



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
July 11, 2022

VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

Mr. Omar Sinaph
President
PVS Nolwood Chemicals, Inc.
8970 Hubbell Avenue
Detroit, Michigan 48228
OSinaph@pvschemicals.com

Re: Consent Agreement and Final Order
Facility: PVS Nolwood Chemicals, Inc.
EPA ID No.: MID004912309
Docket No.: RCRA-05-2022-0011

Dear Mr. Sinaph:

Attached, please find a signed, fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The CAFO was filed on July 11, 2022, with the Regional Hearing Clerk.

Please pay the civil penalty in the amount of \$23,396 in the manner prescribed in paragraphs 80-85 of the CAFO, and reference all checks with the docket number RCRA-05-2022-0011. **Your payment is due within 30 calendar days of the effective date of the CAFO.** Thank you for your cooperation in resolving this matter.

If you have any questions or concerns regarding this matter, please contact Brenda Whitney, of my staff, at whitney.brenda@epa.gov or 312-353-4796.

Sincerely,

Julie Morris
Digitally signed by Julie
Morris
Date: 2022.06.29
11:49:12 -05'00'

Julie Morris, Supervisor
Compliance Section 2

Attachment

cc: Mary Carnagie – MI EGLE (carnagiem@michigan.gov)
Alexandra Clark – MI EGLE (clarka37@michigan.gov)
Lonnie Lee – MI EGLE (leel@michigan.gov)
Elizabeth Browne – MI EGLE (browne@michigan.gov)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. RCRA-05-2022-0011
)	
PVS Nolwood Chemicals, Inc.,)	Proceeding to Commence and Conclude
Detroit, Michigan,)	an Action to Assess a Civil Penalty
EPA ID No.: MID004912309,)	Under Section 3008(a) of the Resource
)	Conservation and Recovery Act,
Respondent.)	42 U.S.C. § 6928(a)
_____)	

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) 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 40 C.F.R. Part 22.

2. The Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. U.S. EPA provided notice of commencement of this action to the State of Michigan pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

4. Respondent is PVS Nolwood Chemicals, Inc., a corporation doing business in the State of Michigan.

5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

11. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste, pursuant to Sections 3002, 3003, and 3004 of RCRA, 42 U.S.C. §§ 6922, 6923, and 6924.

12. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions.

13. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939(e)) or of any state provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil

penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Michigan final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective October 30, 1986. 51 Fed. Reg. 36804 (October 16, 1986).

15. On June 6, 2019, pursuant to Section 3006(b) of RCRA, 42 U.S.C. 6926(b), U.S. EPA authorized revisions to the State of Michigan's hazardous waste management program. 84 Fed. Reg. 26359 (June 6, 2019).

16. On August 3, 2020, the State of Michigan promulgated revised and renumbered hazardous waste management program regulations. U.S. EPA has not yet authorized the State's revised regulations, therefore, the regulations U.S. EPA authorized on June 6, 2019 remain in effect.

17. Generally, an owner or operator of a facility that stores hazardous waste must obtain a RCRA Hazardous Waste Operating License ("RCRA License"). Mich. Admin. Code ("MAC") Parts 5, 6, and 7.

18. An owner or operator of a facility who is also a generator of hazardous waste may qualify for a conditional exemption from obtaining the RCRA License for its generated wastes if the generator complies with all applicable conditions for such an exemption. MAC r. 299.9306(1).

19. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both. The Administrator of U.S. EPA may

assess a civil penalty of up to \$109,024 per day for each violation of Subtitle C of RCRA that occurred after November 2, 2015 and that was assessed on or after January 12, 2022, pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

20. Respondent is, and at all times relevant to this CAFO was, a corporation doing business in the State of Michigan. Respondent is therefore a “person” as that term is defined by MAC r. 299.9106(i).

21. Respondent is the “operator” and “owner” of a facility located at 8970 Hubbell Street, Detroit, Michigan (Facility), as those terms are defined by MAC r. 299.9106(f) and (g).

22. Respondent’s Facility is a “facility,” as that term is defined under MAC r. 299.9103(s).

23. At all times relevant to this CAFO, Respondent’s Facility consisted of land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste.

24. At all times relevant to this CAFO, Respondent blended chemicals to meet customer specifications.

25. At all times relevant to this CAFO, Respondent discarded contaminated products that could not meet customer specifications.

26. At all times relevant to this CAFO, Respondent sent unused or spent chemicals from its on-site laboratory to a licensed treatment, storage, or disposal facility (TSDF).

27. At all times relevant to this CAFO, Respondent’s discarded chemicals were “waste,” as that term is defined under MAC r. 299.9109(jj) and 299.9202.

28. Respondent's waste was determined by the Facility to be "hazardous waste," as that term is defined under MAC r. 299.9104(f) and 299.9203.

29. Therefore, as Respondent's act or process produced hazardous waste, Respondent was a "generator" of hazardous waste, as that term is defined under MAC r. 299.9104(a).

30. At all times relevant to this CAFO, Respondent collected and held its hazardous waste for temporary periods in drums or totes.

31. Drums or totes are portable devices in which a material is stored, transported, treated, disposed of, or otherwise handled. Therefore, Respondent collected and held hazardous waste in "containers," as that term is defined under MAC r. 299.9102(s).

32. Respondent held its hazardous waste for a temporary period at the end of which the hazardous waste was treated, disposed of, or stored elsewhere. Therefore, Respondent caused its hazardous waste to be in "storage," as that term is defined under MAC r. 299.9107(gg).

33. On or about April 8, 1985, Respondent submitted to U.S. EPA and the State of Michigan a Hazardous Waste Notification first indicating that it was a generator of hazardous waste.

34. Respondent has never obtained interim status through the submission of a Part A application. 40 C.F.R. § 270.70(a).

35. From August 31 to September 1, 2021, U.S. EPA conducted a compliance evaluation inspection (CEI) of the Facility.

36. On October 29, 2021, U.S. EPA issued an inspection report to Respondent based on U.S. EPA's observations made during the inspection.

37. On March 8, 2022, U.S. EPA issued a Notice of Potential Violation and Opportunity to Confer to Respondent alleging certain violations of RCRA discovered during the inspection.

38. On May 12, 2022, Respondent submitted to U.S. EPA a written response to the Notice of Potential Violation and Opportunity to Confer.

39. At all times relevant to this complaint, the State of Michigan had not issued a license to Respondent to treat, store, or dispose of hazardous wastes at its Facility.

40. At all times relevant to this complaint, Respondent did not have interim status for the treatment, storage, or disposal of hazardous waste at its Facility.

41. On February 26, 2020, Respondent submitted a Hazardous Waste Notification to the State of Michigan for the Facility.

42. The Hazardous Waste Notification identified in Paragraph 41, above, indicated that Respondent is a Large Quantity Generator.

COUNT 1: Storage of Hazardous Waste Without a Permit or Interim Status

43. Complainant incorporates Paragraphs 20 through 42 of this CAFO as though set forth fully herein.

44. Pursuant to 3005(a) of RCRA, 42 U.S.C. § 6925(a), and the regulations at MAC Parts 5 to 7, the treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a RCRA license is prohibited.

45. Pursuant to MAC r. 299.9306, however, and subject to certain exceptions, a large quantity generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without having a RCRA License or interim status, provided that the generator complies with all applicable conditions set forth in MAC r. 299.9306, including, but not limited to, certain requirements for owners and operators in MAC Part 6.

46. A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to all the applicable requirements of MAC Parts 5 to 7, and the

RCRA License requirements of MAC r. 299.9502, 299.9508, 299.9510, unless the generator has been granted an extension of the 90-day period. Storage for more than 90 days subjects the generator of hazardous waste to the requirement to either obtain a RCRA License or achieve interim status.

47. At all times relevant to this CAFO, Respondent had not been granted an extension to accumulate hazardous waste for more than 90 days.

48. The failure to comply with any of the conditions of MAC r. 299.9306 subjects the generator of hazardous waste to the requirements of MAC Parts 5 to 7 and the RCRA License requirements of MAC r. 299.9502, 299.9508, 299.9510.

49. In order for a large quantity generator to maintain its exemption from the requirement to have a RCRA License, it may not store hazardous waste on-site for more than 90 days. MAC r. 299.9306(1) and (3).

50. At the time of the inspection, Respondent was storing one 55-gallon drum of Rodine 213 Inhibitor, which was labeled as "Hazardous Waste" and marked with an accumulation date of December 2, 2020, indicating that it had been stored for 273 days.

51. Respondent manifested the container of Rodine 213 Inhibitor identified in Paragraph 50, above, to a licensed treatment, storage, or disposal facility on September 23, 2021. Respondent held the container on-site for a total of 296 days.

52. As a result of Respondent's failure to meet all of the applicable conditions for the generator exemption provided by MAC r. 299.9306, including storing hazardous waste on-site for more than 90 days, in violation of MAC r. 299.9306(1) and (3), Respondent was required to apply for obtain a RCRA License.

53. Respondent's storage of hazardous waste without a RCRA License or interim status violated Section 3005 of RCRA, 42 U.S.C. § 6925(a) and the requirements of MAC r. 299.9502, 299.9508, and 299.9510.

COUNT 2: Violation of Container Condition Requirements

54. Complainant incorporates Paragraphs 20 through 42 of this CAFO as though set forth fully herein.

55. A generator may accumulate hazardous waste on-site without a license or without having interim status, provided that the generator places hazardous wastes in containers or tanks in compliance with, among other things, 40 C.F.R. Part 265, Subpart I, enumerated from 40 C.F.R. §§ 265.170 through 265.178. MAC r. 299.9306(1)(a)(i).

56. A generator must transfer hazardous waste from a container that is not in good condition to a container that is in good condition. 40 C.F.R. § 265.171 and MAC r. 299.9306(1)(b)(i)(B).

57. At the time of the inspection, a 55-gallon drum of Rodine 213 Inhibitor, which was labeled as "Hazardous Waste" was observed to have major dents and be in poor condition.

58. The hazardous waste inside the container identified in Paragraph 57, above, had not been placed in a container that was in good condition, in violation of 40 C.F.R. § 265.171 and MAC r. 299.9306(1)(b)(i).

59. Therefore, Respondent failed to meet a condition that allows for accumulation of hazardous waste on-site without a RCRA license or without having interim status, through violation of the applicable requirements of 40 C.F.R. Part 265, Subpart I and MAC r. 299.9306, as mentioned above, in violation of Section 3005(a) of RCRA, 42 U.S.C. § 6925(a).

COUNT 3: Violation of Weekly Inspection Requirements

60. Complainant incorporates Paragraphs 20 through 42 of this CAFO as though set forth fully herein.

61. A generator may accumulate hazardous waste on-site without a license or without having interim status, provided that the generator complies with, among other things, 40 C.F.R. Part 265, Subpart I, enumerated from 40 C.F.R. §§ 265.170 through 265.178. MAC r. 299.9306(1)(a)(i).

62. A generator shall inspect, at least weekly, areas where containers of hazardous waste are stored. 40 C.F.R. § 265.174. MAC r. 299.9306(1)(a)(i).

63. A generator shall maintain the inspection records on-site for a period of not less than three years from the date of the weekly inspection. MAC r. 299.9306(1)(a)(i).

64. At the time of the inspection, records of weekly inspections for the 90-day hazardous waste storage area indicated that inspections were not conducted between November 3, 2018 and January 4, 2019 as well as between November 8, 2019 and January 8, 2020, in violation of 40 C.F.R. § 265.174. MAC r. 299.9306(1)(a)(i).

65. Therefore, Respondent failed to meet a condition that allows for accumulation of hazardous waste on-site without a RCRA license or without having interim status, through violation of the applicable requirements of MAC r. 299.9306(1)(a)(i) and 40 C.F.R. Part 265, Subpart I, in violation of Section 3005(a) of RCRA, 42 U.S.C. § 6925(a).

COUNT 4: Violation of Aisle Space Requirements

66. Complainant incorporates Paragraphs 20 through 42 of this CAFO as though set forth fully herein.

67. A generator may accumulate hazardous waste on-site without a license or without having interim status, provided that the generator complies with, among other things, 40 C.F.R. Part 265, Subpart C, enumerated from 40 C.F.R. §§ 265.30 through 265.37. MAC r. 299.9306(1)(d).

68. A generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes. 40 C.F.R. § 265.35. MAC r. 299.9306(1)(d).

69. At the time of the inspection, the inspector observed a lack of aisle space between containers in the hazardous waste storage area due to overpack drums and stacked products, in violation of 40 C.F.R. § 265.35. MAC r. 299.9306(1)(d).

70. Therefore, Respondent failed to meet a condition that allows for accumulation of hazardous waste on-site without a RCRA license or without having interim status, through violation of the applicable requirements of MAC r. 299.9306(1)(d) and 40 C.F.R. Part 265, Subpart C, in violation of Section 3005(a) of RCRA, 42 U.S.C. § 6925(a).

COUNT 5: Violation of Emergency Coordination Requirements

71. Complainant incorporates Paragraphs 20 through 42 of this CAFO as though set forth fully herein.

72. A generator may accumulate hazardous waste on-site without a license or without having interim status, provided that the generator complies with, among other things, 40 C.F.R. Part 265, Subpart D, enumerated from 40 C.F.R. §§ 265.50 through 265.56. MAC r. 299.9306(1)(d).

73. A generator must maintain a facility contingency plan that, among other things, includes a description of the arrangements agreed to by local emergency responders pursuant to 40 C.F.R. § 265.37. 40 C.F.R. § 265.52(c). MAC r. 299.9306(1)(d).

74. At the time of the inspection, the contingency plan did not include a description of arrangements Respondent made with local emergency responders, in violation of 40 C.F.R. § 265.52(c). MAC r. 299.9306(1)(d).

75. Therefore, Respondent failed to meet a condition that allows for accumulation of hazardous waste on-site without a license or without having interim status, through violation of the applicable requirements of MAC r. 299.9306(1)(d) and 40 C.F.R. Part 265, Subpart D in violation of Section 3005(a) of RCRA, 42 U.S.C. § 6925(a).

COUNT 6: Violation of Emergency Equipment Requirements

76. Complainant incorporates Paragraphs 20 through 42 of this CAFO as though set forth fully herein.

77. A generator may accumulate hazardous waste on-site without a license or without having interim status, provided that the generator complies with, among other things, 40 C.F.R. Part 265, Subpart D, enumerated from 40 C.F.R. §§ 265.50 through 265.56. MAC r. 299.9306(1)(d).

78. A generator must maintain a facility contingency plan that, among other things, includes a list of all emergency equipment at the facility and the corresponding location of each item on the list. 40 C.F.R. § 265.52(e). MAC r. 299.9306(1)(d).

79. At the time of the inspection, the contingency plan did not include the location of spill kits for the hazardous waste storage area or the locations of fire extinguishers, in violation of 40 C.F.R. § 265.52(e). MAC r. 299.9306(1)(d).

80. Therefore, Respondent failed to meet a condition that allows for accumulation of hazardous waste on-site without a license or without having interim status, through violation of the applicable requirements of MAC r. 299.9306(1)(d) and 40 C.F.R. Part 265, Subpart D in violation of Section 3005(a) of RCRA, 42 U.S.C. § 6925(a).

Civil Penalty

81. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$23,396. In determining the penalty amount, Complainant accounted for the seriousness of the violation and any good faith efforts to comply with the applicable requirements. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

82. Within 30 days after the effective date of this CAFO, Respondent must pay a \$23,396 civil penalty for the RCRA violations by ACH electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking

83. A transmittal letter stating Respondent's name, the case title and the case docket number must accompany the payment. Respondent must send a copy of the payment and transmittal letter to:

Regional Hearing Clerk
U.S. EPA, Region 5
r5hearingclerk@epa.gov

Brenda Whitney
Land Enforcement and Compliance Assurance Branch
U.S. EPA, Region 5
Whitney.brenda@epa.gov and
r5lecab@epa.gov

Andrew Futerman
Office of Regional Counsel
U.S. EPA, Region 5
Futerman.andrew@epa.gov

84. This civil penalty is not deductible for federal tax purposes.

85. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

86. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

87. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: futerman.andrew@epa.gov (for Complainant), and OSinaph@pvschemical.com (for

Respondent).

88. Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for the violations alleged in this CAFO.

89. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

90. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws or permits.

91. Respondent certifies that it is complying fully with the statutory and regulatory citations subject to this CAFO.

92. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, U.S. EPA's RCRA Civil Penalty Policy, and U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

93. The terms of this CAFO bind Respondent, its successors, and assigns.

94. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

95. Each party agrees to bear its own costs and attorney's fees in this action.

96. This CAFO constitutes the entire agreement between the parties.

PVS Nolwood Chemicals, Inc., Respondent

06/29/2022

Date



Omar Sinaph,
President
PVS Nolwood Chemicals, Inc.

United States Environmental Protection Agency, Complainant

MICHAEL
HARRIS

Digitally signed by
MICHAEL HARRIS
Date: 2022.07.06
11:33:27 -05'00'

Date

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

In the Matter of:
PVS Nolwood Chemicals, Inc.
Docket No. RCRA-05-2022-0011

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

ANN COYLE Digitally signed by ANN
COYLE
Date: 2022.07.07
14:53:22 -05'00'

Date

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

In the matter of: PVS Nolwood Chemicals, Inc.
Docket Number: RCRA-05-2022-0011

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, which was filed on July 11, 2022, this day in the following manner to the addressees:

Copy by email to Respondent's Representatives: (Delivery Receipt Requested)	Mr. Omar Sinaph President PVS Nolwood Chemicals, Inc. 8970 Hubbell Avenue Detroit, Michigan 48228 OSinaph@pvschemicals.com
Copy by email to Attorney for Complainant:	Mr. Andrew Futerman futerman.andrew@epa.gov
Copy by email to Regional Judicial Officer:	Ms. Ann Coyle coyle.ann@epa.gov

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 5