

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Trimac Transportation Inc.
National Tank Services
6800 McLarin Road
Fairburn, Georgia 30213
EPA ID No.: GAD064489180

Respondent.

Docket No. RCRA-04-2019-4009(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 Trimac Transportation Inc., a corporation doing business in the State of Georgia. This proceeding pertains to Respondent's facility located at 6800 McLarin Road in Fairburn, Georgia (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 Georgia Hazardous Waste Management Act (GHWMA), Ga. Code Ann. § 12-8-60 *et seq.* and to 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.
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. §§ 261.20 and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.
18. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous.
19. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for chromium is identified with the EPA Hazardous Waste Number D007.
20. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for benzene is identified with the EPA Hazardous Waste Number D018.
21. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for cresol is identified with the EPA Hazardous Waste Number D026.
22. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for methyl ethyl ketone is identified with the EPA Hazardous Waste Number D035.
23. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for pentachlorophenol is identified with the EPA Hazardous Waste Number D037.
24. 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].
25. Listed hazardous wastes include F003 wastes from nonspecific sources identified in Ga. Comp. R. and Regs. 391-3-11-.07 [40 C.F.R. § 261.31].

26. 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.
27. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], “facility” means all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation.
28. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], a “person” includes a corporation.
29. 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.”
30. Pursuant Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], “storage” means containment or holding of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.
31. Pursuant Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], a “tank” means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials which provide structural support.
32. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], a “tank system” is defined as a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.
33. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], “used oil” means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.
34. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(a) (2016)¹], a generator of 1,000 kilograms or greater of hazardous waste in a calendar month is a Large Quantity Generator (LQG) and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by 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. § 262.34(a)(1)-(4) (2016)] (hereinafter referred to as the “LQG Permit Exemption”).
35. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(c)(1) (2016)], a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near the

¹ Georgia’s newly adopted Generator Improvements Rule (GIR) regulations were effective in Georgia as of September 28, 2017 but were not authorized by EPA and were not federally enforceable until February 2, 2019. Regardless, the federal and state inspections at Trimac, and matters described in this CAFO, occurred prior to the State being authorized for the GIR. As such, and for ease of reference and consistency with the State’s Inspection Report, this CAFO will cite to the Georgia hazardous waste regulations in effect at the time of the State inspection, and the corresponding federal regulations, prior to the amendments by the GIR. The requirements prior to the GIR are noted with their most recent effective date.

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) (2017) [40 C.F.R. § 262.34(a) (2016)], provided that the generator complies with the satellite accumulation area conditions listed in Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(c)(1)(i) - (ii) (2016)] (hereinafter referred to as the “SAA Permit Exemption”).

36. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.17(1) [40 C.F.R. §279.1], a “used oil generator” is described as a person, by site, whose act or process produces used oil or whose first act causes used oil to become subject to regulation.
37. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.11]) a person who generates a solid waste, as defined in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.2], must determine if that waste is a hazardous waste following the methods articulated in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.11].
38. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(a)(4) (2016)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.16(a) through (d), as applicable], and is a condition of the LQG Permit Exemption, facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility’s compliance with the regulations.
39. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(a)(4) (2016)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.31], and is a condition of the LQG Permit Exemption, a generator is required to maintain and operate 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.
40. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(a)(4) (2016)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.54(d)], and is a condition of the LQG Permit Exemption, a generator is required to review and amend its contingency plan when the list of emergency coordinators changes.
41. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(c)(1)(i) (2016)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.173(a)], and is a condition of the SAA Permit Exemption, a generator is required to keep containers of hazardous waste closed when waste is not being added or removed.
42. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(a)(1)(i) (2016)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.174], and is a condition of the LQG Permit Exemption, a generator is required to, at least weekly, inspect areas where containers are stored looking for leaking containers and for deterioration of containers caused by corrosion or other factors.
43. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.195(a)],

and is a condition of the LQG Permit Exemption, an owner or operator must inspect, where present, at least once each operating day, data gathered from monitoring and leak detection equipment to ensure that the tank system is being operated according to its design.

44. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.197] and is a condition of the LQG Permit Exemption, at closure of a tank system, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.) contaminated with soils, and structures and equipment contaminated with waste, and manage them as hazardous waste.
45. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], 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, including the requirement to mark each piece of equipment in a manner that can be distinguished readily from other pieces of equipment in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1050(c)].
46. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], 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, including the requirement to monitor each pump in light liquid service monthly to detect leaks in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1052(a)(1)], by methods specified in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1063(b)].
47. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], 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, including the requirement to monitor each valve in gas/vapor or light liquid service monthly to detect leaks in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1057(a)], by methods specified in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1063(b)].
48. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], 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, including the requirement to maintain equipment records specified in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1064(b)(1)].

49. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subpart CC], which is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste that contains an average volatile organic concentration of at least 500 part per million by weight in tanks must comply with the RCRA Subpart CC Organic Air Emission Standards for Tanks, including following waste determination procedures specified in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1084].
50. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subpart CC], which is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste that contains an average volatile organic concentration of at least 500 part per million by weight in tanks must comply with the RCRA Subpart CC Organic Air Emission Standards for Tanks. This includes the requirements to visually inspecting the fixed roof and its closure devices for defects that could result in air pollution emissions in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(c)(4)(i)] and shall perform an initial inspection of the fixed roof and its closure devices on or before the date the tank becomes subject to this section as stated in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(c)(4)(ii)]. Thereafter, the owner or operator shall perform the inspections at least once every year.
51. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subpart CC], which is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste that contains an average volatile organic concentration of at least 500 part per million by weight in tanks must comply with the RCRA Subpart CC Organic Air Emission Standards for Tanks, which includes recordkeeping requirements specified in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1090(b) through (j)].
52. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.17(1) [40 C.F.R. § 279.22(d)], upon detection of a release of used oil to the environment, the generator must clean up and manage properly the released used oil and other materials.

IV. EPA's FACTUAL ALLEGATIONS

53. The Respondent operates a facility that provides bulk transportation and logistics. The facility is located at 6800 McLarin Road in Fairburn, Georgia. The Respondent serves customers in the United States and Canada.
54. The Respondent submitted a Waste Generator Notification (EPA Form 8700-12) and registered as a large quantity generator of hazardous waste on February 21, 2018. The Respondent has determined that it generates D001, D002, D018, D026, D035, D037, and F003 hazardous wastes, among others.
55. The Respondent is a generator of 1,000 kilograms or greater of hazardous waste in a calendar month.
56. The Respondent does not have interim status, nor does it have a RCRA permit.

57. The Respondent has containers, a tank and a tank system for the accumulation of hazardous waste.
58. On July 31, 2018, the EPA and the Georgia Environmental Protection Division (GAEPD) conducted a RCRA compliance evaluation inspection (CEI) at Respondent's facility. The EPA's findings from the CEI were documented in a show cause letter and inspection report was mailed to Respondent, dated September 10, 2018.
59. At the time of the CEI, the Respondent had 110 railcar spots that were available for rent to transport hazardous and non-hazardous products to customers. The Respondent had 38 product storage tanks and one hazardous waste storage tank. The Respondent also used trucks with trailers to transport hazardous and non-hazardous products to its customers. After deliveries of product were made, trailers were washed with a product named Mighty Max. The rinse waste, containing methyl ethyl ketone (MEK) and cresol from the trailer wash, was collected as a hazardous waste, stored on-site, and ultimately disposed of off-site.
60. At the time of the CEI, the EPA reviewed the Respondent's historical records and determined that the Respondent generated a hazardous volatile organic waste from the trailer wash. The volatile organic waste was identified on Manifest Tracking Number 000254574. It identified the following EPA waste codes: D001, D007, D026, D035 and D037. The chemical composition of this waste is identified in Waste Material Profile Form No. 67209 as having 1-10 percent by weight MEK, and 0-1 percent by weight cresol. This volatile organic waste has an average volatile organic concentration of at least 500 part per million by weight and an organic concentration of at least 10 percent by weight as indicated on the waste profile and Land Disposal Restriction Notification associated with the Manifest previously mentioned in this paragraph. This waste was generated during the rinsing of the inside of trailer trucks. Prior to April 7, 2016, after rinsing, the waste was collected and transferred through ancillary equipment to the on-site hazardous waste storage tank "T3."
61. At the time of the CEI, the EPA inspectors observed waste rags being stored in an open and unlabeled container. The Respondent did not make a hazardous waste determination on the waste rags.
62. At the time of the CEI, the EPA inspectors observed that the Respondent did not train several individuals that signed hazardous waste manifests.
63. At the time of the CEI, the EPA inspectors observed that the floor around a 55-gallon hazardous waste container in a satellite accumulation area (SAA) was stained with fluid from retains² that the Respondent determined was D001, D002, D018, and F003 hazardous waste.
64. At the time of the CEI, the EPA inspectors observed that the contingency plan contained outdated information for the secondary emergency coordinator. The emergency coordinator listed on the plan had not worked for the Respondent since January of 2018.

² A "retain" is defined as a sample of a customer's product in a container that Trimac Transportation Inc. stores until its customer confirms receipt of it. Once the customer has received its product, Trimac Transportation Inc. designates the retain as hazardous waste.

65. At the time of the CEI, the EPA inspectors observed that the Respondent's SAA containers, which were accumulating EPA waste codes D001, D002, D018, and F003, were not closed when hazardous waste was not being added or removed. The following areas were storing open SAA containers: SAA of Hazardous Waste Retains, Trailer Wash and Maintenance Department.
66. At the time of the CEI, the EPA inspectors observed that the Respondent did not perform weekly inspections of the hazardous waste central accumulation area for various weeks in 2015 through 2018.
67. At the time of the CEI, the EPA observed that the Respondent did not perform daily tank inspections of hazardous waste tank T3.
68. At the time of the CEI, the EPA inspectors observed that the Respondent did not perform closure procedures for the hazardous waste storage tank T3 that had been taken out of service on April 7, 2016.
69. At the time of the CEI, the EPA inspectors observed historical records that showed the Respondent transferred a volatile organic waste containing MEK and cresol, a hazardous waste with an organic concentration of at least 10 percent by weight, through ancillary equipment. No visible evidence or record-retaining documentation indicating that when tank T3 was in service, equipment was marked in a manner that would allow it to be distinguished readily from other pieces of equipment.
70. At the time of the CEI, the EPA inspectors observed historical records that showed the Respondent transferred a volatile organic waste containing MEK and cresol, a hazardous waste with an organic concentration of at least 10 percent by weight, through a pump in light liquid service. No historical records were provided that would show during the time tank T3 was in service, it was monitored monthly to detect leaks by methods specified in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1063(b)].
71. At the time of the CEI, the EPA inspectors observed historical records that showed the Respondent transferred a volatile organic waste containing MEK and cresol, a hazardous waste with an organic concentration of at least 10 percent by weight, through valves in light liquid service. No historical records were provided showing that, during the time tank T3 was in service, it was monitored monthly to detect leaks by methods specified in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1063(b)].
72. At the time of the CEI, the EPA inspectors observed that the Respondent was not maintaining records for each piece of equipment to which Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subpart BB] applies in the facility's operating record.
73. At the time of the CEI, the EPA inspectors observed that the Respondent did not comply with the RCRA Subpart CC Organic Air Emission Standards for Tanks, which includes following waste determination procedures by determining the average volatile organic concentration of a hazardous waste at the point of waste origination.
74. At the time of the CEI, the EPA inspectors observed that the Respondent did not perform an initial inspection and reoccurring annual inspections of the fixed roof on hazardous waste tank

T3 that stored volatile organic waste containing MEK and cresol, a hazardous waste with a volatile organic concentration of at least 500 parts per million by weight, and its closure devices for defects that could result in air pollution emissions.

75. At the time of the CEI, the EPA inspectors observed that the Respondent did not keep records as described in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1090(b) through (j)] for the hazardous waste tank T3 that stored a volatile organic waste containing MEK and cresols, a hazardous waste with a volatile organic concentration of at least 500 parts per million by weight.
76. At the time of the CEI, the EPA inspectors observed spilled used oil on the ground around a used oil storage container.

V. ALLEGED VIOLATIONS

77. Respondent is a “person” as defined in Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10].
78. Respondent is the “owner/operator” of a “facility” located at 6800 McLarin Road, Fairburn, Georgia, as those terms are defined in Ga. Comp. R. and Regs 391-3-11-.02(1) [40 C.F.R. § 260.10].
79. Respondent discards “solid waste” as defined in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.2].
80. Respondent is a “generator” of “hazardous waste” as those terms are defined in Ga. Comp. R. and Regs 391-3-11-.02(1) [40 C.F.R. § 260.10] and Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.3].
81. Respondent has a “tank” as defined in Ga. Comp. R. and Regs 391-3-11-.02(1) [40 C.F.R. § 260.10].
82. Respondent has a “tank system” as defined in Ga. Comp. R. and Regs 391-3-11-.02(1) [40 C.F.R. § 260.10].
83. Respondent is a “used oil generator” as described in Ga. Comp. R. and Regs. 391-3-11-.17(1) [40 C.F.R. § 279.1].
84. Respondent failed to conduct a hazardous waste determination on the discarded waste rags found in an open and unlabeled container. The EPA therefore alleges that Respondent violated Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.11] by failing to make a hazardous waste determination on solid waste generated at its Facility.
85. Respondent failed to provide hazardous waste training to individuals that signed hazardous waste manifests. 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 in Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R.

§ 262.34(a)(4) (2016)], by not complying with the personnel training requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.16(a) through (d), as applicable].

86. Respondent failed to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste because the floor around a 55-gallon hazardous waste container in an SAA was stained with the expired waste retains that have been determined to be a D001, D002, D018, and F003 hazardous waste. 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) (2017) [40 C.F.R. § 262.34(a)(4) (2016)], by not complying with the maintenance and operation requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.31].
87. Respondent failed to update its contingency plan when the list of emergency coordinators changed. 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) (2017) [40 C.F.R. § 262.34(a)(4) (2016)], by not complying with the contingency plan amendment requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.54].
88. Respondent failed to keep SAA containers accumulating EPA waste codes D001, D002, D018, and F003 closed when hazardous waste was not being added or removed at the time of the inspection. 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 SAA Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(c)(1) (2016)], by failing to keep its containers of hazardous waste closed at all times in accordance with Ga. Comp. R. and Regs. 391-3-11-.04(1) and 391-3-11-.08(1) (2017) [40 C.F.R. § 262.15(a)(4)].
89. Respondent failed to perform weekly inspections of the hazardous waste central accumulation area for various weeks in 2015 through 2018. 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) (2017) [40 C.F.R. § 262.34(a)(1)(i) (2016)], by not complying with the inspection requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.174].
90. Respondent did not provide documentation of daily tank inspections of hazardous waste tank T3 to the GAEPD and the EPA at the time of the inspection. Subsequent to the inspection, the Respondent provided records that showed the Respondent did not inspect the tank between August 10, 2015 and September 1, 2015. 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)

(2017) [40 C.F.R. § 262.17(a)(2)], by not complying with the inspection requirements in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.195(a)].

91. Respondent failed to close hazardous waste tank T3, which was taken out of service on April 7, 2016, in accordance with the requirements in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.197]. 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 meet a condition of the LQG Permit Exemption given in Ga. Comp. R. and Regs. 391-3-11-.08(1) (2017) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by not complying with the tank standards of Ga. Comp. R. and Regs. Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265.197].
92. Respondent did not mark ancillary equipment used to transfer a volatile organic waste containing MEK and cresol, a hazardous waste with an organic concentration of at least 10 percent by weight, in a manner that allowed it to be readily distinguishable from other pieces of equipment. The EPA therefore alleges 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) (2017) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by not complying with the requirements of Subpart BB Organic Air Emission Standards for Equipment Leaks Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1050(c)].
93. Respondent failed to monitor the pump in light liquid service used to transfer a volatile organic waste containing MEK and cresol, a hazardous waste with an organic concentration of at least 10 percent by weight, monthly to detect leaks by methods specified in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1063(b)]. 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) (2017) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by not complying with the requirements of Subpart BB Organic Air Emission Standards for Equipment Leaks Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1052(a)(1)].
94. Respondent failed to monitor each valve in light liquid service used to transfer a volatile organic waste containing MEK and cresol, a hazardous waste with an organic concentration of at least 10 percent by weight, 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)]. 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) (2017) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by not complying with the requirements of Subpart BB Organic Air Emission Standards for Equipment Leaks Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1057(a)].
95. Respondent failed to record information for each piece of equipment to which Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Part 265, Subpart BB] applies 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) (2017) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by not complying with the requirements of Subpart BB Organic Air Emission Standards for Equipment Leaks in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1064(b)(1)].

96. Respondent failed to determine the average volatile organic concentration for multiple hazardous waste streams with organic chemical compositions at the point of waste origination, and therefore failed to implement waste determination procedures specified in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1084]. 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) (2017) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by not complying with the requirements of Subpart CC Organic Air Emission Standards for Tanks Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1084].
97. Respondent failed to perform an initial inspection of the fixed roof and its closure devices on hazardous waste tank T3 that stored a volatile organic waste containing MEK and cresol, a hazardous waste with an average volatile organic concentration of at least 500 part per million by weight. The Respondent also failed to perform reoccurring annual inspections of the fixed roof and its closure devices for defects that could result in air pollution emissions from hazardous waste tank T3. 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) (2017) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by not complying with the requirements of Subpart CC Organic Air Emission Standards for Tanks Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1085(c)(4)(i) and (ii)].
98. Respondent failed keep records as described in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1090(b) through (j)] for the hazardous waste tank T3 that stored a volatile organic waste containing MEK and cresol, a hazardous waste with an average volatile organic concentration of at least 500 part per million by weight. 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) (2017) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by not complying with the requirements of Subpart CC Organic Air Emission Standards for Tanks Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1090(b) through (j)].
99. Respondent failed to clean up spilled used oil on the ground outside a used oil storage container. The EPA therefore alleges that the Respondent violated Ga. Comp. R. and Regs. 391-3-11-.17(1) [40 C.F.R. § 279.22(d)], by failing to clean up and properly manage used oil releases upon detection.

VI. STIPULATIONS

100. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).
101. 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 (EPA's Factual Allegations) 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.
102. 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 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;
 - f. agrees to comply with the terms of this CAFO.
103. 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.

104. In accordance with 40 C.F.R. § 22.5, the parties consent to service of this CAFO by email and the individuals named in the certificate of service are authorized to receive service related to this proceeding.

VII. TERMS OF PAYMENT

105. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **TWO HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$225,000.00)**, which is to be paid within thirty (30) calendar days of the Effective Date of this CAFO.
106. Payment 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:

U.S. 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

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

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
bullock.patricia@epa.gov

and

David Champagne
U.S. Environmental Protection Agency, Region 4
Land, Asbestos and Lead Section
Enforcement and Compliance Assurance Division
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
champagne.david@epa.gov

108. “Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the Facility name and “Docket No. RCRA-04-2019-4009(b).”
109. 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, 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.

110. 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, 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 EPA or engaging in programs 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.

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

VIII. EFFECT OF CAFO

112. 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.
113. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall not in any case affect the right of 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),
114. 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).
115. 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 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.
116. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.
117. 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.
118. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.
119. 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.
120. 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.
121. 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.
122. 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.

123. 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.
124. EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that 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 EPA. If such false or inaccurate material was provided, EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.
125. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
126. 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

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

[Remainder of Page Intentionally Left Blank

Complainant and Respondent will Each Sign on Separate Pages.]

The foregoing Consent Agreement In the Matter of **Trimac Transportation Inc., Docket No. RCRA-04-2019-4009(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:



Signature

June 5, 2020

Date

Printed Name: Lawna L. Hurl

Title: VP Legal & Corporate Secretary

Address: 3215 - 12 Street NE, Calgary, AB, Canada T2E 7S9

The foregoing Consent Agreement In the Matter of **Trimac Transportation Inc., Docket No. RCRA-04-2019-4009(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Trimac Transportation Inc.
National Tank Services
6800 McLarin Road
Fairburn, Georgia 30213
EPA ID No.: GAD064489180

Respondent.

Docket No. RCRA-04-2019-4009(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 **Trimac Transportation Inc., Docket No. RCRA-04-2019-4009(b)**, were filed and copies of the same were emailed to the parties as indicated below.

Via email to all Parties:

For the Respondent:

Karlan Kim Barthlow
Property Manager
Trimac Transportation Inc.
kbarthlow@trimac.com

Devon Wilmington
Environmental Compliance Manager
Trimac Transportation Inc.
dwilmington@trimac.com

Lawna Hurl
VP Legal & Corporate Secretary
Trimac Management Services
lhurl@trimac.com

For the EPA:

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Quantindra Smith
Targeting, Data & Measures Office
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
smith.quantindra@epa.gov

Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960