

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

The Sherwin-Williams Co.
6795 Jonesboro Road
Morrow, Georgia 30260-2308
EPA ID No.: GAD042869057

Respondent.

Docket No. RCRA-04-2022-2107(b)

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

CONSENT AGREEMENT

I. NATURE OF ACTION

1. This is an administrative penalty assessment proceeding brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a) (RCRA or the Act) and Sections 22.13(b) and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.
3. 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 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, 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. Respondent is The Sherwin-Williams Co., a corporation doing business in the State of Georgia. This proceeding pertains to Respondent's facility located at 6795 Jonesboro Road, Morrow, Georgia 30260¹ (Facility).

III. GOVERNING LAW

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Georgia (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at GHWMA, Ga. Code Ann. § 12-8-60 *et seq.* and Ga. Comp. R. and Regs. 391-3-11.01 to 391-3-11.18.
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 12-8-64(1)(A) of the GHWMA, Ga. Code Ann. § 12-8-64(1)(A) [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 Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. Part 262].
12. Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [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 Ga. Comp. R. and Regs. 391-3-11-.10(2) (permitted) and Ga. Comp. R. and Regs. 391.3-11-.10(1) (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].
13. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [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.

¹ Respondent informed EPA that the Facility is located at 6795 Jonesboro Road, Morrow, Georgia, 30260. However, in the Facility's Biennial Hazardous Waste Report, the Respondent reported the Facility's address to be 6795 South Main Street, Morrow, Georgia 30260. Both addresses are applicable to this Facility and refer to the same property.

14. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.4(b)].
15. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Ga. Comp. R. and Regs. 391-3-11-.07(1) [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 Ga. Comp. R. and Regs. 391-3-11-.07(1) [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 Ga. Comp. R. and Regs. 391-3-11-.07(1) [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 Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. Part 261, Subpart D].
18. Listed hazardous wastes include the F-Listed wastes from nonspecific sources identified in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.31].
19. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.31], spent non-halogenated solvents: Xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; all spent solvent mixtures/blends containing, before use, only the above spent non-halogenated solvents; and all spent solvent mixtures/blends containing, before use, one or more of the above non-halogenated solvents, and, a total of ten percent or more (by volume) of one or more of those solvents listed in F001, F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures, are identified with the EPA Hazardous Waste Number F003.
20. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.31], spent non-halogenated solvents: 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, are identified with the EPA Hazardous Waste Number F005.
21. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [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 Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
22. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [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.
23. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], a “person” includes a corporation.

24. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [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.”
25. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [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.
26. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [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 Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17] (hereinafter referred to as the “LQG Permit Exemption”).
27. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.1(c)(8)], a material is “accumulated speculatively” if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that during the calendar year (commencing on January 1) the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. Materials must be placed in a storage unit with a label indicating the first date that the material began to be accumulated. If placing a label on the storage unit is not practicable, the accumulation period must be documented through an inventory log or other appropriate method. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.4(c)] are not to be included in making the calculation. Materials that are already defined as solid wastes also are not to be included in making the calculation. Materials are no longer in this category once they are removed from accumulation for recycling, however.
28. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.2(e)(2)(iii)], a material is a solid waste when recycled, even if the recycling involves use, reuse, or return to the original process, when the material is accumulated speculatively as defined in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.1(c)(8)].
29. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(b)], an LQG who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) and (2), and Ga. Comp. R. and Regs. 391-3-11-.11, .16, and .19 [40 C.F.R. Parts 124, 264 through 268, and Part 270].
30. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(5)(ii)(A)], which is a condition of the LQG Permit Exemption, a generator must mark or label its tanks with the words “Hazardous Waste”.
31. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(6)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.251], and is a condition of the LQG Permit Exemption, a generator is required to operate and maintain its facility to minimize

the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

32. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(6)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.262(b)(5)], and is a condition of the LQG Permit Exemption, a generator is required to submit a quick reference guide of the contingency plan to the local emergency responders that includes: a street map of the facility in relation to surrounding businesses, schools and residential areas to understand how best to get to the facility and also evacuate citizens and workers; the locations of water supply; and the identification of on-site notification systems.
33. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(7)], which is a condition of the LQG Permit Exemption, facility personnel must successfully complete a program of classroom instruction, online training, or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this part within six months of employment and annually thereafter.
34. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [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 Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.16(b) or §262.17(a)], except as required in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.15(a)(7) and (8)], provided that the generator complies with the satellite accumulation area (SAA) conditions listed in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.15(a)] (hereinafter referred to as the "SAA Permit Exemption").
35. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [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 or the proper operation of equipment, or to prevent dangerous situations, such as build-up of extreme pressure.
36. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption, a generator is required to mark or label its containers with an indication of the hazards of the contents.
37. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(1)(v)], which is a condition of the LQG Permit Exemption, a generator is required to, at least weekly, inspect central accumulation areas (CAA) looking for leaking containers and for deterioration of containers caused by corrosion or other factors.
38. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.195], a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tanks must conduct daily inspections of its operating tanks.

39. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subpart BB], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste with organic concentrations of at least 10 percent by weight in tanks must comply with the RCRA Subpart BB Organic Air Emission Standards for equipment leaks.
40. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subpart BB], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tanks must comply with the RCRA Subpart BB Organic Air Emission Standards for equipment leaks, including, but not limited to, the requirement in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1050(c)], to mark each piece of equipment to which the RCRA Subpart BB Organic Air Emission Standards apply in such a manner that it can be distinguished readily from other pieces of equipment.
41. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1052(e)(3) and 40 C.F.R. § 265.1057(f)(3)], a condition of the LQG Permit Exemption requires that any pump or valve that is designated for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, to be tested for compliance initially upon designation, annually, and at other times as requested by the Regional Administrator in order to be exempt from certain requirements.
42. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1052(a), (c), and (d)], which are conditions of the LQG Permit Exemption, a generator is required to comply with the following: (a)(1) Each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1063(b)], except as provided in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1052(d), (e), and (f)]; (a)(2) Each pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal; (c)(1) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1059]; (c)(2) A first attempt at repair (e.g., tightening the packing gland) shall be made no later than 5 calendar days after each leak is detected; and (d) Each pump equipped with a dual mechanical seal system that includes a barrier fluid system is exempt from the requirements of paragraph (a), provided that certain requirements are met.
43. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1057(a)], a condition of the LQG Permit Exemption, a generator is required to monthly monitor each valve in gas/vapor or light liquid service to detect leaks by the methods specified in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1063(b)] and shall comply with Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1057(b) through (e)], except as provided in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1057(f), (g), and (h), and §§ 265.1061 and 265.1062].
44. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subpart BB], which is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tanks

must comply with the RCRA Subpart BB Organic Air Emission Standards for equipment leaks, including, but not limited to, Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1056(a)], which requires the generator to equip each open-ended valve or line with a cap, blind flange, plug, or a second valve and that the cap, blind flange, plug, or second valve shall seal the open end at all times except during operations requiring hazardous waste stream flow through the open-ended valve or line.

45. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subpart BB], a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tanks must comply with the RCRA Subpart BB Organic Air Emission Standards for equipment leaks, including, but not limited to, Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1063(b)(4)], which requires leak detection monitoring, as required in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. §§ 265.1052 through 265.1062], that complies with the following requirements: (4) Calibration gases shall be: (i) Zero air (less than 10 ppm of hydrocarbon in air) and (ii) A mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppm methane or n-hexane.
46. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subpart BB], a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tanks must comply with the RCRA Subpart BB Organic Air Emission Standards, including, but not limited to the recordkeeping requirements in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1064(b)(1)].
47. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subpart BB], a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tanks must comply with the RCRA Subpart BB Organic Air Emission Standards for equipment leaks, including, but not limited to, the record keeping requirements in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1064(h)], which requires that the following information pertaining to all valves designated as described in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1057(g) (unsafe-to-monitor) and (h) (difficult-to-monitor)] be recorded in a log that is kept in the facility operating record: (1) A list of identification numbers for valves that are designated as unsafe-to-monitor, an explanation for each valve stating why the valve is unsafe-to-monitor, and the plan for monitoring each valve, and (2) A list of identification numbers for valves that are designated as difficult-to-monitor, an explanation for each valve stating why the valve is difficult-to-monitor, and the planned schedule for monitoring each valve.
48. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subpart BB], a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tanks must comply with the RCRA Subpart BB Organic Air Emission Standards for equipment leaks, including, but not limited to, the record keeping requirements in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1064(g)], which requires that the following information pertaining to all equipment subject to RCRA Subpart BB Organic Air Emission Standards be recorded in a log that is kept in the facility operating record: (2)(i) A list of identification numbers for equipment that the owner or operator elects to designate for no detectable emissions under Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. §§ 265.1052(e) or 265.1057(f)]; (2)(ii) The designation of this

equipment as no detectable emissions shall be signed by the owner or operator; (4)(i) The dates of each compliance test; (4)(ii) The background level measured during each compliance test; and (4)(iii) The maximum instrument reading measured at the equipment during each compliance test.

49. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1050(e)], of the RCRA Subpart BB Organic Air Emission Standards, equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year is excluded from the requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. §§ 265.1052 through 265.1060], if it is identified, as required in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1064(g)(6)].
50. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subpart CC], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste containing an average volatile organic concentration greater than 500 ppmw at the point of waste origination in tanks must comply with the RCRA Subpart CC Organic Air Emission Standards for tanks, including, but not limited to, Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. 265.1085(c)(2)(iii)(A)], which requires that each opening in the fixed roof on a hazardous waste tank subject to RCRA Subpart CC Organic Air Emission Standards to be equipped with a closure device designed to operate such that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the opening and the closure device.
51. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subpart CC], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste containing an average volatile organic concentration greater than 500 ppmw at the point of waste origination in tanks must comply with the RCRA Subpart CC Organic Air Emission Standards for tanks, including, but not limited to, Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 265.1085(c)(4)(ii)], which requires a generator to perform an initial inspection of the fixed roof and its closure devices on or before the date that the tank becomes subject to RCRA Subpart CC Organic Air Emission Standards. Thereafter, the owner or operator shall perform the inspections at least once every year.

IV. FINDINGS OF FACTS

52. Respondent is a manufacturer of solvent and latex based paints.
53. On February 27, 2020, the Respondent notified the Georgia Environmental Protection Division (GAEPD) of its status as a large quantity generator of hazardous waste. In this notification, the Respondent identified the generation of hazardous wastes described by the following waste codes: D001, F003, and F005. Respondent has maintained its LQG status at all times relevant to this CAFO.
54. Respondent generates spent wash solvent, flammable solids and liquids, and still bottoms, all identified with the waste codes: D001, F003 and F005.
55. Respondent manages hazardous waste, identified with EPA hazardous waste codes D001, F003 and F005, in an onsite tank system. Respondent operates the hazardous waste tank system that

includes the 7,000-gallon Spent Solvent Tank², a distillation unit, the 7,000-gallon Still Bottoms Tank³, and the tank system's ancillary equipment. The hazardous waste tank system manages hazardous waste liquids with an organic concentration of at least 10 percent by weight and containing an average volatile organic concentration greater than 500 ppmw at the point of waste origination.

56. Respondent manages hazardous waste in two CAAs located on the 1st floor of the Production Building and in the Finished Goods Warehouse.
57. On January 22, 2021, the EPA contacted Respondent to inform it of the EPA's intent to complete a RCRA Virtual Evaluation (VE) and requested Respondent to provide a list of information and documentation necessary to complete the VE.
58. On January 25 and 28, 2021, the EPA and Respondent held meetings in preparation for the VE.
59. From the 1st to the 4th of February 2021, the EPA and GAEPD conducted an EPA-lead VE of the Facility.
60. On February 18, 2021, and March 5, 2021, the EPA received additional information from Respondent as part of its response to the VE.
61. On April 28, 2021, the EPA mailed Respondent a VE Report documenting its findings from the VE.
62. At the time of the VE, the inspectors were informed, and subsequent information confirmed that Tank 2053 was used to store C74, a material made with still bottoms and spent solvent. The unsold C74 was identified with EPA hazardous waste codes D001, F003, and F005. Respondent stored C74 in Tank 2053 for over three years prior to shipping it off-site without determining that the stored material was a solid or hazardous waste, complying with the hazardous waste storage requirements, or obtaining a permit.
63. At the time of the VE, the inspectors observed that the Respondent failed to maintain tight-fitting or sealed lids that remain closed on the following containers holding hazardous waste, identified with EPA waste codes D001, F003, and F005:
 - (a) One 55-gallon drum was located in the 4th Floor Production Building SAA, which is used to accumulate hazardous waste, including drip cans, mops, rags, residuals from flexible chemical hoses, and other waste that contacts resin or solvent material;
 - (b) A 55-gallon container in the 3rd Floor Manufacturing Area of the Production Building SAA which contained hazardous waste, including free liquids and solid materials such as paint containers;
 - (c) Two 55-gallon containers at SAAs on the 2nd floor of the Production Building used to accumulate flammable solids;

² In the RCRA Virtual Evaluation Report (See paragraph 61), the Spent Solvent Tank is also referred to as Tank 7002 or the Dirty Solvent Tank.

³ In the VE Report, the Still Bottoms Tank is also referred to as Tank 7001.

- (d) A 55-gallon container at the QA Lab SAA used to accumulate flammable solids;
 - (e) A 55-gallon container in the Repour Area SAA used to accumulate damaged or otherwise not useable/saleable paint; and
 - (f) A 55-gallon container in the Truck and Rail Unloading Area SAA used to accumulate solvent bearing hazardous waste.
64. At the time of the VE, the inspectors observed that the Respondent failed to label or mark a container storing solvent hazardous waste, identified with EPA waste codes D001, F003, and F005, in the Tank and Rail Unloading area SAA with an indication of the hazard(s) of the contents.
65. As part of the VE, the inspectors reviewed Respondent's 2018, 2019, and 2020 weekly inspection records for the two CAAs. The inspectors observed that the Respondent failed to conduct multiple weekly inspections during this period of time.
66. As part of the VE, the inspectors reviewed Respondent's daily inspection records for the Still Bottom Tank and the Spent Solvent Tank. The inspectors observed that the Respondent failed to adequately conduct or document daily inspections of the Still Bottoms Tank from January 1, 2019, to April 20, 2019.
67. At the time of the VE, the inspectors observed several pieces of ancillary equipment which are part of the hazardous waste tank system and subject to RCRA Subpart BB Organic Air Emission Standards that were not marked in a way that they were readily distinguishable from other pieces of equipment.
68. At the time of the VE, the inspectors observed that Respondent had identified equipment associated with the hazardous waste tank system as excluded from the requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R §§ 265.1052 through 1060] pursuant to Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 CFR § 265.1050(e)], claiming that the designated equipment contacted hazardous waste for less than 300 hours during a calendar year. Respondent identified the 300 hour or less excluded equipment in the monitoring records. This equipment included all equipment on the 3rd floor of the Production Building, and equipment associated with spent wash solvent from the PNE Neupack and PNE Thiele filling stations on the 1st floor of the Production Building. Respondent provided no documentation to support the exclusion of the equipment on the 1st floor. The Respondent provided documentation that spent wash solvent is sent to the hazardous waste tanks from the 3rd floor five (5) or six (6) times per week, with a duration in the piping of approximately ten (10) minutes each time. However, the equipment was not purged following the transfer of hazardous waste, and therefore, hazardous waste spent wash solvent remains in the equipment on the 3rd floor for greater than 300 hours during the calendar year.
69. At the time of the VE, the inspectors observed recently installed or replaced equipment subject to RCRA Subpart BB Organic Air Emission Standards that Respondent had designated for no detectable emissions, including the equipment connecting the Spent Solvent Tank to the still, Pump P3-P1 associated with the Pfaudler unit on the 1st floor of the Production Building, and pumps P9-P1 and P10-P1 associated with the Still Bottoms Tank. Respondent failed to perform an initial compliance test on this newly installed or replaced equipment designated for no detectable emissions. At the time of the VE, the inspectors observed that Respondent had not performed

monthly leak detection monitoring and repair standards for the pumps and valves in light liquid service that it had designated for no detectable emissions.

70. At the time of the VE, the inspectors observed that Respondent failed to equip open-ended valves or lines that are part of the hazardous waste tank system with a cap, blind flange, plug, or second valve while no hazardous waste stream was flowing through the open-ended valves or lines.
71. At the time of the VE, the inspectors observed that Respondent failed to follow and/or document the required calibration procedures for organic air emission monitoring. Specifically, the Respondent only calibrated its monitoring instrument to one point using isobutylene gas.
72. At the time of the VE, the inspectors observed that Respondent failed to document equipment subject to RCRA Subpart BB Organic Air Emission Standards, including but not limited to, each piece of equipments' location in the facility, identification number, and method of compliance.
73. At the time of the VE, the inspectors observed that Respondent failed to maintain in the operating record a list of identification numbers for valves designated as unsafe-to-monitor or difficult-to-monitor along with an explanation for the designation and a plan for monitoring the valves.
74. At the time of the VE, the inspectors observed that Respondent failed to have the designation of no detectable emissions signed by the owner or operator, as required by Ga. Comp. R. and Regs. 391.3-11-.10(1) [40 C.F.R. § 265.1064(g)(2)(ii)], and failed to maintain records of the date, background level, and maximum instrument reading of each compliance test as required by Ga. Comp. R. and Regs. 391.3-11-.10(1) [40 C.F.R. § 265.1064(g)(4)].
75. At the time of the VE, the inspectors observed that the manway cover, a closure device, on the Still Bottoms Tank was not fully secured in a closed position, so that no visible cracks, gaps, or holes were present.
76. At the time of the VE, the inspectors observed that the Respondent failed to perform and document the inspection of the fixed roof and its closure devices on the Spent Solvent Tank and Still Bottoms Tank at least once every year. Annual visual inspections of hazardous waste tanks under Subpart CC are recorded in the 2019 LDAR monitoring log spreadsheet, but the exact inspection date was not recorded. Other available monitoring records in 2017 and 2021 did not contain records of annual visual inspections of the hazardous waste tanks and associated closure devices. Respondent could not provide a record of the 2018 or 2020 annual inspections.
77. At the time of the VE, the inspectors observed that Respondent had failed to label any of its tanks storing hazardous waste with the words "Hazardous Waste."
78. At the time of the VE, the inspectors observed the following instances of maintenance and operation issues at the Facility:
 - (a) The 3rd floor manifold dedicated to PNE processes had released flammable liquid hazardous waste on the floor below open-ended lines. Additionally, the inspectors observed an open drip bucket containing residual PNE material placed below the 3rd floor PNE manifold;

- (b) Valve P3-V12 on the 1st floor of the Production Building had visible evidence of flammable liquid leaking from it. The Facility representative stated that the residue was dry, and no leak was occurring at P3-V12 at that time; and
- (c) The LDAR monitoring record from January 28, 2021 showed a reading of 212 ppm at Valve P3-V9, located on the 1st floor of the Production Building, and that the LDAR operator notified the Respondent that a threaded pipe on an elbow joint adjacent to P3-V9 was visibly leaking and had caused the elevated reading at Valve P3-V9. The final repair of the threaded pipe was made on February 2, 2021. On February 3, 2021, during the VE, the area around Valve P3-V9 and the repaired threaded pipe had signs of leaking and wet hazardous waste flammable liquid on the floor.

- 79. At the time of the VE, the inspectors observed that the Respondent failed to include a street map of the facility in relation to surrounding businesses, schools and residential areas, the locations of water supply, and identification of on-site notification systems as part of the quick reference guide.
- 80. At the time of the VE, the inspectors observed that the Respondent failed to provide annual refresher training during 2019 to at least one employee handling hazardous waste and maintain required documentation.
- 81. Since the VE, Respondent has changed its process, so it no longer manages hazardous waste solvent.

V. ALLEGED VIOLATIONS

- 82. Respondent speculatively accumulated C74, a hazardous waste identified by EPA waste codes D001, F003, and F005, in Tank 2053 for longer than three years without determining that the stored material was a solid or hazardous waste, complying with the hazardous waste storage requirements, or obtaining a permit. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit, because Respondent stored hazardous waste onsite in excess of 90 days without a permit or interim status, in violation of Ga. Comp. R. and Regs. 391-3-11-.8(1) [40 C.F.R. § 262.17(b)].
- 83. Respondent failed to maintain a tight-fitting or sealed lid that remains closed on seven (7) 55-gallon containers storing hazardous waste in SAAs. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to keep its containers of hazardous waste closed at all times in accordance with Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.15(a)(4)], which is a condition of the SAA Permit Exemption.
- 84. Respondent failed to mark a container storing hazardous waste in an SAA, located in the Truck and Rail Unloading area, with an indication of the hazards of its contents. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [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 Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.15(a)(5)], which is a condition of the SAA Permit Exemption.

85. Respondent failed to perform weekly inspections of the two CAAs multiple times from 2018 to 2020. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to, at least weekly, inspect CAAs looking for leaking containers and for deterioration of containers caused by corrosion or other factors as required by Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(1)(v)], which is a condition of the LQG Permit Exemption.
86. Respondent failed to perform daily inspections of the Still Bottoms Tank from the beginning of calendar year 2019 to April 20, 2019. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], by not complying with the tank inspection requirements in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.195].
87. Respondent failed to mark each piece of equipment subject to the RCRA Subpart BB Organic Air Emission Standards, in a manner that allowed it to be distinguished readily from other pieces of equipment. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], by not marking each piece of equipment to which the RCRA Subpart BB Organic Air Emission Standards apply in such a manner that it can be distinguished readily from other pieces of equipment as required in Ga. Comp. R. and Regs. 391.3-11-.10(1) [40 C.F.R. § 265.1050(c)].
88. Respondent designated pumps and valves in light liquid service as having no detectable emissions. This designation exempts the equipment from certain requirements of the RCRA Subpart BB Organic Air Emission Standards, including the requirement for monthly leak detection monitoring and repair of pumps in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1052(a), (c), and (d)] and valves in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1057(a)]. However, Respondent did not satisfy the conditions of the exemption, because Respondent failed to test newly installed or replaced valves and pumps for compliance with the no detectable emissions standard initially upon designation as required by Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1052(e)(3) and 40 C.F.R. § 265.1057(f)(3)]. Therefore, Respondent was required to perform the required monthly leak detection monitoring and repair standards on the pumps and valves in light liquid service at the Facility, which Respondent failed to do. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], by failing to meet the RCRA Subpart BB Organic Air Emission Standards, including the monthly leak detection monitoring and repair standards for pumps in Ga. Comp. R. and Regs. 391.3-11-.10(1) [40 C.F.R. § 265.1052(a), (c), and (d)] and valves in Ga. Comp. R. and Regs. 391.3-11-.10(1) [40 C.F.R. § 265.1057(a)], because the Respondent's pumps and valves did not meet the conditions for exemption in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. §§ 265.1052(e)(3) and 265.1057(f)(3)].
89. Respondent failed to equip each open-ended valve or line with a cap, blind flange, plug, or a second valve. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA,

Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], by not complying with the requirement to equip each open-ended valve with a cap, blind flange, plug, or a second valve as required in Ga. Comp. R. and Regs. 391.3-11-.10(1) [40 C.F.R. § 265.1056(a)].

90. Respondent failed to comply with the calibration requirements of the RCRA Subpart BB Organic Air Emission Standards. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], by not complying with the calibration requirements for organic air emission monitoring provided in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1063(b)(4)].
91. Respondent failed to identify and maintain required documentation for each piece of equipment subject to Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subpart BB] in the facility operating record. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], by not maintaining the organic air emission records required in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1064(b)(1)].
92. Respondent failed to maintain the documentation required for valves designated as unsafe or difficult-to-monitor. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], by not maintaining information pertaining to all valves designated as unsafe or difficult-to-monitor as required in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1064(h)].
93. Respondent designated pumps and valves in light liquid service for no detectable emissions which exempts the equipment from certain requirements of the RCRA Subpart BB Organic Air Emission Standards, including the monthly leak detection monitoring and repair standards for pumps in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1052(a), (c), and (d)] and valves in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. 1057(a)]. This exemption would allow Respondent to monitor the equipment on an annual frequency and require that certain records be maintained. Respondent failed to maintain the signed designation of its equipment as required by Ga. Comp. R. and Regs. 391.3-11-.10(1) [40 C.F.R. § 265.1064(g)(2)(ii)], or records of the date, background level, and maximum instrument reading of each compliance test as required by Ga. Comp. R. and Regs. 391.3-11-.10(1) [40 C.F.R. § 265.1064(g)(4)]. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], by not complying with the RCRA Subpart BB Organic Air Emission Standards for equipment leaks, including the requirement for the generator

to maintain the compliance test records associated with equipment designated for no detectable emissions in Ga. Comp. R. and Regs. 391.3-11-.10(1) [40 C.F.R. § 265.1064(g)(2)(ii) and (4)].

94. Respondent identified equipment as excluded from RCRA Subpart BB Organic Air Emission Standards pursuant to the exclusion in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. 265.1050(e)]. However, Respondent incorrectly claimed this exclusion because the equipment contacts hazardous waste for greater than 300 hours during the calendar year. Therefore, the Respondent's equipment is subject to the organic air emissions standards in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. §§ 265.1052 through 1060]. The Respondent failed to apply any of the RCRA Subpart BB Organic Air Emission Standards to this equipment. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], by failing to comply with the RCRA Subpart BB Organic Air Emission Standards in Ga. Comp. R. and Regs. 391.3-11-.10(1) [40 C.F.R. Part 265, Subpart BB].
95. Respondent failed to ensure that the manway cover, a closure device, on the fixed roof of the Still Bottoms Tank was secured in the closed position such that there were no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the opening and the closure device. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], by failing to ensure each opening in the fixed roof is equipped with a closure device free of gaps, cracks, holes, or other open spaces as required in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(c)(2)(iii)(A)].
96. Respondent failed to perform an initial inspection and annual inspection of the closure devices on the Spent Solvent Tank and Still Bottoms Tank. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(2)], by not meeting the inspection requirements in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(c)(4)(ii)].
97. Respondent failed to label the Spent Solvent Tank and the Still Bottoms Tank with the words "Hazardous Waste." The EPA therefore alleges that Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [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 Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(5)(ii)(A)], which is a condition of the LQG Permit Exemption.
98. Respondent failed to properly maintain and operate the PNE manifold on the 3rd floor of the production building and the hard-piped line contacting PNE material from the Pfaudler unit in a way that would prevent release of hazardous waste constituents to the environment. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set

forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(6)], by not complying with the maintenance and operation requirements in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.251].

99. Respondent failed to include a street map of the facility in relation to surrounding businesses, schools, and residential areas, the locations of water supply, and identification of on-site notification systems as part of the quick reference guide. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(6)], by not complying with the quick reference guide requirements in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.262(b)(5)].
100. Respondent failed to train at least one employee that handles hazardous waste at least annually. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [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 personnel training requirement in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(7)], which is a condition of the LQG Permit Exemption.

VI. STIPULATIONS

101. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).
102. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), 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.
103. For the purpose of this proceeding, Respondent:
 - a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
 - b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering 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 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.

- 104. By executing this CAFO, Respondent certifies to the best of its knowledge that Respondent is currently in compliance with all relevant requirements of the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected.
- 105. 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

- 106. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **ONE HUNDRED AND FORTY-FIVE THOUSAND DOLLARS (\$145,000.00)**, which is to be paid within thirty (30) calendar days of the Effective Date of this CAFO.
- 107. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Facility name and docket number for this matter shall be referenced on the face of the check.
 - a. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

- b. If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties

1005 Convention Plaza
Mail Station: SL-MO-C2-GL
St. Louis, Missouri 63101
Contact Number: (314) 425-1819

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

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

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

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contact: Craig Steffen, (513) 487-2091
REX (Remittance Express): 1-866-234-5681

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

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

and

Brooke York
Chemical Safety and Land Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
york.brooke@epa.gov

109. “Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with the Facility name and “Docket No. RCRA-04-2022-2107(b).”

110. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to remit the civil penalty as agreed to herein, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Accordingly, the EPA may require the Respondent to pay the following amounts on any amount overdue:

- a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days of the Effective Date of this CAFO, Interest is waived. However, if the civil penalty is not paid in full within 30 days, Interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued Interest are paid. Interest will be assessed at the rate of the United States Treasury tax and loan rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b)(2), and 40 C.F.R. § 13.11(a).
- b. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of not more than six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid, as provided in 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 901.9(d). This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (c) and will be assessed monthly. 40 C.F.R. § 13.11(c).
- c. Monthly Handling Charge. Respondent must pay a late payment handling charge to cover the administrative costs of processing and handling the delinquent claim, based on either actual or average cost incurred. 31 C.F.R. § 901.9(b)(c), and 40 C.F.R. § 13.11(b). Administrative costs will be assessed monthly throughout the period the debt is overdue except as provided by 40 C.F.R. § 13.12.

111. In addition to what is stated in the prior Paragraph, if Respondent fails to timely pay any portion of the penalty assessed under this CAFO, the EPA may:

- a. refer the debt to a credit reporting agency or a collection agency, 40 C.F.R. §§ 13.13 and 13.14;
- b. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H;
- c. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17; and/or
- d. refer the debt to the Department of Justice as provided in 40 C.F.R. § 13.33. In any such judicial action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

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

VIII. EFFECT OF CAFO

113. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.
114. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. § 22.18(c).
115. 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).
116. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.
117. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.
118. 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.
119. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, authorized representatives, successors, and assigns.
120. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.
121. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.
122. By signing this Consent Agreement, the Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.
123. 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.
124. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there

are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

125. The EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA. If such false or inaccurate material was provided, the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.
126. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
127. 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

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

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Complainant and Respondent will Each Sign on Separate Pages

The foregoing Consent Agreement In the Matter of The Sherwin-Williams Co., Docket No. RCRA-04-2022-2107(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:



Signature

8/8/22

Date

Printed Name: Stephen Perisutti

Title: VP, Deputy GC and assistant Secretary

Address: 101 W prospect Ave, Cleveland OH

The foregoing Consent Agreement In the Matter of The Sherwin-Williams Co., Docket No. **RCRA-04-2022-2107(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

Kimberly L. Bingham
Chief
Chemical Safety and Land Enforcement Branch

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

The Sherwin-Williams Co.
6795 Jonesboro Road
Morrow, Georgia 30260-2308
EPA ID No.: GAD042869057

Respondent.

Docket No. **RCRA-04-2022-2107(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 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 The Sherwin-Williams Co., Docket No. **RCRA-04-2022-2107(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: Andrew Crivelli
 Plant Manager
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 andrew.c.crivelli@sherwin.com

 Jason Perdion
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To EPA: Brooke York
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 Robert Summers
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 U.S. EPA Region 4
 61 Forsyth Street, S.W.
 Atlanta, Georgia 30303-8960

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