UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: **Sheboygan Paint Company,** **608 Canal Street, Cedartown,** **Georgia, 30125,** EPA ID No.: **GAD118273945** Respondent.	Docket No. **RCRA-04-2024-4000(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 or the Act), 42 U.S.C. § 6928(a), 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 Respondent's admission of violation or 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 (EPA) 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 **Sheboygan Paint Company**, a corporation doing business in the **State** of Georgia. This proceeding pertains to Respondent's facility located at **608 Canal Street, Cedartown, Georgia 30125** (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 in the Georgia Hazardous Waste Management Act (GHWMA), Ga. Code Ann. §§ 12-8-60 *et seq.*, and Georgia Hazardous Waste Management Rules (GHWMR), 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) of RCRA, 42 U.S.C. § 6928(a). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.

9. 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.

10. 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.

11. 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. 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 wastes 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 261.24], 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 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.

18. 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].

19. Listed hazardous wastes include the F-Listed wastes from nonspecific sources identified in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.31].

20. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(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 identified with the EPA Hazardous Waste Number F003.

21. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(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 identified with the EPA Hazardous Waste Number F005.

22. 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.

23. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], a "facility" includes "all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.

24. Pursuant to Ga. Code Ann. § 12-8-62(18) [40 C.F.R. § 260.10], a "person" includes a corporation**.**

25. 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."

26. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], "solvent-contaminated wipes" means: (1) a wipe that, after use or after cleaning up a spill, either (i) contains one of the F001 through F005 solvents listed in 40 C.F.R. § 261.31 or the corresponding P- or U- listed solvents found in 40 C.F.R. § 261.33; (ii) exhibits a hazardous characteristic found in 40 C.F.R. Part 261, Subpart C when that characteristic results from a solvent listed in 40 C.F.R. Part 261; and/or (iii) exhibits only the hazardous waste characteristic of ignitability found in 40 C.F.R. § 261.21 due to the presence of one or more solvents that are not listed in 40 C.F.R. Part 261. (2) Solvent-contaminated wipes that contain listed hazardous waste other than solvents, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents, are not eligible for the exclusions at Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.4(a)(26)] and Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.4(b)(18)].

27. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], "universal waste" includes the following hazardous wastes that are managed under the universal waste requirements of Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. Part 273]: batteries as described in Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.2], pesticides as described in Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.3], mercury-containing equipment as described in Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.4],lamps as described in Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.5], and aerosol cans as described in Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.6].

28. Pursuant to 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-.18 [40 C.F.R. § 273.9], a "lamp," also referred to as "universal waste lamp," is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

29. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], a "universal waste handler" includes a generator of universal waste.

30. Pursuant to Ga. Code Ann. § 12-8-62(15) [40 C.F.R. § 260.10], a large quantity generator of hazardous waste (LQG) is a generator who generates greater than or equal to 1,000 kilograms (2,200 pounds) of non-acute hazardous waste in a calendar month.

31. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.4(b)(18)], solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation, provided that the conditions listed in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40

C.F.R. § 261.4(b)(18)] are met (hereinafter referred to as the "Solvent-Contaminated Disposable Wipe Exclusion").

32. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.4(b)(18)(i)], which is a condition of the Solvent-Contaminated Disposable Wipe Exclusion, solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation provided that solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes." The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions.

33. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.4(b)(18)(ii)], which is a condition of the Solvent-Contaminated Disposable Wipe Exclusion, a generator may accumulate solvent-contaminated wipes for up to 180 days from the start date of accumulation for each container prior to being sent for disposal.

34. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.4(b)(18)(v)(B)], which is a condition of the Solvent-Contaminated Disposable Wipe Exclusion, generators must maintain at their site documentation that the 180-day accumulation time limit in 40 C.F.R. § 261.4(b)(18)(ii) is being met.

35. 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 make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations.

36. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.11(f)], a generator must maintain records supporting its hazardous waste determinations, including records that identify whether a solid waste is a hazardous waste, as defined by Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.3]. Records must be maintained for at least three years from the date that the waste was last sent for on-site or off-site treatment, storage, or disposal. These records must comprise the generator's knowledge of the waste and support the generator's determination, as described at paragraphs (c) and (d) of this section. The records must include, but are not limited to, the following types of information: The results of any tests, sampling, waste analyses, or other determinations made in accordance with this section; records documenting the tests, sampling, and analytical methods used to demonstrate the validity and relevance of such tests; records consulted in order to determine the process by which the waste was generated, the composition of the waste, and the properties of the waste; and records which explain the knowledge basis for the generator's determination, as described at paragraph (d)(1) of this section. The periods of record retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated

activity or as requested by the Georgia Environmental Protection Division (GAEPD) or the EPA.

37. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.15(a)], a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near 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 without having interim status, as required by Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.16(b) or § 262.17(a)], except as required by Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.15(a)(7) and (8)], provided that the generator complies with the satellite accumulation area (SAA) conditions listed in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.15(a)] (hereinafter referred to as the "SAA Permit Exemption").

38. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.15(a)(4)], which is a condition of the SAA Permit Exemption, a container holding hazardous waste must be closed at all times during accumulation, except: (i) when adding, removing, or consolidating waste; or (ii) when temporary venting of a container is necessary.

39. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.15(a)(5)(i)], which is a condition of the SAA Permit Exemption, a generator must mark or label its SAA containers with the words "Hazardous Waste."

40. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption, a generator must mark or label its SAA containers with an indication of the hazards of the contents.

41. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17], a LQG may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17] (hereinafter referred to as the "LQG Permit Exemption").

42. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(1)(iv)(A)], which is a condition of the LQG Permit Exemption, a container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste.

43. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(1)(v)], which is a condition of the LQG Permit Exemption, a generator is required to, at least weekly, inspect central accumulation areas (CAAs) looking for leaking containers and for deterioration of containers caused by corrosion or other factors.

44. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(5)(i)(A)], which is a condition of the LQG Permit Exemption, a generator must mark or label its containers with the words "Hazardous Waste."

45. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(5)(i)(B)], which is a condition of the LQG Permit Exemption, a generator must mark or label its containers with an indication of the hazards of the contents.

46. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(5)(i)(C)], which is a condition of the LQG Permit Exemption, a generator must mark or label its containers with the date upon which each period of accumulation begins clearly visible for inspection on each container.

47. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(7)(iv)], which is a condition of the LQG Permit Exemption, the LQG must maintain the following documents and records at the facility: (A) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; (B) A written job description for each position; (C) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position; and (D) Records that document that the training or job experience, required in this section, has been given to, and completed by, facility personnel.

48. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(6)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. *§* 262.256(b)], and is a condition of the LQG Permit Exemption, a generator must maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency.

49. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(6)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.262(b)], and is a condition of the LQG Permit Exemption, a LQG that is amending its contingency plan must at that time submit a quick reference guide of the contingency plan to the local emergency responders.

50. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(6)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.263(d)], and is a condition of the LQG Permit Exemption, a generator is required to review and immediately amend its contingency plan, if necessary, whenever the list of emergency coordinators changes.

51. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(1)(i)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1083(a)], and is a condition of the LQG Permit Exemption, a generator shall determine the average volatile organic (VO) concentration of hazardous waste at the point of waste origination using the procedures specified in 40 C.F.R. § 265.1083(c)(1).

52. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(1)(i))], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1087(c)(1)(ii)], and is a condition of the LQG Permit Exemption, a generator using Container Level 1 controls must ensure that the cover and closure devices are secured in the closed position and that there are no visible holes, gaps, or other open spaces into the interior of the container.

53. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.9], a small quantity handler of universal waste (SQHUW) is a universal waste handler who does not accumulate 5,000

kilograms or more of universal waste (batteries, pesticides, mercury-containing equipment, lamps, or aerosol cans, calculated collectively) at any time.

54. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.13(d)(1)], a SQHUW must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment by containing any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

55. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.14(e)], a SQHUW must label or mark each lamp or container of lamps clearly with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamps."

56. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.15(a) and (c)], a SQHUW may accumulate universal waste no longer than one year and must be able to demonstrate the length of time that the universal waste has accumulated from the date that it became a waste or was received.

IV. FINDINGS OF FACTS

57. Respondent owns and operates a water-based and solvent-based paint manufacturing facility, producing over one million gallons of paint per year. Respondent manufactures paint by first pre-mixing raw materials (resin, pigments, and solvent), which results in a concentrated form of coating with a high load of pigment. Sand mills are used to grind the pigment to make it finer and to produce a higher gloss. Certain additives (resin, solvent, and other additives) are added and mixed into the concentrated pigment in an area called the "Letdown." A sample of the paint mixture is then taken to the quality control (QC) laboratory to make sure the mixture meets all customer specifications. The paint is then filled in tubs or containers and considered finished goods. Paint mixtures that are not up to customer specifications are staged in a "Work Off" area where it is determined if the material can be salvaged and used in the manufacturing process.

58. Respondent generates hazardous "waste paint-related material," which it identifies with the EPA Hazardous Waste Code D001; hazardous waste methyl ethyl ketone, which it identifies with the EPA Hazardous Waste Code D035; hazardous waste xylene, which it identifies with the EPA Hazardous Waste Code F003; and hazardous waste toluene, which it identifies with the EPA Hazardous Waste Code F005.

59. Respondent generates universal waste spent fluorescent lamps.

60. Respondent accumulates less than 5,000 kilograms of universal waste and therefore is a SQHUW.

61. Respondent generates 1,000 kilograms or more of hazardous waste in a calendar month and has been operating as a LQG at the Facility since 1985.

62. On May 31, 2023, the EPA and the Georgia Environmental Protection Division (GAEPD) conducted a RCRA compliance evaluation inspection (CEI) at Respondent's Facility.

63. On August 2, 2023, the EPA mailed Respondent an Opportunity to Show Cause Letter and a CEI Report documenting its findings from the May 31, 2023 CEI.

64. During the CEI, inspectors observed the following containers of solvent-contaminated wipes without an "Excluded Solvent-Contaminated Wipes" label or an accumulation start date: a 30-gallon red container labeled "Dirty Rags" next to the Tub Wash; two 55-gallon containers labeled "dirty rags" on the Loading Dock outside of Warehouse A; one 55-gallon container near the Baghouse; one 5-gallon container labeled "dirty rags" in the Milling Area; and one5-gallon container labeled "dirty rags" in the QC Laboratory.

65. At the time of the CEI, the inspectors observed that hazardous waste determinations had not been conducted for the following wastes: 24 containers varying in size (one quart to five gallons) on a wooden pallet in an undesignated CAA in the Breezeway in between the North and South Buildings (Breezeway CAA); two wooden pallets stacked with containers varying in size from one to five gallons, and several bags and boxes containing material with some containers being marked with a DOT hazardous material label in Warehouse B; and two 55-gallon closed containers labeled "dirty mop heads" outside of Warehouse A.

66. At the time of the CEI, the inspectors observed that records supporting hazardous waste determinations, including records that identify whether a solid waste is a hazardous waste, were not being maintained for dust collector waste.

67. At the time of the CEI, the inspectors observed two 55-gallon containers of solvent waste labeled "hazardous waste" staged near the Baghouse and Premix Area that were not at or near any point of generation where wastes initially accumulate under the control of the operator of the process generating the waste.

68. At the time of the CEI, the inspectors observed the following open containers of hazardous wastes in SAAs: one 55-gallon container of sludge waste in the Tub Wash Area; one5-gallon container of Gloss Black DTM Epoxy Coating with about 1 ½ inches of material inside the container on the Loading Dock outside of Warehouse A; one 55-gallon container of solvent waste in the Premix Area; two 55-gallon containers of solvent waste in the Baghouse Area; and three 55-gallon containers of hazardous waste in the Filling Area next to the Letdown Area.

69. At the time of the CEI, the inspectors observed the following containers of hazardous waste in SAAs that were not labeled with the words "Hazardous Waste": one55-gallon open container of sludge waste in the Tub Wash area; one 55-gallon container of highly concentrated solvent waste in Warehouse A; one 5-gallon open container of Gloss Black DTM Epoxy Coating with about 1 ½ inches of material inside the container on the Loading Dock outside of Warehouse A; and one 55-gallon container labeled Blade Wash in the Milling Area.

70. At the time of the CEI, the inspectors observed the following containers of hazardous waste in SAAs that were missing an indication of the hazards of the contents on their containers: one55-gallon open container of sludge waste in the Tub Wash area; one 5-gallon open container of Gloss Black DTM Epoxy Coating with about 1 ½ inches of material inside the container on the Loading Dock outside of Warehouse A; one 55-gallon container of solvent waste in the Premix Area; two 55-gallon containers of solvent waste labeled "hazardous waste" next to the Baghouse; one 55-gallon container labeled Blade Wash in the Milling Area; and four 55-gallon containers labeled "Hazardous Waste" in the Filling Area.

71. At the time of the CEI, the inspectors observed two 55-gallon containers with an accumulation start date of February 19, 2023, indicating that the containers of hazardous waste had been stored in the Facility's designated CAA for 101 days, which exceeds the 90 days allowed by the LQG Permit Exemption.

72. At the time of the CEI, the inspectors observed two 55-gallon containers of ignitable hazardous waste in the Breezeway CAA, that were not securely closed with an actual solid lid, but instead were covered with plastic.

73. At the time of the CEI, the inspectors observed the following containers of hazardous waste in both CAAs not labeled with the words "Hazardous Waste": seven 55-gallon containers of hazardous waste in the Breezeway CAA; and one 55-gallon container in the designated CAA.

74. At the time of the CEI, the inspectors observed one 55-gallon container of hazardous waste which did not have a label on it and was not marked with an indication of the hazards of the contents in the designated CAA.

75. At the time of the CEI, the inspectors observed the following hazardous waste containers that were not marked or labeled with a date for which each period of accumulation began: seven 55-gallon containers of hazardous waste in the Breezeway CAA; and one 55-gallon container in the designated CAA.

76. At the time of the CEI, Respondent was not able to provide job descriptions for employees handling hazardous waste, written descriptions of the type and amount of both introductory and continuing training to be given to each person filling the positions, and training records for 2021 and 2023.

77. At the time of the CEI, Respondent was not able to provide records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency.

78. At the time of the CEI, Respondent had not developed a quick reference guide (QRG) after amending its contingency plan in 2021.

79. At the time of the CEI, Respondent had not amended its contingency plan after the primary emergency coordinator had left the company.

80. At the time of the CEI, Respondent did not determine the average VO concentration using the procedures specified in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1083(c)(1)] for two 55-gallon containers labeled "solvent waste" that were marked with an indication of the hazard of the contents in the Breezeway CAA.

81. At the time of the CEI, the inspectors observed two 55-gallon containers labeled "solvent waste" and marked with an indication of the hazard of the contents in the Breezeway CAA without container Level 1 controls such as a cover and closure devices that form a continuous barrier over the container openings such that there are no visible holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position.

82. At the time of the CEI, the inspectors observed 10 spent fluorescent bulbs in an open container, which were not labeled with the words "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamps" and were not marked with an accumulation start date, in the Maintenance Room. Respondent was unable to demonstrate the length of time that the universal waste had been accumulated.

V. ALLEGED VIOLATIONS

83. Respondent is a "person" as defined in Ga. Code Ann. §12-8-62(18) [40 C.F.R. § 260.10].

84. Respondent is the "owner" and "operator" of a "facility" located at 608 Canal Street, Cedartown, Georgia 30125, as those terms are defined in Ga. Comp. R. and Regs 391-3-11-.02(1) [40 C.F.R. § 260.10].

85. Respondent generates wastes that are "solid wastes" as defined Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.2].

86. 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].

87. Respondent is a "small quantity handler of universal waste" (SQHUW) as described in Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.9].

88. Respondent is a "LQG" of hazardous waste as that term is defined in Ga. Code Ann. § 12-8-62(15) [40 C.F.R. § 260.10].

89. Respondent failed to label the following containers of excluded solvent-contaminated wipes with the words "Excluded Solvent-Contaminated Wipes" or to document their accumulation start dates: a 30-gallon red container of solvent-contaminated wipes labeled "Dirty Rags" next to the Tub Wash; two 55-gallon containers of solvent-contaminated wipes labeled "dirty rags" on the Loading Dock outside of Warehouse A; one 55-gallon container of solvent-contaminated wipes near the Baghouse; one 5-gallon container of solvent-contaminated wipes labeled "dirty rags" in the Milling Area; and one 5-gallon container of solvent-contaminated wipes labeled "dirty rags" in the QC Laboratory. The EPA therefore alleges that Respondent violated 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 did not meet the conditions of Solvent-Contaminated Disposable Wipe Exclusion pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.4(b)(18)(i) and (v)(B)] by failing to label containers of excluded solvent-contaminated wipes with the words "Excluded Solvent-Contaminated Wipes" or to document their accumulation start dates.

90. Respondent failed to make an accurate hazardous waste determination for the following waste: 24 containers varying in size (one quart to five gallons) on a wooden pallet in the Breezeway CAA; two wooden pallets stacked with containers varying in size from one to five gallons, and several bags and boxes containing material with some containers being marked with a DOT hazardous material label in Warehouse B; and two 55-gallon closed containers labeled "dirty mop heads" outside of Warehouse A.

91. 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 an accurate hazardous waste determination.

92. Respondent failed to maintain records supporting hazardous waste determinations, including records that identify whether dust collector waste is a solid waste and/or hazardous waste. The EPA therefore alleges that Respondent violated Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.11(f)] by failing to maintain records supporting hazardous waste determinations.

93. Respondent failed to manage and store two 55-gallon containers of hazardous spent solvent waste located near the Baghouse and Premix Area 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. The EPA therefore alleges that Respondent violated 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 manage the two 55-gallon containers of hazardous waste near the Baghouse and Premix Area at or near the point of generation and under the control of the operator of the process generating the waste as required by Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.15(a)], which is a condition of the SAA Permit Exemption.

94. Respondent failed to keep containers of hazardous waste closed at all times except when adding or removing waste in the following SAAs: one 55-gallon container of sludge waste in the Tub Wash Area; one 5-gallon container of Gloss Black DTM Epoxy Coating with about 1 ½ inches of material inside the container on the Loading Dock outside of Warehouse A; one 55-gallon container of solvent waste in the Premix Area; two 55-gallon containers of solvent waste in the Baghouse Area; and three 55-gallon containers of hazardous waste in the Filling Area next to the Letdown Area. The EPA therefore alleges that Respondent violated Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to keep containers of hazardous waste closed at all times during accumulation, except when adding, removing, or consolidating waste, as required by Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.15(a)(4)], which is a condition of the SAA Permit Exemption.

95. Respondent failed to mark or label containers of hazardous waste with the words "Hazardous Waste" in the following SAAs: one 55-gallon open container in the Tub Wash area; one 55-gallon container in Warehouse A; one 5-gallon open container on the Loading Dock outside of Warehouse A; and one 55-gallon container in the Milling Area. The EPA therefore alleges that Respondent violated 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 mark or label containers with the words "Hazardous Waste," as required by Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.15(a)(5)(i)], which is a condition of the SAA Permit Exemption.

96. Respondent failed to mark or label containers of hazardous waste with an indication of the hazards of the contents in the following SAAs: one 55-gallon open container in the Tub Wash area; one 5-gallon open container on the Loading Dock outside of Warehouse A; one 55-gallon container in the Premix Area; two 55-gallon containers next to the Baghouse; one 55-gallon container in the Milling Area; and four55-gallon containers in the Filling Area. The EPA therefore alleges that Respondent violated 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 mark or label containers with indications of the hazards of the contents, as required by Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption.

97. Respondent accumulated two 55-gallon containers of hazardous waste onsite in excess of 90 days. The EPA therefore alleges that Respondent violated 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 the conditions of the LQG Permit Exemption as required by Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)], by storing containers of hazardous waste in excess of 90 days.

98. Respondent failed to keep two hazardous waste containers in the Breezeway CAA closed at all times with a secure lid during accumulation except when it is necessary to add or remove waste. The EPA therefore alleges that Respondent violated Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to keep containers of hazardous waste closed during accumulation, except when it is necessary to add or remove waste, as required by Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(1)(iv)(A)], which is a condition of the LQG Permit Exemption.

99. Respondent failed to mark or label the following containers of hazardous waste with the words "Hazardous Waste": seven 55-gallon containers of hazardous waste in the Breezeway CAA and one 55-gallon container in the designated CAA. The EPA therefore alleges that Respondent violated 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 mark or label containers of hazardous waste with the words "Hazardous Waste," as required by Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(5)(i)(A)], which is a condition of the LQG Permit Exemption.

100. Respondent failed to mark or label one 55-gallon container of hazardous waste in the designated CAA with an indication of the hazards of the contents. The EPA therefore alleges that Respondent violated 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 mark or label a container of hazardous waste with an indication of the hazards of the contents, as required by Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(5)(i)(B)], which is a condition of the LQG Permit Exemption.

101. Respondent failed to mark or label the following hazardous waste containers with an accumulation start date: seven 55-gallon containers of hazardous waste in the Breezeway CAA and one 55-gallon container in the designated CAA. The EPA therefore alleges that Respondent violated 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 mark or label containers of hazardous waste with an accumulation start date, as required by Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(5)(i)(C)], which is a condition of the LQG Permit Exemption.

102. Respondent failed to provide job descriptions for employees handling hazardous waste, written descriptions of the type and amount of both introductory and continuing training to be given to each person filling the positions, and training records for 2021 and 2023. The EPA therefore alleges that Respondent violated Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by failing to provide job descriptions for employees handling hazardous waste, written descriptions of the type and amount of both introductory and continuing training to be given to each person filling the positions, and training records as required by Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(7)(iv)].

103. Respondent failed to provide records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. The EPA therefore alleges that Respondent violated Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(6)], by not providing records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency, as required by Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.256(b)].

104. Respondent failed to submit a QRG of the contingency plan to the local emergency responders after amending its contingency plan in 2021. The EPA therefore alleges that Respondent violated Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(6)], by failing to develop a QRG after amending its contingency plan in 2021, as required by Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.262(b)].

105. Respondent failed to amend its contingency plan after the primary emergency coordinator had left the company. The EPA therefore alleges that Respondent violated Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(6)], by not amending its contingency plan as required by Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.263(d)].

106. Respondent failed to determine the average VO concentration using the procedures specified in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1083(c)(1)] for two 55-gallon containers of solvent waste in the Breezeway CAA. The EPA therefore alleges that Respondent violated Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(1)(i)], by not complying with the organic air emission standards provided in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1083(c)(1)].

107. Respondent failed to install container Level 1 controls (such as a cover and closure devices that form a continuous barrier over the container openings such that when the cover and closure devices are secured in the closed position there are no visible holes, gaps, or other open spaces into the interior of the container) on two 55-gallon containers labeled “solvent waste” in the

Breezeway CAA. The EPA therefore alleges that Respondent violated Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.17(a)(1)(i)], by not complying with the organic air emission standards provided in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.1087(c)(1)(ii)].

108. Respondent failed to close a container of 10 spent fluorescent bulbs in the Maintenance Room. The EPA therefore alleges that Respondent violated Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R § 273.13(d)(1)], by failing to manage spent universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment.

109. Respondent failed to mark or label a container of 10 spent fluorescent bulbs in the Maintenance Room with the words "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamps." The EPA therefore alleges that Respondent Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.14(e)], by failing to label or mark each lamp or container of lamps clearly with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamps."

110. Respondent failed to demonstrate the length of time that a container of 10 spent fluorescent bulbs in the Maintenance Room had been stored.The EPA therefore alleges that Respondent violated Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.15(a) and (c)], by failing to demonstrate the length of time that the Facility's universal waste had been accumulated from the date that the universal waste became a waste or was received.

VI. STIPULATIONS

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

112. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

    a. admits that the EPA has jurisdiction over the subject matter alleged in this CAFO;

    b. neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;

    c. consents to the assessment of a civil penalty as stated below;

    d. consents to the conditions specified in this CAFO;

    e. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and

    f. waives its rights to appeal the Final Order accompanying this CAFO.

113. For the purpose of this proceeding, Respondent:

    a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;

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

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

d. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;

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

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

114. 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.

115. 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

116. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **$74,100.00**, which is to be paid within 30 days of the Effective Date of this CAFO.

117. 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 standard U.S. Postal Service delivery, the payment shall be addressed to:

U.S. Environmental Protection Agency
P.O. Box 979078
St. Louis, MO63197-9000

b. If Respondent sends payment by non-standard mail delivery (*e.g.*, FedEx, DHL, UPS, USPS certified, registered, etc.), the payment shall be sent to:

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, MO 63045

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, NY10045
Beneficiary: 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, MD20737
REX (Remittance Express): 1-866-234-5681

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

Regional Hearing Clerk
R4_Regional_Hearing_Clerk@epa.gov

and

Kayla Acosta, Enforcement and Compliance Assurance Division,
Chemical Safety and Land Enforcement Branch
acosta.kayla@epa.gov

118. "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-04-2024-4000**(b)."

119. 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 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 90 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(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.

120. 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 (*see* 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 (*see* 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 (*see* 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.

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

122. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, the EPA is required to send a completed Form 1098-F ("Fines, Penalties, and Other Amounts") to the Internal Revenue

Service (IRS) annually with respect to any court order and settlement agreement (including administrative settlements), that requires a payor to pay an aggregate amount that the EPA reasonably believes will be equal to, or in excess of, $50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." The EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (for example, a copy of Form 1098-F).In order to provide the EPA with sufficient information to enable it to fulfill these obligations, the EPA herein requires, and Respondent herein agrees, that:

a. Respondent shall complete a Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at https://www.irs.gov/pub/irs-pdf/fw9.pdf;

b. Respondent shall therein certify that its completed Form W-9 includes Respondent's correct Tax Identification Number (TIN) or that Respondent has applied and is waiting for issuance of a TIN;

c. Respondent shall email its completed Form W-9 to EPA's to Cincinnati Finance Center Region 4's contact, Jessica Henderson (Henderson.Jessica@epa.gov), on or before the date that Respondent's initial penalty payment is due, pursuant to Paragraph 116 of this CAFO, and the EPA recommends encrypting Form W-9 email correspondence; and

d. In the event that Respondent has certified in its completed Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent by the date that its initial penalty payment is due, then Respondent, using the same email address identified in the preceding subparagraph, shall further:

    i. notify the EPA's Cincinnati Finance Center of this fact, via email, by the date that Respondent's initial penalty payment is due; and
    ii. provide the EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five days of Respondent's issuance and receipt of the TIN.

Failure to comply with providing Form W-9 or TIN may subject Respondent to a penalty. *See* 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1.

VIII. EFFECT OF CAFO

123. 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.

124. Full payment of the civil penalty, as provided in Section VII (Terms of Payment) shall satisfy the requirements of this CAFO; but, 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).

125. 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).

126. 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.

127. 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.

128. 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.

129. The provisions of this CAFO shall apply to and be binding upon Respondent and its successors and assigns. Respondent shall direct its officers, directors, employees, agents, trustees, and authorized representatives to comply with the provisions of this CAFO, as appropriate.

130. 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.

131. 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.

132. By signing this Consent Agreement, the Complainant and the undersigned representative of Respondent each certify that one is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party one represents to this CAFO.

133. 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.

134. 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.

135. 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 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.

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

137. 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

138. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Regional 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 **Sheboygan Paint Company**, Docket No. **RCRA-04-2024-4000**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Signature

4-19-24
Date

Printed Name: Paul Krueger

Title: President & CEO

Address: 1439 North 25th Street
Sheboygan, WI 53082

The foregoing Consent Agreement In the Matter of **Sheboygan Paint Company**, Docket No. **RCRA-04-2024-4000(b),** is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

ARACELI CHAVEZ Digitally signed by ARACELI CHAVEZ Date: 2024.05.16 11:12:24 -04'00'

_____

Araceli B. Chavez, Acting Chief
Chemical Safety and Land Enforcement Branch
Enforcement & Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: **Sheboygan Paint Company** **608 Canal Street, Cedartown, Georgia 30125** EPA ID No.: **GAD118273945** Respondent.	Docket No. **RCRA-04-2024-4000(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: 2024.05.16 13:28:50 -04'00'

_____

Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, In the Matter of **Sheboygan Paint Company**, Docket No. **RCRA-04-2024-4000(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:

Paul Krueger
President and CEO
Sheboygan Paint Company
pkrueger@shebpaint.com
1439 North 25th Street
Sheboygan, WI, 53081
920-458-2157

To EPA:

Kayla Acosta
Physical Scientist
acosta.kayla@epa.gov
404-562-8451

Joshua Lee
Associate Regional Counsel
lee.joshua@epa.gov
404-562-9255

Quantindra Smith
Environmental Protection Specialist
Smith.Quantindra@epa.gov
404-562-8564

SHANNON RICHARDSON

Digitally signed by SHANNON RICHARDSON
Date: 2024.05.21 08:01:47 -04'00'

Shannon L. Richardson, Regional Hearing Clerk
R4_Regional_Hearing_Clerk@epa.gov