

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

IGM Resins USA, Inc.,
3300 Westinghouse Boulevard
Charlotte, North Carolina 28273
EPA ID No.: NCD062567623

Respondent.

Docket No. RCRA-04-2023-2110(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 or the Act), 42 U.S.C. § 6928(a), 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. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without the Respondent's admission of violation or adjudication of any issues of law or fact herein.

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 (EPA) 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.
5. The Respondent is IGM Resins USA, Inc., a corporation doing business in the State of North Carolina. This proceeding pertains to the Respondent's facility located at 3300 Westinghouse Boulevard, Charlotte, North Carolina 28273 (Facility).

III. GOVERNING LAW

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of North 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 in the North Carolina Solid Waste Management Law found at Sections 130A-17 to -28 and 130A-290 to -310.22 of the North Carolina General Statutes (NCGS) and the North Carolina Hazardous Waste Management Rules, found at Title 15A of the North Carolina Administrative Code (NCAC), Subchapter 13A, Sections .0101 to .0119.
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), Complainant has given notice of this action to the State before issuance of this CAFO.
11. Section 130A-294(c) of the NCGS [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 15A NCAC 13A .0107 [40 C.F.R. Part 262].
12. Section 130A-294(c) and (g) of the NCGS [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 15A NCAC 13A .0109 (permitted) and 15A NCAC 13A .0110 (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].
13. Pursuant to 15A NCAC 13A .0106(a) [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 by being stored in lieu of being disposed.
14. Pursuant to 15A NCAC 13A .0106(a) [40 C.F.R. § 261.3], a solid waste is a "hazardous waste" if it meets any of the criteria set forth in 15A NCAC 13A .0106(a) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by 15A NCAC 13A .0106(a) [40 C.F.R. § 261.4(b)].

15. Pursuant to 15A NCAC 13A .0106(a) and (c) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in 15A NCAC 13A .0106(c) [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 15A NCAC 13A .0106(c) [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 15A NCAC 13A .0106(c) [40 C.F.R. §§ 261.20 and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.
18. Pursuant to 15A NCAC 13A .0106(c) [40 C.F.R. §§ 261.20 and 261.23], a solid waste that exhibits the characteristic of reactivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D003.
19. Pursuant to 15A NCAC 13A .0106(c) [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.
20. Pursuant to 15A NCAC 13A .0106(c) [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.
21. Pursuant to 15A NCAC 13A .0106(a) and (d) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a listed “hazardous waste” if it is listed in 15A NCAC 13A .0106(d) [40 C.F.R. Part 261, Subpart D].
22. Listed hazardous wastes include the F-Listed wastes from nonspecific sources identified in 15A NCAC 13A .0106(d) [40 C.F.R. § 261.31].
23. Pursuant to 15A NCAC 13A .0106(d) [40 C.F.R. § 261.31], a spent non-halogenated solvent mixture/blend containing, before use, a total of ten percent or more (by volume) of toluene is identified with the EPA Hazardous Waste Number F005.
24. Listed hazardous wastes include the P- and U-Listed wastes identified in 15A NCAC 13A .0106(d) [40 C.F.R. § 261.33].
25. Pursuant to 15A NCAC 13A .0106(d) [40 C.F.R. § 261.33(f)], any commercial chemical product having the generic name 2-propenoic acid or acrylic acid is identified with the EPA Hazardous Waste Number U008 if and when it is discarded or intended to be discarded.
26. Pursuant to 15A NCAC 13A .0106(d) [40 C.F.R. § 261.33(f)], any commercial chemical product having the generic name 1,3-isobenzofurandione or phthalic anhydride is identified with the EPA Hazardous Waste Number U190 if and when it is discarded or intended to be discarded.
27. Pursuant to 15A NCAC 13A .0102(b) [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 15A NCAC

- 13A .0106 [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
28. Pursuant to Section 130A-290(a)(22) of the NCGS [40 C.F.R. § 260.10], a “person” includes a corporation.
 29. Pursuant to 15A NCAC 13A .0102(b) [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.”
 30. Pursuant to 15A NCAC 13A .0102(b) [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.
 31. Pursuant to 15A NCAC 13A .0102(b) [40 C.F.R. § 260.10], a Large Quantity Generator (LQG) is a generator who generates greater than or equal to 1,000 kilograms (2,200 pounds) of non-acute hazardous waste in a calendar month.
 32. Pursuant to 15A NCAC 13A .0106(a) [40 C.F.R. § 261.4(a)(8)], secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process are not solid wastes provided that only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance; reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators); the secondary materials are never accumulated in such tanks for over twelve months without being reclaimed; and the reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal (hereinafter referred to as the “Closed-Loop Recycling Exclusion”).
 33. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.11], a person who generates a solid waste, as defined in 15A NCAC 13A .0106(a) [40 C.F.R. § 261.2], must use the steps articulated in 15A NCAC 13A .0107(a) [40 C.F.R. § 262.11], including determining whether the solid waste is excluded from regulation under 15A NCAC 13A .0106(a) [40 C.F.R. § 261.4], to make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations.
 34. Pursuant to 15A NCAC 13A .0107(d) [40 C.F.R. § 262.40(a)], a generator must keep a copy of each manifest signed in accordance with 15 NCAC 13A .0107(b) [40 C.F.R. § 262.23(a)] for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.
 35. Pursuant to 15A NCAC 13A .0107(d) [40 C.F.R. § 262.41(a)], a generator who is a LQG for at least one month of an odd-numbered year (reporting year) who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must complete and submit EPA Form 8700-13 A/B (Biennial Report) to the Secretary of the North Carolina Department of Environmental Quality by March 1 of the following even-numbered year and must cover generator activities during the previous year.

36. Pursuant to the Biennial Report form instructions, a Generation and Management Form (GM Form) must be submitted for all hazardous waste that was used to determine the site's generator status. Hazardous waste must be reported if it was generated and accumulated on-site, and subsequently managed on-site or shipped off-site in the reporting year.
37. Pursuant to the Biennial Report form instructions, a generator must, in Item I.B – EPA Hazardous Waste Code(s) (i.e, EPA Hazardous Waste Number(s)), enter the four-character EPA hazardous waste code(s) that apply to the waste reported in Item I.A.
38. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.15(a)], a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near any 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 130A-294(c) and (g) of the NCGS [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with 15A NCAC 13A .0107(a) [40 C.F.R. § 262.16(b) or § 262.17(a)], except as required by 15A NCAC 13A .0107(a) [40 C.F.R. § 262.15(a)(7) and (8)], provided that the generator complies with the satellite accumulation area (SAA) conditions listed in 15A NCAC 13A .0107(a) [40 C.F.R. § 262.15(a)] (hereinafter referred to as the “SAA Permit Exemption”).
39. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.15(a)(5)], which is a condition of the SAA Permit Exemption, a generator is required to mark or label its containers with the words “Hazardous Waste” and with an indication of the hazards of the contents.
40. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17], an LQG may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Section 130A-294(c) and (g) of the NCGS [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17] (hereinafter referred to as the “LQG Permit Exemption”).
41. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(1)(ii)], which is a condition of the LQG Permit Exemption, if a container holding hazardous waste is not in good condition, or if it begins to leak, the LQG 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 that complies with the conditions for exemption of this section.
42. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(6)], which incorporates 15A NCAC 13A .0107(i) [40 C.F.R. § 262.261(e)], and is a condition of the LQG Permit Exemption, the contingency plan must include a list of all emergency equipment at the facility and include the location and a physical description of each item on the list, and a brief outline of its capabilities.
43. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(6)], which incorporates 15A NCAC 13A .0107(i) [40 C.F.R. § 262.262(a) and (c)], and is a condition of the LQG Permit Exemption, the LQG must submit a copy of the contingency plan and all revisions to all local emergency responders; and generators must update, if necessary, their quick reference guides whenever the contingency plan is amended and submit these documents to the local emergency responders.

44. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(7)(iv)], which is a condition of the LQG Permit Exemption, the LQG must maintain the following documents and records at the facility: the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; a written job description for each position at the facility related to hazardous waste management; a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position related to hazardous waste management; and records that document that the training or job experience, required by this section, has been given to, and completed by, facility personnel.

IV. FINDINGS OF FACTS

45. The Respondent's Facility is located at 3300 Westinghouse Boulevard, Charlotte, North Carolina 28273.
46. The Respondent owns and operates the Facility, which develops, manufactures, and supplies photomers, ultraviolet inks, and urethane products to a variety of customers in the graphic arts, industrial coatings, adhesives, and 3D printing industries.
47. The Respondent is a generator of the following hazardous wastes at the Facility:
- (a) acrylate ester, which is identified with the EPA Hazardous Waste Number D001;
 - (b) waste flammable liquids (toluene, isopropanol) from laboratory testing, which are identified with the EPA Hazardous Waste Numbers D001 and F005;
 - (c) off-specification ammonium hydroxide, which is identified with the EPA Hazardous Waste Number D002;
 - (d) incomplete or off-specification photomers, which are identified with the EPA Hazardous Waste Number D002;
 - (e) spent toluene or heptane, which are identified with EPA Hazardous Waste Numbers D001 and F005; and
 - (f) off-specification, out-of-date commercial chemical products, or lab packs, which are identified with one or more of the following EPA Hazardous Waste Numbers: D001, D002, D003, D035, U008, and U190.
48. The Respondent generates 1,000 kilograms or more of hazardous waste in a calendar month and has been operating as an LQG since its first notification as owner and operator of the Facility in October of 2010.
49. On November 9, 2022, the EPA and the North Carolina Department of Environmental Quality (NCDEQ) conducted a RCRA Compliance Evaluation Inspection (CEI) at the Respondent's Facility.
50. On January 18, 2023, the EPA emailed the Respondent an Opportunity to Show Cause Letter and a CEI report documenting its findings from the November 9, 2022, CEI.

51. At the time of the CEI, the Respondent was operating a toluene recycling system, which included reactor vessels and their associated condensers, splitters and receivers, toluene storage tank TK526, and solvent stripper feed tanks TK525 and TK528. The Respondent was attempting to meet the conditions of the Closed-Loop Recycling Exclusion for its toluene recycling system.
52. Previously, on June 8, 2021, NCDEQ inspectors conducted a Compliance Assistance Visit (CAV) to evaluate the status of Respondent's toluene recycling system at the Facility. Based on information provided and observed during the CAV, NCDEQ inspectors agreed that the Facility's toluene recycling system met the conditions for the Closed-Loop Recycling Exclusion on the day of the CAV.
53. However, at the time of the November 9, 2022, CEI, the inspectors observed two 55-gallon containers storing dirty toluene on a concrete pad near the toluene recycling system. Facility personnel stated that dirty toluene, which was generated in the Pilot Plant, was occasionally transferred into the toluene recycling system by opening the system. The two 55-gallon containers that the inspectors observed were awaiting transfer into the toluene recycling system. Based on the inspector's observations and on statements from Facility personnel, the EPA determined that the Respondent's toluene recycling system was not meeting the conditions of the Closed-Loop Recycling Exclusion because the toluene recycling system was occasionally opened and not entirely connected with pipes or other comparable means of conveyance. Consequently, the Respondent had not made an accurate hazardous waste determination on the dirty toluene generated on-site that was destined for and/or managed in the toluene recycling system.
54. At the time of the CEI, the inspectors observed containers of discarded materials in Building 19 and on the Flammable Storage Covered Pad. The Respondent stated that the containers held unusable material identified during its full physical inventory, which it conducted between October 18, 2022 and October 20, 2022. However, Respondent had not made a hazardous waste determination on these discarded materials.
55. On March 27, 2023, the Respondent provided a copy of a hazardous waste manifest, which indicated that a total of 400 pounds of discarded material in the containers described in Paragraph 54 had been identified as hazardous waste and were offered for shipment to Cycle Chem, Inc. on February 16, 2023.
56. At the time of the CEI, the Respondent could not locate physical or e-manifest records of manifest numbers 022972417JJK or 023037532JJK for shipments of hazardous waste sent to Cycle Chem, Inc. on November 9, 2021, and February 1, 2022, respectively.
57. At the time of the CEI, the Respondent's 2021 Biennial Report did not include 2,500 pounds of D002 hazardous waste corrosive liquid (acid functional acrylate ester) and 1,200 pounds of D002 hazardous waste ammonia solution that were sent to Cycle Chem, Inc. on November 9, 2021, using hazardous waste manifest 022972417JJK, and 13,200 pounds of D002 hazardous waste corrosive liquids (2-hydroxyethyl acrylate) that were sent to Cycle Chem, Inc. on February 2, 2021, using hazardous waste manifest 022192367JJK.
58. At the time of the CEI, the Respondent's 2021 Biennial Report included a total of 10,410 pounds of hazardous waste lab samples that were shipped off-site during calendar year 2021. The Respondent incorrectly identified the hazardous waste lab samples, which should have been

identified with the EPA Hazardous Waste Codes D001 and F005, with the EPA Hazardous Waste Codes D001 and F003 in its 2021 Biennial Report.

59. At the time of the CEI, the inspectors observed two one-gallon containers of hazardous waste flammable liquids (toluene, isopropanol) in the Quality Control Laboratory SAA. The waste in these containers was identified with the EPA Hazardous Waste Numbers D001 and F005, which is listed for the hazards of ignitability and toxicity. The hazardous waste labels on each container were severely faded, and neither container was marked to indicate that the contents were toxic.
60. At the time of the CEI, the inspectors observed evidence of dried material that had leaked or spilled down the outside of one 55-gallon container of hazardous waste in the Central Accumulation Area (CAA), which was not immediately transferred to a container in good condition.
61. At the time of the CEI, the Respondent's contingency plan did not include the location, physical description, and a brief outline of the capabilities for the fire extinguishers or decontamination equipment (safety showers/eyewash stations).
62. At the time of the CEI, the Respondent could not provide records to document that the contingency plan and quick reference guide had been submitted to the local emergency response entities.
63. At the time of the CEI, the Respondent's hazardous waste training records did not include the names of employees filling each position with hazardous waste management responsibilities or the date upon which each employee filled that position.

V. ALLEGED VIOLATIONS

64. The Respondent is a "person" as defined in NCGS § 130A-290(a)(22) [40 C.F.R. § 260.10].
65. The Respondent is the "owner" and "operator" of a "facility" located in Charlotte, North Carolina, as those terms are defined in 15A NCAC 13A .0102(b) [40 C.F.R. § 260.10].
66. The Respondent generates "solid wastes" and "hazardous wastes" as those terms are defined in 15A NCAC 13A .0106(a) [40 C.F.R. § 261.2 and § 261.3].
67. If the conditions of the Closed-Loop Recycling Exclusion are not met, spent solvents that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process may be "solid wastes" and "hazardous wastes," as those terms are defined in 15A NCAC 13A .0106(a) [40 C.F.R. § 261.2 and § 261.3].
68. The Respondent is an "LQG" of hazardous waste as that term is defined in 15A NCAC 13A .0102(b) [40 C.F.R. § 260.10].
69. The Respondent failed to accurately determine if dirty toluene, which was generated on-site and subsequently managed in the toluene recycling system, was excluded from regulation. The EPA therefore alleges that the Respondent violated 15A NCAC 13A .0107(a) [40 C.F.R. § 262.11(b)], by failing to make an accurate hazardous waste determination.

70. The Respondent failed to make a hazardous waste determination on the discarded materials observed in Building 19 and on the Flammable Storage Covered Pad. The EPA therefore alleges that the Respondent violated 15A NCAC 13A .0107(a) [40 C.F.R. § 262.11], by failing to make a hazardous waste determination on solid waste generated at its Facility.
71. The Respondent failed to maintain physical records of hazardous waste manifests 022972417JJK or 023037532JJK for shipments sent to Cycle Chem, Inc. on November 9, 2021, and February 1, 2022, respectively. The EPA therefore alleges that the Respondent violated 15A NCAC 13A .0107(b) [40 C.F.R. § 262.23(a)(3)] and 15A NCAC 13A .0107(d) [40 C.F.R. § 262.40(a)], by failing to retain one copy of each manifest for three years or until receipt of a signed copy from the designated facility which received the waste, and by failing to retain a signed copy as a record for at least three years from the date the waste was accepted by the initial transporter.
72. The Respondent failed to include 2,500 pounds of D002 hazardous waste corrosive liquid (acid functional acrylate) and 1,200 pounds of D002 hazardous waste ammonia solution, which was identified on hazardous waste manifest 022972417JJK, and 13,200 pounds of D002 hazardous waste corrosive liquids (2-hydroxyethyl acrylate) which was identified on hazardous waste manifest 022192367JJK in its 2021 Biennial Report. The EPA therefore alleges that the Respondent violated 15A NCAC 13A .0107(d) [40 C.F.R. § 262.41(a)], by failing to submit all the hazardous waste used to determine the site's generator status during the previous year on the GM Form that is required as part of the Biennial Report.
73. The Respondent failed to include the correct EPA Hazardous Waste Codes for hazardous waste lab samples in its 2021 Biennial Report. The EPA therefore alleges that the Respondent violated 15A NCAC 13A .0107(d) [40 C.F.R. § 262.41(a)], by failing to enter the four-character EPA hazardous waste code(s) that apply to the waste reported on the Biennial Report, Item I.B.
74. The Respondent failed to label two one-gallon containers of hazardous waste in the SAA of the Quality Control Laboratory with legible hazardous waste labels and with an indication that the contents were toxic. The EPA therefore alleges that the Respondent violated Section 130A-294(c) and (g) of the NCGS [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the marking and labeling requirement in 15A NCAC 13A .0107(a) [40 C.F.R. § 262.15(a)(5)], which is a condition of the SAA Permit Exemption.
75. The Respondent failed to immediately transfer material from one 55-gallon container of hazardous waste in poor condition into a container in good condition in the CAA. The EPA therefore alleges that the Respondent violated Section 130A-294(c) and (g) of the NCGS [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing waste without a permit or interim status, because the Respondent failed to immediately transfer hazardous waste from a container that is not in good condition or has begun to leak into a container that is in good condition or immediately manage the waste in some way that complies with the conditions of the LQG Permit Exemption as required by 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(1)(ii)], which is a condition of the LQG Permit Exemption.
76. The Respondent failed to include the location, physical description, and a brief outline of the capabilities of the fire extinguishers or decontamination equipment (safety showers/eyewash stations) in its contingency plan. The EPA therefore alleges that the Respondent violated Section

130A-294(c) and (g) of the NCGS [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing waste without a permit or interim status, because the Respondent failed to meet a condition of the LQG Permit Exemption set forth in 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(6)], by not including a list of all emergency equipment at the Facility, with the location and a physical description of each item on the list, and a brief outline of its capabilities, as required by 15A NCAC 13A .0107(i) [40 C.F.R. § 262.261(e)].

77. The Respondent failed to maintain records to demonstrate that the contingency plan and quick reference guide had been submitted to the local emergency response entities. The EPA therefore alleges that the Respondent violated Section 130A-294(c) and (g) of the NCGS [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing waste without a permit or interim status, because the Respondent failed to meet a condition of the LQG Permit Exemption set forth in 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(6)], by not submitting a copy of the contingency plan, quick reference guide, and all revisions to all local emergency responders, as required by 15A NCAC 13A .0107(i) [40 C.F.R. § 262.262(a) and (c)].
78. The Respondent failed to include the names of employees filling each position with hazardous waste management responsibilities or the date upon which each employee filled that position in its hazardous waste training records. The EPA therefore alleges that the Respondent violated Section 130A-294(c) and (g) of the NCGS [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing waste without a permit or interim status, because the Respondent failed to comply with the hazardous waste training recordkeeping requirements in 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(7)(iv)], which is a condition of the LQG Permit Exemption.

VI. STIPULATIONS

79. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).
80. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), the Respondent:
- a. admits that the EPA has jurisdiction over the subject matter alleged in this CAFO;
 - b. neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;
 - c. consents to the assessment of a civil penalty as stated below;
 - d. consents to the conditions specified in this 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.
81. For the purpose of this proceeding, the Respondent:
- a. agrees that this CAFO states a claim upon which relief may be granted against the Respondent;

- b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering the Respondent's compliance history in any subsequent enforcement actions;
- c. waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that the 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;
- d. 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;
- e. 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 EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO; and
- f. agrees to comply with the terms of this CAFO.

82. By executing this CAFO, the Respondent certifies to the best of its knowledge that the 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.
83. 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

84. The Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **EIGHTY-THREE THOUSAND TWO HUNDRED EIGHTY DOLLARS (\$83,280)**, which is to be paid within 30 days of the Effective Date of this CAFO.
85. 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 the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

U.S. Environmental Protection Agency
P.O. Box 979078
St. Louis, MO 63197-9000
 - b. If the Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Environmental Protection Agency
Government Lockbox 979078
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

- c. If paying by EFT, the 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
Beneficiary: Environmental Protection Agency

- d. If paying by ACH, the 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
Remittance Express (REX): 1-866-234-5681

86. The Respondent shall send proof of payment, within 24 hours of payment of the civil penalty, to:

Regional Hearing Clerk
r4_regional_hearing_clerk@epa.gov

and

Laurie Benton DiGaetano
Enforcement and Compliance Assurance Division
Chemical Safety and Land Enforcement Branch
benton-digaetano.laurie@epa.gov

87. “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 EPA requirements, in the amount due, and identified with the Facility name and Docket No. RCRA-04-2023-2110(b) .
88. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if the 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 90 days past due, the 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); and/or
- c. Monthly Handling Charge. The 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.

89. In addition to what is stated in the prior Paragraph, if the 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 (*see* 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 (*see* 40 C.F.R. Part 13, Subparts C and H);
- c. suspend or revoke the Respondent's licenses or other privileges, or suspend or disqualify the Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds (*see* 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.

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

VIII. EFFECT OF CAFO

91. In accordance with 40 C.F.R. § 22.18(c), the Respondent's full compliance with this CAFO shall only resolve the Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.
92. Full payment of the civil penalty, as provided in Section VII (Terms of Payment) shall satisfy the requirements of this CAFO; but, 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).
93. 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).
94. Nothing in this CAFO shall relieve the 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.
95. Nothing herein shall be construed to limit the power of the EPA to undertake any action against the Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.
96. 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.
97. The provisions of this CAFO shall apply to and be binding upon the Respondent and its successors and assigns. The Respondent shall direct its officers, directors, employees, agents, trustees, and authorized representatives to comply with the provisions of this CAFO, as appropriate.
98. 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 the Respondent's obligations and responsibilities under this CAFO.
99. By signing this Consent Agreement, the 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.
100. By signing this Consent Agreement, the Complainant and the undersigned representative of the Respondent each certify that each person is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the Party represented by that person to this CAFO.
101. 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.

102. By signing this Consent Agreement, the 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. The 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.
103. 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 the 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 the Respondent notice of its intent to revoke, which shall not be effective until received by the Respondent in writing.
104. Unless specifically stated otherwise in this CAFO, each Party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
105. It is the intent of the Parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any Party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other Parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

IX. EFFECTIVE DATE

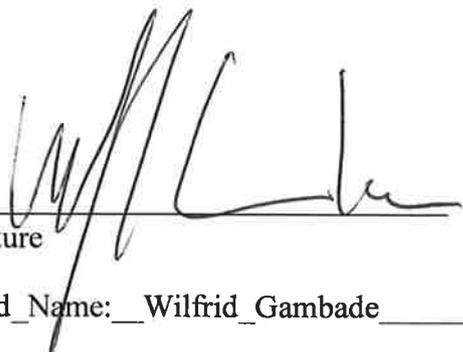
106. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Regional Hearing Clerk.

[Remainder of Page Intentionally Left Blank

Complainant and the Respondent will Each Sign on Separate Pages.]

The foregoing Consent Agreement *In the Matter of IGM Resins USA, Inc.*, Docket No. RCRA-04-2023-2110(b) , is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:


Signature _____ Date 31 Aug 2023
Printed Name: Wilfrid Gambade
Title: CEO
Address: Gompenstraat 49, 5145 RM Waalwijk, Netherlands

The foregoing Consent Agreement *In the Matter of IGM Resins, Inc.*, Docket No. RCRA-04-2023-2110(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

Acting Chief
Chemical Safety and Land Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

IGM Resins USA, Inc.
3300 Westinghouse Blvd.
Charlotte, North Carolina 28273
EPA ID No.: NCD062567623

Respondent.

Docket No. RCRA-04-2023-2110(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 Complainant and the 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 IGM Resins, Inc.*, Docket No. **RCRA-04-2023-2110(b)**, were 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: Bart Oude Vrielink
 Chief Transformation Officer
 IGM Resins USA, Inc.
 b.oudevrielink@igmresins.com

To EPA: Laurie Benton DiGaetano
 Senior Enforcement and Compliance Specialist
 benton-digaetano.laurie@epa.gov

 Ximena Vasquez
 Assistant Regional Counsel
 vasquez.maria-ximena@epa.gov

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

Shannon L. Richardson, Regional Hearing Clerk
r4_regional_hearing_clerk@epa.gov