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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: Denso Manufacturing Tennessee, Inc. 1725 Robert C Jackson Drive Maryville, Tennessee 37801 EPA ID No.: TND982142275 Respondent.	Docket No. **RCRA-04-2021-2101(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 Denso Manufacturing Tennessee, Inc., a corporation doing business in the State of Tennessee. This proceeding pertains to Respondent's facility located at 1725 Robert C Jackson Drive, Maryville, Tennessee (Facility).

III. GOVERNING LAW

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Tennessee (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 Tennessee Hazardous Waste Management Act (THWMA) Tenn. Code Ann. § 68-212-101 et seq. and Tenn. Comp. R. & Regs. 0400-12-01-.01 through 0400-12-01-.12.

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 68-212-107(d)(6) of the THWMA, Tenn. Code Ann. § 68-212-107(d) [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 Tenn. Comp. R. & Regs. 0400-12-01-.03 [40 C.F.R. Part 262].

12. Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [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 Tenn. Comp. R. & Regs. 0400-12-01-.06 (permitted) and Tenn. Comp. R. & Regs. 0400-12-01-.05 (interim status)] [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(b) [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 Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c) [40 C.F.R. § 261.3], a solid waste is a "hazardous waste" if it meets any of the criteria set forth in Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c)1(ii) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(d)2 [40 C.F.R. § 261.4(b)].

15. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c)1(ii)(I) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(b)-(e) [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 Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and (b) [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 Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and (e) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for lead is a hazardous waste identified with the EPA Hazardous Waste Number D008.

18. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and (e) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for silver is a hazardous waste and is identified with the EPA Hazardous Waste Number D011.

19. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and (e) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for methyl ethyl ketone is a hazardous waste and is identified with the EPA Hazardous Waste Number D035.

20. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c)1(ii)(II) and Tenn. Comp. R. & Regs. 0400-12-01-.02(4)(a) [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 Tenn. Comp. R. & Regs. 0400-12-01-.02(4) [40 C.F.R. Part 261, Subpart D].

21. Listed hazardous wastes include the F-Listed wastes from nonspecific sources identified in Tenn. Comp. R. & Regs. 0400-12-01-.02(4)(b) [40 C.F.R. § 261.31].

22. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(4)(b)1. [40 C.F.R. § 261.31], the following spent non-halogenated solvents: xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; all spent solvent mixtures/blends containing, before use, only the above spent non-halogenated solvents; and all spent solvent mixtures/blends containing, before use, one or more of the above non-halogenated solvents, and, a total of ten percent or more (by volume) of one or more of those solvents listed in F001, F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures are hazardous wastes and are identified with the EPA Hazardous Waste Number F003.

23. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(4)(b)1. [40 C.F.R. § 261.31] the following spent non-halogenated solvents: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures are hazardous wastes and are identified with the EPA Hazardous Waste Number F005.

24. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [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 Tenn. Comp. R. & Regs. 0400-12-01-.02 [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.

25. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a "Large Quantity Generator" (LQG) is a generator who generates greater than or equal to 1,000 kilograms (2,200 lbs) of non-acute hazardous waste in a calendar month.

26. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a "facility" includes "all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste."

27. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a "person" includes a corporation or political subdivision of a State.

28. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [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."

29. Pursuant to Section 68-212-104(17) of the THWMA, Tenn. Code Ann. § 68-212-104(17) [40 C.F.R. § 260.10], "storage" means the containment of hazardous waste in such a manner as not to constitute disposal of such hazardous waste.

30. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2. [40 C.F.R. § 262.34(a) (2016)[1]], a large quantity generator (LQG) may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2.(i)-(v) [40 C.F.R. § 262.34(a)(1)-(4) (2016)] (hereinafter referred to as the "LQG Permit Exemption").

31. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2.(ii)] [40 C.F.R. § 262.34(a)(2) (2016)], which is a condition of the LQG Permit Exemption, a generator is required to ensure

[1] Tennessee's newly adopted Generator Improvements Rule (GIR) regulations were adopted in Tennessee as of August 5, 2020, but are currently not effective in Tennessee, nor have they been authorized by the EPA. As such, and for ease of reference and consistency with the State's Inspection Report, this CAFO will cite to the Tennessee 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.

that the date upon which each period of accumulation begins is clearly marked and visible on each container.

32. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2.(iii)] [40 C.F.R. § 262.34(a)(3) (2016)], which is a condition of the LQG Permit Exemption, a generator is required to label or clearly mark each container and tank accumulating hazardous waste on-site with the words: "Hazardous Waste."

33. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.06(30)(b) [40 C.F.R. § 264.103], in light liquid service means that the piece of equipment contains or contacts a waste stream where the vapor pressure of one or more of the organic components in the stream is greater than 0.3 kilopascals (kPa) at 20° C, the total concentration of the pure organic components having a vapor pressure greater than 0.3 kilopascals (kPa) at 20°C is equal to or greater than 20 percent by weight, and the fluid is a liquid at operating conditions.

34. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2.(i)(I) [40 C.F.R. § 262.34(a)(l)(i) (2016)], which incorporates Tenn. Comp. R. & Regs. 0400-12-01-.05(28) [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 containers 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 Tenn. Comp. R. & Regs. 0400-12-01-.05(28)(a)3. [40 C.F.R. § 265.1050(c)].

35. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2.(i)(I) [40 C.F.R. § 262.34(a)(l)(i) (2016)], which incorporates Tenn. Comp. R. & Regs. 0400-12-01-.05(28) [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 containers 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 Tenn. Comp. R. & Regs. 0400-12-01-.05(28)(c)1. [40 C.F.R. § 265.1052(a)(l)], by methods specified in Tenn. Comp. R. & Regs. 0400-12-01-.05(28)(n)2. [40 C.F.R. § 265.1063(b)].

36. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2.(i)(I) [40 C.F.R. § 262.34(a)(l)(i) (2016)], which incorporates Tenn. Comp. R. & Regs. 0400-12-01-.05(28) [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 containers must comply with the RCRA Subpart BB Organic Air Emission Standards for Equipment Leaks, including the requirement to monitor each valve in light liquid service monthly to detect leaks in Tenn. Comp. R. & Regs. 0400-12-01-.05(28)(h)1. [40 C.F.R. § 265.1057(a)], by methods specified in Tenn. Comp. R. & Regs. 0400-12-01-.05(28)(n)2. [40 C.F.R. § 265.1063(b)].

37. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2.(i)(I) [40 C.F.R. § 262.34(a)(l)(i) 2016)], which incorporates Tenn. Comp. R. & Regs. 0400-12-01-.05(28) [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 containers must comply with the RCRA Subpart BB Organic Air Emission Standards for Equipment Leaks,

including the requirement to maintain equipment records specified in Tenn. Comp. R. & Regs. 0400-12-01-.05(28)(o) [40 C.F.R. § 265.1064(b)(1)].

IV. FACTUAL ALLEGATIONS

38. Respondent's facility is located at 1725 Robert C Jackson Drive, Maryville, Tennessee 37801.

39. Respondent manufactures automotive instruments clusters, printed circuit boards, key fobs, and electronic sensors.

40. Respondent's facility includes three production divisions designated as: Plant 201 (instrument clusters manufacturing), Plant 202 (printed circuit boards manufacturing), Plant 203 (key fobs and electronic sensors manufacturing).

41. Respondent is registered with the Tennessee Department of Environment and Conservation (TDEC) as a Large Quantity Hazardous Waste Generator, a Small Quantity Handler of Universal Waste (batteries, lamps and mercury containing equipment), and a used oil generator.

42. Respondent, through its operations, generates the following hazardous wastes: Waste Ink from screen printing instrument clusters (D001/D007), Waste Solder Flux (D001), spent solvent from maintenance, screen washing activities and production activities (F003/F005/D001/D035), still bottoms from solvent reclamation (F003/F005/D001/D007/ D010), waste sealer/coating material (D001) and ink/paint contaminated debris (D001/D008/D011).

43. Respondent transfers the spent solvent from the screen wash unit into a 300-gallon container via a dedicated flexible steel hose system that includes three valves and one pump.

44. Once the 300-gallon container is full, Respondent connects the container to a solvent distillation unit via a dedicated flexible steel hose system that includes four valves.

45. On December 8, 2020, the EPA and TDEC conducted a compliance evaluation inspection (CEI) at the Respondent's Facility. The EPA's findings of the CEI were documented in a report mailed to the Respondent, dated February 11, 2021.

46. At the time of the inspection, the EPA inspector observed that the Respondent failed to write an accumulation start date on each container of off-specification/expired printing inks (D001), located in the Chemical Storage Room of Plant 201.

47. At the time of the inspection, the EPA inspector observed that the Respondent failed to write an accumulation start date on one 55-gallon container of hazardous waste contaminated debris located in the Hazardous Waste Central Accumulation Area (CAA) in the Recycle Center of Plant 203.

48. At the time of the inspection, the EPA inspector observed that the Respondent failed to label each container of off-specification/expired printing inks (D001) with the words "Hazardous Waste," located in the Chemical Storage Room of Plant 201.

49. In the screen wash unit, Respondent generates a spent solvent that has an average volatile organic concentration of at least 10 percent by weight.

50. At the time of the inspection, the EPA inspector observed that the equipment that the Respondent uses to manage spent solvent from the screen wash unit is in light liquid service.

51. At the time of the inspection, there was no visible evidence or record-retaining documentation indicating each piece of equipment used to convey the spent solvent from the screen wash unit to the solvent distillation unit was marked in a manner that would allow it to be distinguished readily from other pieces of equipment.

52. At the time of the inspection, there were no records provided that would show that the pump used to transfer spent solvent from the screen wash unit into a 300-gallon container was monitored monthly to detect leaks by methods specified in Tenn. Comp. R. & Regs. 0400-12-01-.05(28)(n) [40 CFR 265.1063(b)].

53. At the time of the inspection, there were no records provided that would show that the valves in the flexible hose system used to transfer the spent solvent from the screen wash unit to the solvent distillation unit were monitored monthly to detect leaks by methods specified in Tenn. Comp. R. & Regs. 0400-12-01-.05(28)(n) [40 CFR 265.1063(b)].

54. At the time of the inspection, the EPA inspector observed that the Respondent was not maintaining records for each piece of equipment to which Tenn. Comp. R. & Regs. 0400-12-01-.05(28) [40 CFR Part 265, Subpart BB] applies in the facility's operating record.

V. ALLEGED VIOLATIONS

55. Respondent is a "person" as defined in Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10].

56. Respondent is a "generator" of "hazardous waste" as those terms are defined in Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10] and Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c) [40 C.F.R. § 260.10].

57. Respondent is the "owner" and "operator" of a "facility" located at 1725 Robert C Jackson Drive Maryville, Tennessee 37801, as those terms are defined in Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10].

58. Respondent failed to clearly mark and make visible an accumulation start date on each container of off-specification/expired printing inks (D001), located in the Chemical Storage Room of Plant 201. The EPA therefore alleges Respondent violated Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [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 by not complying with the dating requirements of Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2.(ii) [40 C.F.R. § 262.34(a)(2) (2016)].

59. Respondent failed to clearly mark and make visible an accumulation start date on one 55-gallon container of hazardous waste contaminated debris located in the Hazardous Waste Central

Accumulation area (CAA) in the Recycle Center. The EPA therefore alleges Respondent violated Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [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 by not complying with the dating requirements of Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2.(i)] [40 C.F.R. § 262.34(a)(1) (2016)].

60. Respondent failed to label each container of off-specification/expired printing inks (D001) with the words "Hazardous Waste," located in the Chemical Storage Room of Plant 201. The EPA therefore alleges Respondent violated Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [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 by not complying with the labeling requirements of Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2.(iii)] [40 C.F.R. § 262.34(a)(3) (2016)].

61. Respondent failed to properly mark each piece of equipment that is in contact with the spent solvent from the screen wash unit, 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 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [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 Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2.(i)(I) [40 CFR §262.34(a)(1)(i) (2016)], by not complying with the requirements of Subpart BB Organic Air Emission Standards for Equipment Leaks in Tenn. Comp. R. & Regs. 0400-12-01-.05(28)(a)3. [40 C.F.R. § 265.1050(c)].

62. Respondent failed to monthly monitor each pump in light liquid service used to transfer the spent solvent from the screen wash unit, a hazardous waste with an organic concentration of at least 10 percent by weight, by the methods specified in Tenn. Comp. R. & Regs. 0400-12-01-.05(28) [40 C.F.R. § 265.1063(b)]. The EPA therefore alleges Respondent violated Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [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 Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2.(i)(I) [40 CFR §262.34(a)(1)(i) (2016)], by not complying with the requirements of Subpart BB Organic Air Emission Standards for Equipment Leaks in Tenn. Comp. R. & Regs. 0400-12-01-.05(28)(c)1. [40 C.F.R. § 265.1052(a)(l)].

63. Respondent failed to monitor each valve in light liquid service that contacted the screen wash unit spent solvent, a hazardous waste with an organic concentration of at least 10 percent by weight, monthly to detect leaks by the methods specified in by methods specified in Tenn. Comp. R. & Regs. 0400-12-01-.05(28)(n)2. [40 C.F.R. § 265.1063(b)]. The EPA therefore alleges Respondent violated Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [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 Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2.(i)(I) [40 CFR §262.34(a)(1)(i) (2016)], by not complying with the requirements of Subpart BB Organic Air Emission Standards for Equipment Leaks in Tenn. Comp. R. & Regs. 0400-12-01-.05(28)(h)(i) [40 C.F.R. § 265.1057(a)].

64. Respondent failed to record information for each piece of equipment to which Tenn. Comp. R. & Regs. 0400-12-01-.05(28) [40 C.F.R. Part 265, Subpart BB], applies in the facility operating record. The EPA therefore alleges Respondent violated Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [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 Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2.(i)(I) [40 CFR §262.34(a)(1)(i) (2016)], by not complying with the requirements of Subpart BB Organic Air Emission Standards for Equipment Leaks in Tenn. Comp. R. & Regs. 0400-12-01-.05(28)(o) [40 C.F.R. § 265.1064(b)(1)].

VI. STIPULATIONS

65. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

66. 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 (Factual Allegations);

    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.

67. For the purpose of this proceeding, Respondent:

    a. agrees that this CAFO states a claim upon which relief may be granted against Respondent, but Respondent neither admits nor denies the alleged violations in this CAFO;

    b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;

    c. waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706;

    d. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the

CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;

e. waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to the EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO; and

f. agrees to comply with the terms of this CAFO.

68. 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.

69. In accordance with 40 C.F.R. § 22.5, the individuals named in the certificate of service are authorized to receive service related to this proceeding and the parties agree to receive service by electronic means.

VII. TERMS OF PAYMENT

70. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **TWENTY-EIGHT THOUSAND, FIVE HUNDRED DOLLARS ($28,500.00)**, which is to be paid within thirty (30) calendar days of the Effective Date of this CAFO.

71. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Facility name and docket number for this matter shall be referenced on the face of the check.

a. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

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

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

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
Mail Station: SL-MO-C2-GL

St. Louis, Missouri 63101
Contact Number: (314) 425-1819

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

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

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

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

72. Respondent shall send proof of payment, within 72 hours of payment of the civil penalty, to:

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

and

Javier García, Environmental Engineer
Chemical Safety and Land Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
garcia.javiar@epa.gov

73. "Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with the Facility name and "Docket No. **RCRA-04-2021-2101(b)**."

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

    a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days of the Effective Date of this CAFO, Interest is waived. However, if the civil penalty is not paid in full within 30 days, Interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued Interest are paid. Interest will be assessed at the rate of the United States Treasury tax and loan rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b)(2), and 40 C.F.R. § 13.11(a).

    b. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of not more than six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid, as provided in 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 901.9(d). This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (c) and will be assessed monthly. 40 C.F.R. § 13.11(c).

    c. Monthly Handling Charge. Respondent must pay a late payment handling charge to cover the administrative costs of processing and handling the delinquent claim, based on either actual or average cost incurred. 31 C.F.R. § 901.9(b)(c), and 40 C.F.R. § 13.11(b). Administrative costs will be assessed monthly throughout the period the debt is overdue except as provided by 40 C.F.R. § 13.12.

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

    a. refer the debt to a credit reporting agency or a collection agency, 40 C.F.R. §§ 13.13 and 13.14;

    b. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H;

    c. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17; and/or

    d. refer the debt to the Department of Justice as provided in 40 C.F.R. § 13.33. In any such judicial action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

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

VIII. EFFECT OF CAFO

77. 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.

78. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. § 22.18(c).

79. 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).

80. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.

81. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.

82. 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.

83. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, authorized representatives, successors, and assigns.

84. 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.

85. 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.

86. 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.

87. 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.

88. By signing this Consent Agreement, Respondent certifies, to the best of its knowledge, 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.

89. The EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA. If such false or inaccurate material was provided, the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

90. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

91. 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

92. 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 and service to Respondent.

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Complainant and Respondent will Each Sign on Separate Pages.]

The foregoing Consent Agreement In the Matter of **Denso** Manufacturing Tennessee, Inc., Docket No. **RCRA-04-2021-2101(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Signature

9-9-21
Date

Printed Name: Shawn Bryant

Title: Senior Manager North America Safety Health and Environment

Address: 1720 Robert C. Jackson Drive, Maryville, TN 37801

The foregoing Consent Agreement In the Matter of **Denso** Manufacturing Tennessee, Inc., Docket No. **RCRA-04-2021-2101(b),** is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

KIMBERLY BINGHAM

Digitally signed by KIMBERLY BINGHAM
Date: 2021.09.14 16:44:12 -04'00'

Kimberly L. Bingham
Chief
Chemical Safety and Land Enforcement Branch

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: **Denso** Manufacturing Tennessee, Inc. 1725 Robert C Jackson Drive Maryville, Tennessee 37801 EPA ID No.: **TND982142275** Respondent.	Docket No. **RCRA-04-2021-2101(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

Digitally signed by TANYA FLOYD
Date: 2021.09.14 19:04:01 -04'00'

Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, in the Matter of **Denso** Manufacturing Tennessee, Inc., Docket No. **RCRA-04-2021-2101(b)**, were filed and copies of the same were emailed to the parties as indicated below.

Via email to all parties at the following email addresses:

To Respondent:

John W. Dawson IV, Attorney
Bass, Berry & Sims
jdawson@bassberry.com
150 Third Avenue South, Suite 2800
Nashville, Tennessee 37201
(615) 742-7796

To EPA:

Javier García, Environmental Engineer
garcia.javier@epa.gov
(404) 562-8616

Ximena Vasquez, Associate Regional Counsel
vasquez.maria-ximena@epa.gov
(404) 562-9548

Quantindra Smith
Smith.Quantindra@epa.gov
(404) 562-8564

U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

SHANNON RICHARDSON

Digitally signed by SHANNON RICHARDSON
Date: 2021.09.15 06:48:42 -04'00'

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