

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

The Sherwin-Williams Company
113 Stagecoach Trail
Greensboro, North Carolina 27409
EPA ID No.: **NCD071561864**

Respondent.

Docket No. **RCRA-04-2023-2111(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 The Sherwin-Williams Company, a corporation doing business in the State of North Carolina. This proceeding pertains to the Respondent's facility located at 113 Stagecoach Trail, Greensboro, North Carolina 27409 (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. Sections 130A-294(c) and (g) of the NCGS [Section 3005 of RCRA, 42 U.S.C. § 6925], set 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 .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.
14. 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."

15. Pursuant to NCGS § 130A-290(a)(22) [See 40 C.F.R. § 260.10], a “person” includes a corporation.¹
16. 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.”
17. Pursuant to NCGS § 130A-290(a)(41) [See 40 C.F.R. § 260.10], “storage” means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
18. Pursuant to 15A NCAC 13A .0102(b) [40 C.F.R. § 260.10], a “tank system” is defined as a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.
19. 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.
20. 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)].
21. 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.
22. 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.
23. 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. 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.
24. 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].

¹ 15A NCAC 13A .0102(b) incorporates by reference the definitions in 40 C.F.R. § 260.10 excepting certain terms including “person” and “storage,” which are defined separately in NCGS § 130A-290(a).

25. Listed hazardous wastes include the F-Listed wastes from nonspecific sources identified in 15A NCAC 13A .0106(d) [40 C.F.R. § 261.31].
26. Pursuant to 15A NCAC 13A .0106(d) [40 C.F.R. § 261.31], spent non-halogenated solvents including toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures meet the definition of an F005 listed hazardous waste.
27. 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 (2200 lbs) of non-acute hazardous waste in a calendar month.
28. 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 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 Sections 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”).
29. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.15(a)(4)], which is a condition of the SAA Permit Exemption, a generator is required to keep containers of hazardous waste closed at all times during accumulation, except when adding, removing, or consolidating waste; or when temporary venting of a container is necessary for the proper operation of equipment, or to prevent dangerous situations, such as build-up of extreme pressure.
30. 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: (i) with the words “Hazardous Waste;” and (ii) with an indication of the hazards of the contents.
31. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17], a LQG may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Sections 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”).
32. Pursuant to 15A NCAC 13A .0107(a) [40 C.F.R. § 262.17(a)(2)], which incorporates 15A NCAC 13A .0110(s), (t), and (u) [Subparts AA, BB and CC of 40 C.F.R. Part 265], and is a condition of the LQG Permit Exemption, a generator is required to perform annual inspections of the fixed roof and closure devices of its hazardous waste tanks in accordance with 15A NCAC 13A .0110(u) [40 C.F.R. § 265.1085(c)(4)(ii)].
33. 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 where this equipment is required, and this list must be kept up to date.

IV. FINDINGS OF FACTS

34. The Respondent's Facility is located at 113 Stagecoach Trail, Greensboro, North Carolina 27409.
35. The Respondent is a manufacturer of chemical coatings for wood, including stains and topcoats.
36. The Respondent utilizes methyl ethyl ketone as a solvent to perform cleaning operations on tanks and equipment used at the Facility to manufacture its products.
37. On February 14, 2022, the Respondent notified the North Carolina Department of Environmental Quality (NCDEQ) as a LQG of hazardous waste. Hazardous wastes identified within the Respondent's notification included D001 (ignitable), D035 (methyl ethyl ketone characteristic), and F005 listed hazardous wastes.
38. On March 1, 2023, the EPA and the NCDEQ conducted a compliance evaluation inspection (CEI) at the Respondent's Facility. The EPA's findings of the CEI were documented in a report emailed to the Respondent on May 18, 2023.
39. At the time of the CEI, the inspectors observed the following open containers of hazardous waste in SAAs: one 55-gallon drum in the Still Building, one metal bin in the Fill Area, one metal 55-gallon drum in the Building 113 Mixing Room, one cardboard 55-gallon drum in the Building 113 Mixing Room, and one cubic yard container in the Building 113 Mixing Room.
40. At the time of the CEI, the inspectors observed that each of the following containers of hazardous waste within SAAs were not marked with the words "Hazardous Waste" and an indication of the hazards of the contents: one metal bin in the Fill Area, one metal 55-gallon drum in the Building 113 Mixing Room, one cardboard 55-gallon drum in the Building 113 Mixing Room, and one cubic yard container in the Building 113 Mixing Room.
41. As a result of observations made during the CEI and additional information obtained from the Respondent during a Show Cause meeting with the Respondent on July 20, 2023, the EPA determined that the Respondent did not perform annual inspections of the fixed roof and closure devices for Hazardous Waste Tank 6, which manages D001 and D035 characteristic and F005 listed hazardous waste, during the years 2020, 2021 and 2022.
42. At the time of the CEI, the Facility's contingency plan did not include the location of spill control equipment for the Facility's hazardous waste central accumulation area (CAA).

V. ALLEGED VIOLATIONS

43. The Respondent is a "person" as defined in NCGS § 130A-290(a)(22) [*See* 40 C.F.R. § 260.10].
44. The Respondent is the "owner" and "operator" of a "facility" located at 113 Stagecoach Trail, Greensboro, North Carolina 27409, as those terms are defined in 15A NCAC 13A .0102(b) [40 C.F.R. § 260.10].

45. The Respondent is a “generator” of “solid waste” and “hazardous waste” as those terms are defined in 15A NCAC 13A .0102(b) [40 C.F.R. § 260.10] and 15A NCAC 13A .0106(a) [40 C.F.R. §§ 261.2 and 261.3].
46. The Respondent accumulated hazardous waste in open containers within SAAs at its Facility. The EPA therefore alleges that the Respondent violated Sections 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 the Respondent failed to comply with the container management requirements in 15A NCAC 13A .0107(a) [40 C.F.R. § 262.15(a)(4)], which is a condition of the SAA Permit Exemption.
47. The Respondent failed to label containers of hazardous waste being accumulated within SAAs at its Facility with the words “Hazardous Waste,” and with an indication of the hazards of the contents. The EPA therefore alleges that the Respondent violated Sections 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 the Respondent failed to comply with the marking and labeling requirements in 15A NCAC 13A .0107(a) [40 C.F.R. § 262.15(a)(5)], which is a condition of the SAA Permit Exemption.
48. The Respondent failed to perform annual inspections of the fixed roof and closure devices for Hazardous Waste Tank 6 in 2020, 2021, and 2022. The EPA therefore alleges that the Respondent violated Sections 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 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)(2)], by not complying with the applicable annual inspection requirements in 15A NCAC 13A .0110(u) [40 C.F.R. § 265.1085(c)(4)(ii)].
49. The Respondent failed to include the location of its spill equipment within its contingency plan. The EPA therefore alleges that the Respondent violated Sections 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 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 complying with the contingency plan requirement in 15A NCAC 13A .0107(i) [40 C.F.R. § 262.261(e)].

VI. STIPULATIONS

50. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).
51. 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.
52. 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.
53. 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.
54. 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

55. The Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **FORTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$47,500.00)**, which is to be paid within 30 days of the Effective Date of this CAFO.
56. 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, NY 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, MD 20737
Remittance Express (REX): 1-866 234 5681

57. 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

Daryl R. Himes
Chemical Safety and Land Enforcement Branch
Environmental Compliance and Assurance Division
himes.daryl@epa.gov

58. “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-04-2023-2111(b)**.
59. 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 ninety 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.
60. 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.

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

VIII. EFFECT OF CAFO

- 62. 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.
- 63. 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).
- 64. 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).
- 65. 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.
- 66. 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.
- 67. 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.
- 68. 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.
- 69. 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.

70. 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.
71. 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.
72. 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.
73. 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.
74. 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.
75. Unless specifically stated otherwise in this CAFO, each Party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
76. 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


77. 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.

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Complainant and Respondent will Each Sign on Separate Pages.]

The foregoing Consent Agreement *In the Matter of The Sherwin-Williams Company*, Docket No. RCRA-04-2023-2111(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:


Signature

9/15/23
Date

Printed Name: Ryan Jones

Title: Plant Manager

Address: 113 stage coach trail, Greensboro NC 27409

The foregoing Consent Agreement *In the Matter of The Sherwin-Williams Company*, Docket No. **RCRA-04-2023-2111(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

The Sherwin-Williams Company
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EPA ID No.: NCD071561864

Respondent.

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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 The Sherwin-Williams Company*, Docket No. **RCRA-04-2023-2111(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: Ryan Jones
Plant Manager
The Sherwin-Williams Company
ryan.jones@sherwin.com

To EPA: Daryl R. Himes
Environmental Engineer
himes.daryl@epa.gov

Joshua Lee
Associate Regional Counsel
lee.joshua@epa.gov

Quantindra Smith
Environmental Protection Specialist
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Shannon L. Richardson, Regional Hearing Clerk
r4_regional_hearing_clerk@epa.gov