCHWMA, S.C. Code Ann. § 44-56-60(a)(2) and (b) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in S.C. Code Ann. Regs. 61-79.262.34(a)(1)(ii) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by failing to record and maintain the information for Tank J as required by S.C. Code Ann. Regs. 61-79.265.1090 [40 C.F.R. § 265.1090].
121. The Respondent had fifteen open boxes of universal waste lamps in the North Plant HVAC Maintenance Room and twenty-six loose lamps not in containers in the Maintenance Shop and Roll Stock Maintenance Room. The EPA therefore alleges Respondent violated S.C. Code Ann. Regs. 61-79.273.13(d)(1) [40 C.F.R. § 273.13(d)(1)], because Respondent failed to contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps; and that remain closed.
122. The Respondent failed to label or mark each lamp or container of lamps clearly with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamps" in the Roll Stock Maintenance Room. The EPA therefore alleges that the Respondent violated S.C. Code Ann. Regs. 61-79.273.14(e) [40 C.F.R. § 273.14(e)] by failing to label or mark each lamp or container of

lamps clearly with one of the following phrases: “Universal Waste-Lamp(s),” or “Waste Lamp(s),” or “Used Lamps.”

123. The Respondent failed to demonstrate the length of time that the universal waste had accumulated from the date that it became a waste or was received for universal waste lamps in the Roll Stock Maintenance Room and the North Plant HVAC Maintenance Room. The EPA therefore alleges that the Respondent violated S.C. Code Ann. Regs. 61-79.273.15(a) & (c) [40 C.F.R. § 273.15(a) & (c)] by failing to demonstrate the length of time that the facility’s universal waste had been accumulated from the date that the universal waste became a waste or was received.
124. The Respondent failed to label or mark clearly three 55-gallon used oil containers with the words “Used Oil” in the HP Imaging Press 36 Room and M & N Bag Extrusion Maintenance Shop. The EPA therefore alleges that the Respondent violated S.C. Code Ann. Regs. 61-79.279.22(c)(1) [40 C.F.R. § 279.22(c)(1)], by failing to mark used oil containers with the words “Used Oil.”
125. The Respondent failed to keep closed four 55-gallon containers of used oil to prevent spillage or contamination from precipitation in the HP Imaging Press 36 Room, the M & N Bag Extrusion Maintenance Shop, the E-Shop Satellite Area, and the Maintenance Film Room. The EPA therefore alleges that the Respondent violated S.C. Code Ann. Regs. 61-79.279.22(b)(3) [40 C.F.R. § 279.22(b)(3)], by failing to keep used oil containers closed.

VI. TERMS OF AGREEMENT

126. The issuance of this CAFO simultaneously commences and concludes this proceeding, which upon performance of the conditions set forth herein, resolves all allegations from this CAFO. 40 C.F.R. § 22.13(b).
127. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:
 - a. admits that EPA has jurisdiction over the subject matter alleged in this CAFO;
 - b. neither admits nor denies the factual allegations set forth in this CAFO;
 - c. consents to the assessment of a civil penalty as stated below;
 - d. consents to the conditions specified in this CAFO (which “conditions” are those obligations for performance under the CAFO);
 - e. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and
 - f. waives its rights to appeal the Final Order accompanying this CAFO.
128. For the purpose of this proceeding, Respondent:
 - a. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent’s compliance history in any subsequent enforcement actions;

- b. waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706;
 - c. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;
 - d. waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to the EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO; and
 - e. agrees to comply with the terms of this CAFO.
129. By executing this CAFO, Respondent certifies to the best of its knowledge that Respondent is currently in compliance with all relevant requirements of the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected.
130. In accordance with 40 C.F.R. § 22.5, the individuals named in the certificate of service are authorized to receive service related to this proceeding and the parties agree to receive service by electronic means.

VII. TERMS OF PAYMENT

131. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **ONE HUNDRED AND SEVENTY-SEVEN THOUSAND, FOUR HUNDRED AND NINETY-SIX DOLLARS (\$177,496.00)**, which is to be paid within thirty (30) calendar days of the Effective Date of this CAFO.
132. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Facility name and docket number for this matter shall be referenced on the face of the check.
- a. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000
 - b. If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank

Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
Mail Station: SL-MO-C2-GL
St. Louis, Missouri 63101
Contact Number: (314) 425-1819

- c. If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
“D 68010727 Environmental Protection Agency”

- d. If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contact: Craig Steffen, (513) 487-2091
REX (Remittance Express): 1-877-372-2457

133. Respondent shall send and email proof of payment, within 24 hours of payment of the civil penalty, to:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
R4_Regional_Hearing_Clerk@epa.gov

and

Parvez Mallick
Enforcement and Compliance Assurance Division
Chemical Safety and Land Enforcement Branch
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
mallick.parvez@epa.gov

134. “Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with the Facility name and “Docket No. **RCRA-04-2021-2109(b)**”.
135. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to remit the civil penalty as agreed to herein, the EPA is entitled 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. Accordingly, the EPA may require the Respondent to pay the following amounts on any amount overdue:
- a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days of the Effective Date of this CAFO Interest is waived. However, if the civil penalty is not paid in full within 30 days, Interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued Interest are paid. Interest will be assessed at the rate of the United States Treasury tax and loan rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b)(2), and 40 C.F.R. § 13.11(a).
 - b. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of not more than six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid, as provided in 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 901.9(d). This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (c) and will be assessed monthly. 40 C.F.R. § 13.11(c).
 - c. Monthly Handling Charge. Respondent must pay a late payment handling charge to cover the administrative costs of processing and handling the delinquent claim, based on either actual or average cost incurred. 31 C.F.R. § 901.9(b)(c), and 40 C.F.R. § 13.11(b). Administrative costs will be assessed monthly throughout the period the debt is overdue except as provided by 40 C.F.R. § 13.12.
136. In addition to what is stated in the prior Paragraph, if Respondent fails to timely pay any portion of the penalty assessed under this CAFO, the EPA may:
- a. refer the debt to a credit reporting agency or a collection agency, 40 C.F.R. §§ 13.13 and 13.14;
 - b. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H;
 - c. suspend or revoke Respondent’s licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17; and/or

- d. refer the debt to the Department of Justice as provided in 40 C.F.R. § 13.33. In any such judicial action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

137. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

VIII. EFFECT OF CAFO

138. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.
139. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), 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. 40 C.F.R. § 22.18(c).
140. Any violation of this CAFO may result in a civil penalty for each day of continued noncompliance with the CAFO and/or the suspension or revocation of any federal or state permit issued to the violator, as provided in Section 3008(c) of the Act, 42 U.S.C § 6928(c).
141. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.
142. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.
143. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.
144. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, authorized representatives, successors, and assigns.
145. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.
146. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.
147. By signing this Consent Agreement, the EPA and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.

148. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.
149. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.
150. The EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA. If such false or inaccurate material was provided, the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.
151. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
152. This CAFO shall not be construed to create rights in, or grant any cause of action to, any third party not party to this CAFO.
153. This CAFO may not be used as an admission of fact or law in any proceeding by any party other than the EPA in its enforcement of this CAFO.
154. It is agreed between EPA and Respondent, that Respondent does not waive any defenses of any kind prospectively by entering into this agreement, other than with respect to the enforcement of this CAFO in this matter.

IX. EFFECTIVE DATE

155. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

[Remainder of Page Intentionally Left Blank

EPA and Respondent will Each Sign on Separate Pages.]

The foregoing Consent Agreement In the Matter of **Sealed Air Corporation**, Docket No. **RCRA-04-2021-2109(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

E. Chammass
Signature

8/31/2022
Date

Printed Name: EMILE CHAMMAS

Title: SVP & Chief Operating Officer

Address: 2415 Cascade Pointe Blvd, CHARLOTTE, NC 28208

The foregoing Consent Agreement In the Matter of **Sealed Air Corporation**, Docket No. **RCRA-04-2021-2109(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR EPA:

Kimberly L. Bingham
Chief
Chemical Safety and Land Enforcement Branch
Enforcement & Compliance Assurance Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Sealed Air Corporation

803 North Maple Street
Simpsonville, South Carolina 29681
EPA ID No.: SCD047554753

Respondent.

Docket No. **RCRA-04-2021-2109(b)**

Proceeding Under Section 3008(a) of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6928(a)

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between EPA and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, 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*, 40 C.F.R. Part 22.

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 Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED.

Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, in the Matter of **Sealed Air Corporation**, Docket No. **RCRA-04-2021-2109(b)**, was filed and copies of the same were emailed to the parties as indicated below.

Via email to all parties at the following email addresses:

To Respondent: Bernie Hawkins
 Attorney
 Nelson Mullins
 1320 Main Street
 Columbia, South Carolina 29201
 (803) 255-9581
 Bernie.hawkins@nelsonmullins.com

To EPA: Parvez Mallick
 Environmental Engineer
 mallick.parvez@epa.gov

 Ximena Vasquez
 Associate Attorney
 vasquez.maria-ximena@epa.gov

 Quantindra Smith
 Environmental Protection Specialist
 smith.quantindra@epa.gov

Shannon L. Richardson
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960