



3. On December 18, 1984, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, the Commonwealth of Virginia was granted final authorization to administer a state hazardous waste management program in lieu of the federal hazardous waste program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. The provisions of Virginia's hazardous waste management program through this authorization, have become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). An amended version of the Virginia Hazardous Waste Management Regulations ("VHWMR") was reauthorized by EPA on July 30, 2008, and became effective as requirements of RCRA Subtitle C on that date. The provisions of Virginia's current authorized revised VHWMR are codified at 9 VAC-20-60-12 *et seq.*
4. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes EPA to initiate an enforcement action whenever it is determined that a person is in violation of any requirement of RCRA Subtitle C, EPA's regulations thereunder, or any regulation of a state hazardous waste program which has been authorized by EPA. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil penalty against any person who violates any requirement of Subtitle C of RCRA.
5. This Consent Agreement ("CA") and the accompanying Final Order ("FO") (collectively, the "CAFO") address alleged violations by Respondent of Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939g, certain federally-authorized Virginia hazardous waste regulations, set forth at 9 VAC-20-60-12 *et seq.*, in connection with Respondent's facility. Respondent's facility is located at 3800 Original Henry Road, Henry, Virginia 24102 ("Facility"), and is further described below.
6. Factual allegations or legal conclusions in this CA that are based on provisions of federally-authorized VHWMR cite those respective provisions as the authority for such allegations or conclusions.
7. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated February 8, 2017, EPA notified the Virginia Department of Environmental Quality ("VADEQ") of EPA's intent to commence this administrative action against Respondent in response to the violations of RCRA Subtitle C that are alleged herein.

## **II. GENERAL PROVISIONS**

8. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
9. Respondent neither admits nor denies the specific factual allegations or the conclusions of law contained in the CAFO, except as provided in Paragraph 8, above.

10. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
11. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
12. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
13. Respondent shall bear its own costs and attorney's fees.
14. This CAFO shall not relieve Respondent of its obligations to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit; nor does this CAFO constitute a waiver, suspension or modification of the requirements of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, or any regulations promulgated and/or authorized thereunder.

### **III. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW**

15. In accordance with the *Consolidated Rules of Practice* at 40 C.F.R. §§22.13(b) and 22.18(b)(2) and (3), Complainant makes the following findings of fact and conclusions of law:
16. EPA has jurisdiction over this matter pursuant to RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g).
17. Respondent is a corporation incorporated in the Commonwealth of Virginia. Respondent is now, and was at the time of the violations alleged herein, a "person" as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 9 VAC 20-60-260.A.
18. At the Facility, Respondent manufactures custom paints and coatings, as well as conducts re-blending, recovery, and redistribution of solvents and other chemicals. The Facility is located on approximately 9.5 acres, in a building of approximately 123,000 square feet. Respondent has been in operation at the Facility since 2002.
19. On June 13, 2002, Respondent submitted a Notification of Hazardous Waste Activity ("Notification") for the Facility to VADEQ and to EPA, Region III, pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, identifying the Facility as a conditionally exempt small quantity generator of hazardous waste. In response, the Facility was assigned (RCRA ID No. VAR000503656) and as a RCRA Transporter (VA HW Transporter ID No. VAR0005036567). On October 20, 2004, Respondent notified VADEQ that the Facility would be reporting as a RCRA Large Quantity Generator ("LQG") of hazardous

waste. Respondent does not have a permit for the treatment, storage or disposal of hazardous waste at the Facility.

20. At all times relevant to the allegations set forth in this CA, Respondent's Facility is, and has been, a hazardous waste storage "facility" as that term is defined in 40 C.F.R. § 260.10, as incorporated by reference in 9 VAC 20-60-260.A.
21. At all times relevant to the allegations set forth in this CA, Respondent is, and has been, the "operator" and the "owner" of a "facility," described in Paragraph 18, as the terms "facility", "owner" and "operator" are defined in 40 C.F.R. § 260.10, as incorporated by reference in 9 VAC 20-60-260.A.
22. At all times relevant to the allegations set forth in this CA, Respondent is, and has been, a "generator" of, and has engaged in the "storage" in "containers" at the Facility of materials described below that are "solid wastes" and "hazardous wastes," as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference by 9 VAC 20-60-260.A.
23. On May 10, 2016, two inspectors from EPA and three inspectors from VADEQ conducted a Compliance Evaluation Inspection at the Facility ("Inspection"), to examine the Facility's compliance with Subtitle C of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. §§ 6901 *et seq.*, the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260-266, 268 and 270-273, and the federally-authorized VHWMR, 9 VAC-20-60-12 *et seq.*
24. On May 10, 2016, the following "hazardous wastes" were in "storage" in containers at the Facility.
  - a. In Quad 1, Respondent was storing hundreds of 5-gallon containers acquired from Valspar in 2013 (EPA Hazardous Waste No. D001).
  - b. In Quad 2, Respondent was storing approximately 24 55-gallon drums of rags contaminated with D001/D035/F003/F005 hazardous waste.
  - c. In Quad 2, Respondent was storing 15 55-gallon drums of used Zeolite beads coated with water and spent solvent (EPA Hazardous Waste No. D001/D035).
  - d. In Quad 2, Respondent was storing 14 55-gallon drums of used activated carbon containing color/impurities from used solvent (EPA Hazardous Waste No. D001/D035).
  - e. In the "Epoxy Storage" area of Quad 2, Respondent was storing more than 50 containers (including boxes) of aging epoxy-related components received from other facilities (EPA Hazardous Waste No. D001/D002).

- f. In Quad 3, Respondent was storing one full 55-gallon drum labeled as hazardous waste. (with EPA Hazardous Waste No. D001) next to a smaller pail full of flammable cloths and labeled as "Dirty Rags."
  - g. In Quad 3, Respondent was storing one unlabeled, open drip bucket of hazardous waste solvent (with EPA Hazardous Waste Nos. D001/D035/F003/F005) in front of the "Rocket" recovery unit.
25. To gather additional information about the issues raised during the Inspection, and to request documents, on July 12, 2016, EPA sent an information request letter ("IRL") to Respondent, pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a). Respondent responded to this request in a letter dated August 22, 2016.
26. On July 26, 2017, EPA sent a Request to Show Cause ("Show Cause letter") to Respondent advising it of EPA's preliminary findings of violations at the Facility and offering the Respondent an opportunity to provide such additional information as it believed the Agency should review and consider before reaching any final conclusions as to the Respondent's compliance with the VHWMR at the Facility.
27. On the basis of EPA's findings during the Inspection and Respondent's responses to EPA's Show Cause letter and IRL, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and certain federally-authorized VHWMR requirements promulgated thereunder.

### COUNT I

#### **(Operating a Treatment, Storage, and Disposal Facility without a Permit or Interim Status)**

28. The information in the preceding Paragraphs is incorporated herein by reference, as though fully set forth at length.
29. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), provide, in pertinent part, that a person may not own or operate a facility for the treatment, storage or disposal of hazardous waste unless such person has first obtained a permit for such facility or has qualified for interim status for the facility.
30. Respondent has never had a permit or interim status, pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), or 9 VAC 20-60-270, which incorporates by reference 40 C.F.R. § 270.1(b), for the storage of hazardous waste at the Facility.

#### *Generator Accumulation of Hazardous Waste (the "Generator Permit Exemption")*

31. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(a), with exceptions not relevant here, provides:

[A] generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that: (1) The waste is placed: (i) In containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265; and/or

\* \* \*

(2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste" . . .

32. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(b) with exceptions not relevant herein, provides:

A generator of 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in §§ 261.31 or 261.33(e) in a calendar month, who accumulates hazardous waste or acute hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264, 265, and 267 and the permit requirements of 40 CFR part 270 unless he has been granted an extension to the 90-day period. Such extension may be granted by EPA if hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Regional Administrator on a case-by-case basis.

*Generator Permit Exemption: Storage Greater than 90 Days*

33. In Quad 2, Respondent stored approximately 24 55-gallon drums of rags contaminated with D001/D035/F003/F005 hazardous waste. These rags were stored in the warehouse from at least February 25, 2016 (the date the Microwave recovery unit broke down) until July 12, 2016 (when the drums were shipped offsite). This period of storage totals approximately 139 days, which is a time period greater than 90 days.

*Generator Permit Exemption: Failure to Properly Manage Satellite Accumulation Containers*

34. As a condition of meeting the 90-day accumulation permit exemption, 9 VAC 20-60-262 which incorporates by reference 40 C.F.R. § 262.34(c)(1), with exceptions not relevant herein, provides that "[a] generator [of hazardous waste] may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in 40 C.F.R. § 261.31 or § 261.33(e) in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status," provided that the generator, among other things, complies with 40 C.F.R. § 265.173(a), which requires that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste, and that the generator marks satellite containers either with the words

"Hazardous Waste" or with other words that identify the contents of the containers, as required by 40 C.F.R. § 262.34(c)(1)(ii).

35. At the time of the Inspection, in Quad 3 of the Facility, Respondent was storing one full 55-gallon drum labeled as hazardous waste next to a smaller pail full of flammable cloths labeled as "Dirty Rags." Both containers were storing hazardous waste (EPA Hazardous Waste No. D001). As a result, Respondent was storing greater than 55 gallons of hazardous waste in a satellite accumulation area, and thus failed to meet the condition of 40 C.F.R. § 262.34(c)(1).
36. At the time of the Inspection, in Quad 3 of the Facility, Respondent was storing one unlabeled, open drip bucket of hazardous waste solvent (EPA Hazardous Waste Nos. D001/D035/F003/F005) in a satellite accumulation area in front of the "Rocket" recovery unit. Respondent failed to keep this container closed and failed to label this satellite container, as required by 40 C.F.R. § 262.34(c)(1)(i) & (ii).

*Generator Permit Exemption: Failure to Keep Hazardous Waste Containers Closed*

37. As a condition of meeting the 90-day accumulation permit exemption, 9 VAC 20-60-265, which incorporates by reference 40 C.F.R. § 265.173 with exceptions not relevant herein, provides that "[a] container holding hazardous waste must always be kept closed during storage, except when it is necessary to add or remove waste."
38. At the time of the Inspection, in Quad 3 of the Facility, Respondent failed to keep one drip bucket containing hazardous waste solvent (EPA Hazardous Waste Nos. D001/D035/F003/F005), as further described in Count III, below, closed as required by 9 VAC 20-60-265.
39. For the reasons and during the times set forth above, at the Facility, Respondent failed to comply with the applicable permit exemption conditions set forth at 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(a), and therefore failed to qualify for an exemption from permitting requirements provided by such section.
40. Respondent's Facility is a hazardous waste treatment, storage or disposal facility with respect to the storage of hazardous waste as described above.
41. From February 25, 2016 to July 12, 2016, Respondent violated 9 VAC 20-60-270, which incorporates 40 C.F.R. § 270.1(c) and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), by storing hazardous waste at its Facility without a storage permit, interim status or valid exemption to the permitting requirements for storage of hazardous waste.

**COUNT II**  
**(Failure to Make a Hazardous Waste Determination)**

42. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
43. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.11, with exceptions not relevant herein, requires that "[a] person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste," using the method set forth more fully at 40 C.F.R. § 262.11(a) – (c).
44. At the time of the Inspection, Respondent was storing the following solid wastes at the Facility, but had not made a determination as to whether these were hazardous wastes.
45. In Quad 1 of the Facility, Respondent was storing hundreds of 5-gallon containers acquired from Valspar in 2013 (EPA Hazardous Waste No. D001). Several of the containers appeared to show signs of leakage.
46. In Quad 2 of the Facility, Respondent was storing 15 55-gallon drums of used Zeolite beads coated with water and spent solvent (EPA Hazardous Waste No. D001/D035), and 14 55-gallon drums of used activated carbon containing color/impurities from used solvent (EPA Hazardous Waste No. D001/D035).
47. In the "Epoxy Storage" area of Quad 2 of the Facility, Respondent was storing more than 50 containers (including boxes) of aging epoxy-related components received from other facilities (EPA Hazardous Waste No. D001/D002). At the time of the Inspection, some of these containers showed evidence of leakage and/or deterioration, and some of the containers had no labels.
48. From at least December 31, 2013 through May 10, 2016, Respondent violated the requirements of 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.11, by failing to perform a hazardous waste determination on numerous containers storing solid wastes.

**COUNT III**  
**(Failure to Keep Hazardous Containers Closed Except  
When it is Necessary to Add or Remove Waste)**

49. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
50. 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.173 with exceptions not relevant herein, provides that "[a] container holding hazardous waste must always be kept closed during storage, except when it is necessary to add or remove waste."



51. At the time of the Inspection, in Quad 3 of the Facility, there was one unlabeled drip bucket containing hazardous waste solvent (EPA Hazardous Waste Nos. D001/D035/F003/F005) in front of the "Rocket" recovery unit which was not kept closed even though it was not necessary to add or remove waste.
52. On May 10, 2016, Respondent violated the requirements of 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.173, by failing to keep a container of hazardous waste closed during storage, except when it is necessary to add or remove waste.

#### COUNT IV

##### **(Failure to Maintain Signed Manifests or File Exception Reports)**

53. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
54. 9 VAC 20-260-262 incorporates by reference 40 C.F.R. Part 262, Subpart B ("The Manifest"), and Subpart D ("Recordkeeping and Reporting"), with exceptions not relevant herein.
55. 40 CF.R. § 262.20(a)(1) provides, in relevant and applicable part, that "[a] generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal . . . must prepare a Manifest . . . according to instructions included in the appendix to this part."
56. 40 CF.R. § 262.23(a) further provides that "[t]he generator must (1) Sign the manifest certification by hand; and (2) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and (3) Retain one copy, in accordance with § 262.40(a)."
57. 40 CF.R. § 262.40(a) provides that "[a] generator must keep a copy of each manifest signed in accordance with § 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter."
58. 40 CF.R. § 262.42(a)(1) provides that a large quantity generator "who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste."
59. 40 CF.R. § 262.42(a)(2) provides that a generator "must submit an Exception Report to the EPA Regional Administrator for the Region in which generator is located if he has not received a copy of the manifest with the handwritten signature of the of the owner or

operator of the designated facility within 45 days of date the waste was accepted by the initial transporter."

60. 40 CF.R. § 262.40(b) provides that "[a] generator must keep a copy of each Biennial Report and Exception Report for a period of at least three years from the due date of the report."
61. On June 2, 2015, Respondent shipped waste paint related material (EPA Hazardous Waste Nos. D001, D035, F003, F005) and waste flammable liquids (EPA Hazardous Waste Nos. D001, D018) under Manifest No. 000191805MWI. This shipment of hazardous waste reached its destination facility on June 8, 2015.
62. At the time of the Inspection on May 10, 2016, Respondent did not have a Manifest signed by the designated facility for the shipment of hazardous waste shipped under Manifest No. 000191805MWI, and had not submitted to EPA an Exception Report for that shipment.
63. On August 18, 2016, Respondent obtained a copy of Manifest No. 000191805MWI signed by the designated facility for this shipment of hazardous waste.
64. Although Respondent had not received a copy of Manifest No. 000191805MWI with the handwritten signature of the owner or operator of the designated facility within 45 days of date the waste was accepted by the initial transporter, Respondent failed to file an Exception Report with the EPA Regional Administrator for the Region in which the Facility is located (Region III).
65. For hazardous waste shipped under Manifest No. 000191805MWI, Respondent obtained the Manifest signed by the designated TSDf more than 45 days after the date the wastes were accepted by the initial transporter.
66. Respondent failed to submit an Exception Report when a copy of Manifest No. 000191805MWI was not received with the handwritten signature of the designated TSDf within 45 days of the date the wastes were accepted by the initial transporter.
67. From July 17, 2015 (45 days after hazardous waste shipped under Manifest No. 000191805MWI was accepted by the initial transporter) until August 18, 2016 (the date Respondent received the Manifest signed by the designated TSDf), Respondent violated the requirements of 9 VAC 20-260-262, which incorporates by reference 40 C.F.R. § 262.40(a), by failing to timely maintain a Manifest signed by the designated TSDfs for hazardous waste shipped under Manifest No. 000191805MWI.
68. From July 17, 2015 (45 days after hazardous waste shipped under Manifest No. 000191805MWI was accepted by the initial transporter) to August 18, 2016 (the date Respondent received the Manifest signed by the designated TSDf), Respondent violated the requirements of 9 VAC 20-260-262, which incorporates by reference 40 C.F.R.

§ 262.42(a)(2), by failing to timely submit an Exception Report to the EPA Regional Administrator for the Region in which the Facility is located.

#### **IV. CIVIL PENALTIES**

69. Respondent agrees to pay a civil penalty in the amount of **\$35,000.00 (THIRTY-FIVE THOUSAND DOLLARS)** in full and final settlement and satisfaction of all civil claims for penalties which Complainant may have concerning the violations and facts alleged and set forth in Section III (“EPA Findings of Fact and Conclusions of Law”) of this Consent Agreement. Such civil penalty shall become due and payable immediately upon Respondent’s receipt of a true and correct copy of this CAFO, fully executed by the parties, signed by the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest, in connection with such civil penalty, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent. In order to avoid the assessment of administrative costs and late payment penalties in connection with such civil penalty, as further described at Paragraphs 76 through 79, below, Respondent must pay such civil penalty in accordance with the terms and schedule set forth in Paragraph 71.
70. The civil penalty settlement amount set forth in Paragraph 69, immediately above, was determined after consideration of the statutory factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA’s October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 (“RCRA Penalty Policy”), which reflect the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g). Complainant has also considered the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, and the July 27, 2016 Memorandum by EPA Assistant Administrator, Cynthia Giles, entitled, “Amendments to the U.S. Environmental Protection Agency’s Civil Penalty Policies to Account for Inflation,” (effective August 1, 2016). The settlement in this proceeding is consistent with the provisions and objectives of Section 3008 of RCRA, and its implementing regulations.
71. The civil penalty of **THIRTY-FIVE THOUSAND DOLLARS (\$35,000.00)** set forth in Paragraph 69, above, may be paid in six (6) installments with interest at the rate of one per cent (1%) per annum on the outstanding principal balance in accordance with the following schedule:
- a. **1<sup>st</sup> Payment:** The first payment in the amount of \$5,845.51, consisting of a principal payment of \$5,845.51 principal and an interest payment of \$0, shall be paid within 30 days of the date on which this CAFO is mailed or hand-delivered to Respondent.

- b. **2<sup>nd</sup> Payment:** The second payment in the amount of \$5,845.51, consisting of a principal payment of \$5,820.40 principal and an interest payment of \$25.11, shall be paid within 60 days of the date on which this CAFO is mailed or hand-delivered to Respondent.
  - c. **3<sup>rd</sup> Payment:** The third payment in the amount of \$5,845.51, consisting of a principal payment of \$5,827.36 principal and an interest payment of \$18.15, shall be paid within 90 days of the date on which this CAFO is mailed or hand-delivered to Respondent.
  - d. **4<sup>th</sup> Payment:** The fourth payment in the amount of \$5,845.51, consisting of a principal payment of \$5,830.43 principal and an interest payment of \$15.08, shall be paid within 120 days of the date on which this CAFO is mailed or hand-delivered to Respondent.
  - e. **5<sup>th</sup> Payment:** The fifth payment in the amount of \$5,845.51, consisting of a principal payment of \$5,835.78 principal and an interest payment of \$9.73, shall be paid within 150 days of the date on which this CAFO is mailed or hand-delivered to Respondent.
  - f. **6<sup>th</sup> Payment:** The sixth payment in the amount of \$5,845.51, consisting of a principal payment of \$5,840.52 principal and an interest payment of \$4.99, shall be paid within 180 days of the date on which this CAFO is mailed or hand-delivered to Respondent.
72. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in Paragraph 71, above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall *immediately* pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described in Paragraphs 76 through 79 below, in the event of any such failure or default.
73. Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.
74. Payment of the civil penalty set forth in Paragraph 69, above, including payments made under the installment plan of Paragraph 71, above, and any associated interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 76 through 79, below, shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this Consent Agreement, i.e., RCRA03-2018-0051;
- b. All checks shall be made payable to "United States Treasury;"
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency  
Fine and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

Customer service contact: 513-487-2091

- d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
Government Lockbox 979077  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101

Contact: 314-418-1818

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:

**“D 68010727 Environmental Protection Agency”**

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver  
ABA = 051036706  
Account No.: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Contact: 866-234-5681

- h. On-Line Payment Option: WWW.PAY.GOV/paygov/  
Enter **sfo 1.1** in the search field. Open and complete the form.

- i. Additional payment guidance is available at:  
<http://www2.epa.gov/financial/makepayment>

or by contacting Craig Steffen at 513-487-2091

- 75. At the time of payment, Respondent shall send a notice of such payment, including a copy of the check or electronic fund transfer, as applicable, to:

Regional Hearing Clerk (3RC00)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029;

and

Natalie Katz  
Sr. Assistant Regional Counsel (3RC30)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.

- 76. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent’s failure to make timely payment

or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

77. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
78. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
79. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
80. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

#### **V. CERTIFICATIONS**

81. Respondent certifies to Complainant by its signature hereto, to the best of Respondent's knowledge and belief, that Respondent is in compliance with all relevant provisions of the current, authorized revised VHWMR and of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, for which violations are alleged in this Consent Agreement.

#### **VI. OTHER APPLICABLE LAWS**

82. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

#### **VII. RESERVATION OF RIGHTS**

83. This CAFO resolves only EPA's claims for civil penalties for the specific violations and facts which are alleged in this Consent Agreement. Nothing in this CAFO shall be construed as limiting the authority of EPA to undertake action against any person, including the Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare or

Blue Ridge Solvents & Coatings, Inc.

Consent Agreement Docket No. RCRA-03-2018-0051

the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO following its filing with the Regional Hearing Clerk.

**VIII. FULL AND FINAL SATISFACTION**

- 84. This settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g), for the violations alleged in this Consent Agreement.

**IX. PARTIES BOUND**

- 85. This CAFO shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind the Respondent to the terms and conditions of this CAFO.

**X. EFFECTIVE DATE**

- 86. The effective date of this CAFO is the date on which the Final Order is filed with the Regional Hearing Clerk after signature by the Regional Administrator or his designee, the Regional Judicial Officer.

**XI. ENTIRE AGREEMENT**

- 87. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

For Respondent:

Blue Ridge Solvents & Coatings, Inc.

Date: 1/3/2018


By: George D. Quinlan  
George Quinlan  
President



For the Complainant:


U.S. Environmental Protection Agency, Region III

Date: 1/3/2018

By:   
Natalie L. Katz  
Sr. Assistant Regional Counsel

After reviewing the EPA Findings of Fact and Conclusions of Law and other pertinent matters, the Land and Chemicals Division of the United States Environmental Protection Agency, Region III, recommends that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 1-30-2018

By:   
Martha Shimkin, Acting Director  
Land and Chemicals Division

UNITED STATES  
 ENVIRONMENTAL PROTECTION AGENCY  
 REGION III  
 1650 Arch Street  
 Philadelphia, Pennsylvania 19103

In the matter of:

Blue Ridge Solvents & Coatings, Inc.  
 3800 Original Henry Road  
 P.O. Box 759  
 Henry, VA 24102

Respondent,

Blue Ridge Solvents & Coatings, Inc.  
 3800 Original Henry Road  
 Henry, VA 24102

Facility.

:  
 :  
 : U.S. EPA Docket RCRA-03-2018-0051  
 :  
 :  
 : Proceeding under Section 3008(a) and (g)  
 : of the Resource Conservation and  
 : Recovery Act, as amended,  
 : 42 U.S.C. § 6928(a) and (g)  
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 EPA REGION III, PHILA. PA

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**FINAL ORDER**

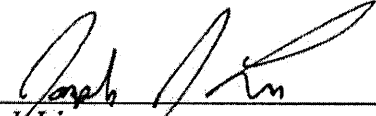
Complainant, the Director, Land and Chemical Division, U.S. Environmental Protection Agency, Region III, and Blue Ridge Solvents & Coatings, Inc. (“Respondent”), have executed a document entitled “Consent Agreement,” which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. § 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s October, 1990 RCRA Civil Penalty Policy, as revised in June 2003 (“RCRA Penalty Policy”), and the statutory factors set forth in Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

**NOW, THEREFORE, PURSUANT TO** Section 3008(a) and (g) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a) and (g) (“RCRA”), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty payment of **\$35,000.00 (THIRTY-FIVE THOUSAND DOLLARS)**, in accordance with the payment provisions set forth in of the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the attached Consent Agreement and this Final Order is the date on which the Final Order is filed with the Regional Hearing Clerk.

Feb. 7, 2018  
Date:

  
\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial Officer  
U.S. EPA, Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III

In the matter of: :  
: :  
Blue Ridge Solvents & Coatings, Inc. : U.S. EPA Docket RCRA-03-2018-0051  
3800 Original Henry Road : :  
P.O. Box 759 : :  
Henry, VA 24102 : Proceeding under Section 3008(a) and (g)  
Respondent, : of the Resource Conservation and  
: Recovery Act, as amended,  
Blue Ridge Solvents & Coatings, Inc. : 42 U.S.C. § 6928(a) and (g)  
3800 Original Henry Road : :  
Henry, VA 24102 : :  
Facility. : :

CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent by UPS Next Day Delivery, a copy of the Consent Agreement and Final Order to the addressee(s) listed below:

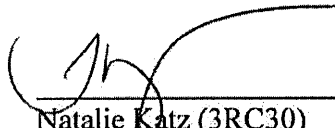
Mr. George Quinlan, President  
Blue Ridge Solvents & Coatings, Inc.  
3800 Original Henry Road  
P.O. Box 759  
Henry, VA 24102

Eric H. Ferguson, Esq.  
Rhodes Ferguson & Stone, Ltd.  
305 S. Main Street  
Rocky Mount, VA 24151

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REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

The original and one copy of were hand-delivered to, and filed with, the Regional Hearing Clerk, U.S. EPA Region III.

Dated: 2/9/18

  
Natalie Katz (3RC30)  
Senior Assistant Regional Counsel  
EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103