UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: **The Sherwin Williams Company,** **400 Bert Schulz Boulevard, Winter Haven, Florida 33881** EPA ID No.: **FLD984242453** Respondent.	Docket No. **RCRA-04-2024-4009(b)** Proceeding Under Section 3008(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a)

CONSENT AGREEMENT

I. NATURE OF ACTION

1. This is an administrative penalty assessment proceeding brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA 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 Director of the 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 **The Sherwin Williams Company**, an Ohio corporation doing business in the State of Florida. This proceeding pertains to Respondent's facility located at 400 Bert Schulz Boulevard, Winter Haven, Florida 33881 (Facility).

III. GOVERNING LAW

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Florida (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 Fla. Stat. §§ 403.702 - 403.7721 and Fla. Admin. Code R. 62-730.

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. Fla. Stat. § 403.721 [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 Fla. Admin. Code R. 62-730.160 [40 C.F.R. Part 262].

12. Fla. Stat. § 403.722 [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 Fla. Admin. Code R. 62-730.180(1) (permit) and Fla. Admin. Code R. 62-730.180(2) (interim status)] [40 C.F.R. Parts 264 (permit) and 265 (interim status)].

13. Pursuant to Fla. Admin. Code R. 62-730.030(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 Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. § 261.3], a solid waste is a "hazardous waste" if it meets any of the criteria set forth in Fla. Admin. Code R. 62-730.030(1)

[40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. § 261.4(b)].

15. Pursuant to Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.

16. Pursuant to Fla. Admin. Code R. 62-730.030(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 Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.

18. Pursuant to Fla. Admin. Code R. 62-730.030(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 Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for arsenic is identified with the EPA Hazardous Waste Number D004.

19. Pursuant to Fla. Admin. Code R. 62-730.030(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 Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for barium is identified with the EPA Hazardous Waste Number D005.

20. Pursuant to Fla. Admin. Code R. 62-730.030(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 Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for cadmium is identified with the EPA Hazardous Waste Number D006**.**

21. Pursuant to Fla. Admin. Code R. 62-730.030(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 Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for chromium is identified with the EPA Hazardous Waste Number D007.

22. Pursuant to Fla. Admin. Code R. 62-730.030(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 Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for lead is identified with the EPA Hazardous Waste Number D008.

23. Pursuant to Fla. Admin. Code R. 62-730.030(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 Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for benzene is identified with the EPA Hazardous Waste Number D018.

24. Pursuant to Fla. Admin. Code R. 62-730.030(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 Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for o-cresol is identified with the EPA Hazardous Waste Number D023.

25. Pursuant to Fla. Admin. Code R. 62-730.030(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 Fla. Admin. Code R. 62-730.030(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.

26. Pursuant to Fla. Admin. Code R. 62-730.030(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 Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. Part 261, Subpart D].

27. Pursuant to Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], listed hazardous wastes include the F-Listed wastes from nonspecific sources identified in Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. § 261.31]. Pursuant to Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. § 261.31], spent solvent mixtures containing, before use, a total of ten percent or more of acetone and xylene are listed hazardous wastes and are identified with the EPA Hazardous Waste Number F003.

28. Pursuant to Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], listed hazardous wastes include the F-Listed wastes from nonspecific sources identified in Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. § 261.31]. Pursuant to Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. § 261.31], spent solvent mixtures containing, before use, a total of ten percent or more of methyl ethyl ketone and toluene are listed hazardous wastes and are identified with the EPA Hazardous Waste Number F005.

29. Pursuant to Fla. Admin. Code R. 62-730.020(1) [40 C.F.R. § 260.10], "universal waste" includes batteries as described in Fla. Admin. Code Ann. R. 62-730.185(1) [40 C.F.R. § 273.2] and lamps as described in Fla. Admin. Code R. 62-730.185(1) [40 C.F.R. § 273.5] that are managed under the universal waste requirements of Fla. Admin. Code R. 62-730.185(1) [40 C.F.R. Part 273].

30. Pursuant to Fla. Admin. Code R. 62-730.020(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 Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.

31. Pursuant to Fla. Admin. Code R. 62-730.020(1) [40 C.F.R. § 260.10], a "large quantity generator" (LQG) includes a generator who generates greater than or equal to 1,000 kilograms of non-acute hazardous waste in a calendar month.

32. Pursuant to Fla. Admin. Code R. 62-730.185(1) [40 C.F.R. § 273.9], a Large Quantity Handler of Universal Waste (LQHUW) is a universal waste handler who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, lamps, or aerosol cans, calculated collectively) at any time.

33. Pursuant to Fla. Admin. Code R. 62-730.020(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."

34. Pursuant to Fla. Admin. Code R. 62-730.020(1) [40 C.F.R. § 260.10], a "person" includes a corporation**.**

35. Pursuant to Fla. Admin. Code R. 62-730.020(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."

36. Pursuant to Fla. Admin. Code R. 62-730.020(1) [40 C.F.R. § 260.10], "storage" means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

37. Pursuant to Fla. Admin. Code R. 62-730.020(1) [40 C.F.R. § 260.10], a "container" is any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

38. Pursuant to Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.15(a)], a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.16(b) or § 262.17(a)], except as required by Fla. Admin. Code R. 62-730.160(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 Fla.

Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.15(a)] (hereinafter referred to as the "SAA Permit Exemption").

39. Pursuant to Fla. Admin. Code R. 62-730.160(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 when adding, removing, or consolidating waste; or when temporary venting of a container is necessary for the proper operation of equipment, or to prevent dangerous situations, such as build-up of extreme pressure.

40. Pursuant to Fla. Admin. Code R. 62-730.160(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 containers with an indication of the hazards of the contents.

41. Pursuant to Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17], an LQG may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17] (hereinafter referred to as the "LQG Permit Exemption").

42. Pursuant to Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)], which is a condition of the LQG Permit Exemption, a generator may accumulate hazardous waste on site for no more than 90 days.

43. Pursuant to Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(1)(ii)], which is a condition of the LQG Permit Exemption, if a container holding hazardous waste is not in good condition, or if it begins to leak, the generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way that complies with the conditions of the LQG Permit Exemption.

44. Pursuant to Fla. Admin. Code R. 62-730.160(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.

45. Pursuant to Fla. Admin. Code R. 62-730.160(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 Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(5)(i)(C)], which is a condition of the LQG Permit Exemption, a generator must mark the date upon which each period of accumulation begins clearly visible for inspection on each container.

47. Pursuant to Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], which incorporates Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.262(a)] and is a condition of the LQG Permit Exemption, the generator must submit a copy of the contingency plan and all revisions to all local emergency responders (*i.e.,* police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services).

48. Pursuant to Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], which incorporates Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.262(b)(4)] and is a condition of the LQG Permit Exemption, a generator's quick reference guide to the contingency plan must include a map of the facility showing where hazardous wastes are generated, accumulated, and treated and routes for accessing these wastes.

49. Pursuant to Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], which incorporates Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.263(d)] and is a condition of the LQG Permit Exemption, the contingency plan must be reviewed, and immediately amended, if necessary, whenever the list of emergency coordinators changes.

50. Pursuant to Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(7)(i)(A)], which is a condition of the LQG Permit Exemption, facility personnel must successfully complete a program of classroom instruction, online training (*e.g.,* computer-based or electronic), or on-the-job training that teaches them to perform their duties in a way that ensures compliance with Fla. Admin. Code. R. 62-730.160 [40 C.F.R. Part 262].

51. Pursuant to Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(7)(iv)(A)], which is a condition of the LQG Permit Exemption, the generator must maintain documents and records of the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job.

52. Pursuant to Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(7)(iv)(B)], which is a condition of the LQG Permit Exemption, the generator must maintain a written job description for each position listed under Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(7)(iv)(A)]. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position.

53. Pursuant to Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.20(a)(1)], a generator that transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, must prepare a Uniform Hazardous Waste Manifest (UHWM) (OMB Control Number 2050–0039) on EPA Form 8700–22, and, if necessary, EPA Form 8700–22A.

54. Pursuant to Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(9)], which incorporates Fla. Admin. Code R. 62-730.183(1) [40 C.F.R. § 268.7(a)(2)] and is a condition of the LQG Permit Exemption, a generator of hazardous waste must determine if the waste has to be treated before it can be land disposed. If the waste or contaminated soil does not meet the treatment standards, or if the generator chooses not to make the determination of whether his waste must be treated, with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste and place a copy in the file.

55. Pursuant to Fla. Admin. Code R. 62-730.185(1) [40 C.F.R. § 273.34(a)], a LQHUW must clearly label or mark universal waste batteries (*i.e.*, each battery), or a container or tank in which the batteries are contained, with any one of the following phrases: "Universal Waste - Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)."

56. Pursuant to Fla. Admin. Code R. 62-730.185(1) [40 C.F.R. § 273.35(c)], a LQHUW must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by following Fla. Admin. Code R. 62-730.185(1) [40 C.F.R. § 273.35(c)(1) through (6)].

57. Pursuant to Fla. Admin. Code R. 62-730.160(3), generators of hazardous waste who accumulate hazardous waste on-site under Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. §§ 262.16 and 262.17] must maintain written documentation of the required inspections. The generator shall keep the written documentation of the inspections for at least three years from the date of the inspection. At a minimum, this documentation shall include the date and time of the inspection, the legibly printed name of the inspector, the number of containers, the condition of the containers, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

58. Pursuant to Fla. Admin. Code R. 62-730.160(1), [40 C.F.R. § 262.17(a)(6)], which incorporates Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.255] and is a condition of the LQG Permit Exemption, the LQG must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

IV. FINDINGS OF FACTS

59. The Respondent is corporation that leases and operates a warehouse and distribution center for its manufactured latex, traffic, automotive, and marine paints and associated paint products that supplies The Sherwin Williams Company retail stores and other retail markets.

60. The Respondent's warehouse and distribution center is a facility located at 400 Bert Schulz Boulevard, Winter Haven, Florida 33881.

61. The Respondent generates 1,000 kilograms or more of hazardous wastes at the Facility in a calendar month. Hazardous wastes generated on-site are identified with one or more of the following Hazardous Waste Numbers: D001, D002, D004, D005, D006, D007, D008, D018, D023, D035, F003, and F005. Therefore, the Respondent is an LQG of hazardous waste.

62. The Respondent accumulates 5,000 kilograms or more total of universal waste at the Facility. Therefore, the Respondent is a large quantity handler of universal waste (LQHUW) batteries and lamps.

63. On March 21, 2023, the EPA and the FDEP conducted a compliance evaluation inspection (CEI) at the Respondent's Facility. The EPA's findings of the CEI were documented in a Report that was emailed to the Respondent on May 11, 2023.

64. Following the March 21, 2023, CEI, the Respondent provided additional information to the EPA and the FDEP in emails sent on April 23, 2023, May 11, 2023, July 6, 2023, July 28, 2023, August 30, 2023, and September 13, 2023. The EPA revised the May 11, 2023, Report to include findings related to the additional information that was submitted by the Respondent and emailed the revised Report to the Respondent on November 14, 2023.

65. At the time of the March 21, 2023, CEI, the inspectors observed one open 55-gallon container of hazardous waste paint liquid (D001, D005, D035, F003) in one of the Repour Room SAAs. The Respondent was not actively adding, removing, or consolidating waste in the open container.

66. At the time of the March 21, 2023, CEI, the inspectors observed one 55-gallon container of hazardous waste paint liquid (D001, D005, D035, F003), one 55-gallon container of hazardous waste paint solid (D001, D005, D035, F003), and one 55-gallon container of hazardous waste liquid from punctured aerosol cans (D001, D035) in the Repour Room SAAs. None of these containers were marked or labeled with an indication that the contents exhibit the hazard characteristic of toxicity.

67. At the time of the March 21, 2023, CEI, the inspectors observed that the Respondent had exceeded the maximum allowable 90-day accumulation time limit for two 55-gallon containers of hazardous waste, which were each marked with the accumulation start date of December 6, 2022, in the Central Accumulation Area.

68. At the time of the March 21, 2023, CEI, the inspectors observed one lead-acid battery, which was not in good condition and was leaking, in the Sit-down Equipment Battery Area near the Central Accumulation Area and two lead-acid batteries, which were not in good condition and were leaking, in the Sit-down Equipment Battery Area near the Facility Maintenance Shop. The batteries had not been immediately transferred to a container that was in good condition, or immediately managed in some other way that complies with the conditions of the LQG Permit Exemption.

69. At the time of the March 21, 2023, CEI, the inspectors observed one open, undated 30-gallon container, which was labeled with the words hazardous waste, in the Repour Room. The Respondent stated that the 10 to 15 gallons of waste spill material observed inside the container was returned to Respondent by a courier from the cleanup of a spill during transport. Respondent recontainerized the waste spilled material returned by the courier and determined it was hazardous waste. The Respondent was not actively adding, removing, or consolidating waste in this open container.

70. At the time of the March 21, 2023, CEI, the inspectors observed one 30-gallon container, which was labeled with the words hazardous waste and was accumulating 10 to 15-gallons of waste spill material, in the Repour Room, and 17 55-gallon containers, which were storing toxic

hazardous waste (D035), in the Central Accumulation Area. None of these containers were marked or labeled with an indication of the hazards of the contents.

71. At the time of the March 21, 2023, CEI, the Respondent did not provide records or evidence to demonstrate that a copy of the contingency plan and all revisions had been submitted to all local emergency responders (*i.e.,* police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services).

72. At the time of the March 21, 2023, CEI, the inspectors observed that the Respondent's quick reference guide to the contingency plan did not include a map of the Facility showing where hazardous wastes are generated, accumulated, and treated and routes for accessing these wastes.

73. At the time of the March 21, 2023, CEI, the inspectors observed that the individual who was identified in the contingency plan as the Emergency Coordinator had not been employed at the Facility since the summer of calendar year 2022, and that the Respondent had not amended the contingency plan when the list of emergency coordinators changed as a result of the identified Emergency Coordinator's departure from the Facility.

74. At the time of the March 21, 2023, CEI, the inspectors observed that the Respondent failed to provide records that employees filling positions at the Facility related to hazardous waste management had successfully completed a program of classroom instruction, online training (*e.g.,* computer-based or electronic), or on-the-job training that teaches them to perform their duties in a way that ensures compliance with Fla. Admin. Code R. 62-730.160 [40 C.F.R. Part 262].

75. At the time of the March 21, 2023, CEI, the inspectors observed that the Respondent failed to provide the job title for each position at the Facility related to hazardous waste management, and the name of the employee filling each job.

76. At the time of the March 21, 2023, CEI, the inspectors observed that the Respondent failed to provide a written job description for each position at the Facility related to hazardous waste management.

77. In response to inspectors' questions during the March 21, 2023, CEI, the Respondent provided in an email to the EPA and the FDEP, a HAZMAT Bill of Lading/Manifest documenting the Respondent's shipment of hazardous waste paint related material to a permitted hazardous waste treatment, storage, and disposal facility. The HAZMAT Bill of Lading/Manifest identified 53 containers of hazardous waste paint related material (D006, D007) in the shipment. At that time, the records for the shipment did not include a UHWM or an initial one-time written notice that the hazardous waste did not meet the treatment standards for land disposal.

78. In a follow up email to the EPA and the FDEP dated May 11, 2023, the Respondent provided a UHWM, which was submitted to the designated hazardous waste treatment, storage, and disposal facility in response to the inspectors' questions about the shipment described in

Paragraph 77. The UHWM documented the Respondent's shipment of 57 containers of hazardous waste paint related material (D001, D005, D006, D007, F001, F005), which included the 53 containers described in Paragraph 77, to a permitted hazardous waste treatment, storage, and disposal facility.

79. In a subsequent email to the EPA, the Respondent provided a written notice that the 57 containers of hazardous waste paint related material described in Paragraph 78 did not meet the treatment standards for land disposal. The notice was prepared in response to the inspectors' questions about the shipment described in Paragraph 78, and submitted to the designated hazardous waste treatment, storage, and disposal facility with the UHWM described in Paragraph 78.

80. At the time of the March 21, 2023, CEI, the inspectors observed 28 batteries with the product label "NexSys," four batteries with the product label "GEL," and six small security system batteries in the Central Accumulation Area, and two "GEL" batteries in the Trailer Maintenance Shop that were not labeled or marked with the words "Universal Waste – Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)".

81. At the time of the March 21, 2023, CEI, the Respondent did not provide records or evidence to demonstrate the length of time that the following batteries had been accumulated: 28 batteries with the product label "NexSys;" the four batteries with the product label "GEL;" and the six small security system batteries, which the inspectors observed in the Central Accumulation Area.

82. At the time of the March 21, 2023, CEI, the inspectors reviewed all available records of weekly inspections of the Central Accumulation Area from June 2022 to the time of the March 21, 2023, CEI. The inspectors observed that the records did not include inspections for the weeks of August 22, 2022, September 19, 2022, and March 6, 2023.

83. At the time of the March 21, 2023, CEI, the inspectors observed 20 55-gallon containers stored in the Central Accumulation Area without adequate aisle space to allow for inspection of the condition and labels of the individual containers.

V. ALLEGED VIOLATIONS

84. The Respondent is a "person" as defined in Fla. Admin. Code R. 62-730.020(1) [40 C.F.R. § 260.10].

85. The Respondent is the "owner" and "operator" of a "facility" located at 400 Bert Schulz Boulevard, Winter Haven, Florida 33881, as those terms are defined in Fla. Admin. Code R. 62-730.020(1) [40 C.F.R. § 260.10].

86. The Respondent is a "large quantity generator" of "hazardous waste," as those terms are defined in Fla. Admin. Code R. 62-730.020(1) and Fla. Admin. Code R. 62-730.030(1) [40 C.F.R. §260.10].

87. The inspectors observed one open 55-gallon container storing D001, D005, D035, and F003 hazardous waste paint liquid in the Repour Room SAA. The Respondent was not actively adding, removing, or consolidating waste in the container. The EPA therefore alleges that the Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to keep its container of hazardous waste closed in accordance with Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.15(a)(4)], which is a condition of the SAA Permit Exemption.

88. The inspectors observed one 55-gallon container of hazardous waste paint liquid (D001, D005, D035, F003), one 55-gallon container of hazardous waste paint solid (D001, D005, D035, F003), and one 55-gallon container of hazardous waste liquid from punctured aerosol cans (D001, D035) in the Repour Room SAAs. None of these containers were marked or labeled with an indication that the contents exhibit the hazardous characteristic of toxicity. The EPA therefore alleges that the Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to mark or label containers of hazardous waste with an indication of the hazards of the contents in accordance with Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption.

89. The inspectors observed two 55-gallon containers of hazardous waste, which were each marked with the accumulation start date of December 6, 2022, in the Central Accumulation Area. The EPA therefore alleges that the Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the storage time limit in Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)], which is a condition of the LQG Permit Exemption.

90. The inspectors observed one lead-acid battery, which was not in good condition, in the Sit-down Equipment Battery Area near the Central Accumulation Area and two lead-acid batteries, which were not in good condition, in the Sit-down Equipment Battery Area near the Facility Maintenance Shop. The leaking batteries had not been immediately transferred to a container that is in good condition, or immediately managed in some other way that complies with the conditions of the LQG Permit Exemption. The EPA therefore alleges that the Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the container management requirement in Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(1)(ii)], which is a condition of the LQG Permit Exemption.

91. The inspectors observed one open, undated 30-gallon container, which was labeled with the words hazardous waste and accumulating 10 to 15-gallons of waste spill material, in the Repour Room. The Respondent was not actively adding, removing, or consolidating waste in the open container. The EPA therefore alleges that the Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the container management requirement in Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(1)(iv)(A)], which is a condition of the LQG Permit Exemption.

92. The inspectors observed one 30-gallon container, which was labeled with the words hazardous waste and accumulating 10 to 15-gallons of waste spill material (D001, D005, D006, D007, D008, D035, F003, F005) in the Repour Room, and 17 55-gallon containers, which were storing toxic hazardous waste (D001, D035) in the Central Accumulation Area. None of these containers were marked or labeled with an indication of the hazards of the contents. The EPA therefore alleges that the Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the container marking requirement in Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(1)(iv)(B)], which is a condition of the LQG Permit Exemption.

93. The Respondent did not provide records or evidence to demonstrate that a copy of the contingency plan and all revisions had been submitted to all local emergency responders (*i.e.,* police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services) or to the Local Emergency Planning Committee. The EPA therefore alleges that the Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], by not complying with the local emergency responder notification requirements in Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.262(a)].

94. The inspectors observed that the Respondent's quick reference guide did not include a map of the Facility showing where hazardous wastes are generated, accumulated, and treated and routes for accessing these wastes. The EPA therefore alleges that the Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], by not complying with the quick reference guide requirements in Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.262(b)(4)].

95. The inspectors observed that the Respondent did not immediately amend the contingency plan when the list of emergency coordinators changed. The EPA therefore alleges that the Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], by not complying with the immediate contingency plan amendment requirements in Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.263(d)].

96. The Respondent did not provide records that employees at the Facility filling positions related to hazardous waste management had successfully completed a program of classroom instruction, online training (*e.g.,* computer-based or electronic), or on-the-job training that teaches them to perform their duties in a way that ensures compliance with Fla. Admin. Code R. 62-730.160 [40 C.F.R. Part 262]. The EPA therefore alleges that the Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the job training

requirements in Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(7)(i)(A)], which is a condition of the LQG Permit Exemption.

97. The Respondent failed to maintain the job title for each position at the Facility related to hazardous waste management, and the name of the employee filling each job. The EPA therefore alleges that the Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the recordkeeping requirements in Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(7)(iv)(A)], which is a condition of the LQG Permit Exemption.

98. The Respondent failed to maintain a written job description for each position at the Facility related to hazardous waste management. The EPA therefore alleges that the Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the recordkeeping requirements in Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(7)(iv)(B)], which is a condition of the LQG Permit Exemption.

99. The inspectors determined that the Respondent offered 57 55-gallon containers of hazardous waste paint related material (D001, D005, D006, D007, F003, F005) for transport for offsite treatment, storage, or disposal without a Manifest (OMB Control Number 2050–0039) on EPA Form 8700–22. The EPA therefore alleges that the Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the UHWM requirement in Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.20(a)(1)].

100. The inspectors determined that the Respondent shipped 57 containers of hazardous waste paint related material (D001, D005, D006, D007, F003, F005) that did not meet the treatment standards for land disposal without sending an initial one-time written notice to the hazardous waste treatment, storage, and disposal facility receiving the waste. The EPA therefore alleges that the Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(9)], by not complying with the land disposal restriction notification requirement in Fla. Admin. Code R. 62-730.183(1) [40 C.F.R. § 268.7(a)(2)].

101. The inspectors observed 28 batteries with the product label “NexSys”, four batteries with the product label “GEL,” and six small security system batteries in the Central Accumulation Area and two “GEL” batteries in the Trailer Maintenance Shop that were not labeled or marked with the words “Universal Waste Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies)”. The EPA therefore alleges that the Respondent violated Fla. Admin. Code R. 62-730.185(1) [40 C.F.R. § 273.34(a)] by failing to comply with the universal waste labeling requirements.

102. The Respondent did not provide records or evidence to demonstrate the length of time that 28 batteries with the product label “NexSys”, four batteries with the product label “GEL,” and six small security system batteries, which were observed in the Central Accumulation Area, had

been accumulated. The EPA therefore alleges that the Respondent violated Fla. Admin. Code R. 62-730.185(1) [40 C.F.R. § 273.35(c)] by failing to comply with requirement to demonstrate the length of time universal waste has been accumulated from the date it becomes a waste or is received at the Facility.

103. The Respondent did not provide any records of inspections of the Central Accumulation Area for the weeks of August 22, 2022, September 19, 2022, and March 6, 2023. The EPA therefore alleges that that the Respondent violated Fla. Admin. Code R. 62-730.160(3) by failing to maintain written documentation of the weekly container inspections required under Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17]..

104. The inspectors observed 20 55-gallon containers of hazardous waste stored in the Central Accumulation Area without adequate aisle space to allow for inspection of the condition and labels of the individual containers. The EPA therefore alleges that the Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], because the Respondent failed to maintain aisle space between containers of hazardous waste in accordance with Fla. Admin. Code R. 62-730.160(1) [40 C.F.R. § 262.255].

VI. STIPULATIONS

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

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

107. For the purpose of this proceeding, the Respondent:

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

b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering the 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 the 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; and

g. waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying the Consent Agreement.

108. By executing this CAFO, the Respondent certifies to the best of its knowledge that the 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.

109. 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

110. The Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **TWO HUNDRED THIRTEEN THOUSAND SEVEN HUNDRED AND FIFTY DOLLARS ($213,750.00)**, which is to be paid within 30 days of the Effective Date of this CAFO.

111. The Respondent shall pay the civil penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the following EPA website: https://www.epa.gov/financial/makepayment. For additional instructions, see:

https://www.epa.gov/financial/additional-instructions-making-payments-epa. In addition, the Respondent shall identify every payment with the Respondent's name and the docket number of this CAFO, Docket No. RCRA-04-2024-4008(b).

112. The 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

George McBroom
Enforcement and Compliance Assurance Division
Chemical Safety and Land Enforcement Branch
mcbroom.george@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctReceivable@epa.gov

113. "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 Respondent's name and "Docket No. **RCRA-04-2024-4009(b)**."

114. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if the 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, the 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); and

g. Monthly Handling Charge. The 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.

115. In addition to what is stated in the prior Paragraph, if the 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 the Respondent's licenses or other privileges, or suspend or disqualify the 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.

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

117. 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 the Respondent herein agrees, that:

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

c. The Respondent shall email its completed Form W-9 to EPA Region 4's Cincinnati Finance Center contact, Jessica Henderson (Henderson.Jessica@epa.gov), on or before the date that the Respondent's initial penalty payment is due, pursuant to Paragraph 110 of this CAFO, and the EPA recommends encrypting Form W-9 email correspondence; and

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

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

Failure to comply with providing Form W-9 or TIN may subject the 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

118. In accordance with 40 C.F.R. § 22.18(c), the Respondent's full compliance with this CAFO shall only resolve the Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

119. 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).

120. 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).

121. Nothing in this CAFO shall relieve the 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.

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

123. 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.

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

125. 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 the Respondent's obligations and responsibilities under this CAFO.

126. By signing this Consent Agreement, the 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.

127. By signing this Consent Agreement, the Complainant and the undersigned representative of the Respondent each certify that each person is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the Party represented by that person to this CAFO.

128. 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.

129. By signing this Consent Agreement, the 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. The 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.

130. 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 the 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 the Respondent

notice of its intent to revoke, which shall not be effective until received by the Respondent in writing.

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

132. 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**

133. 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.

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Complainant and Respondent will Each Sign on Separate Pages.]

The foregoing Consent Agreement In the Matter of **The Sherwin Williams Company**, Docket No. **RCRA-04-2024-4009(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Signature: _____ Date: April 24, 2025

Printed Name: Stephen J. Perisutti

Title: VP, Deputy General Counsel and Assistant Secretary

Address: The Sherwin-Williams Company, 101 W. Prospect Ave., Cleveland, Ohio 44115

The foregoing Consent Agreement In the Matter of **The Sherwin Williams Company**, Docket No. **RCRA-04-2024-4009(b),** is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

KERIEMA NEWMAN

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Date: 2025.05.15 14:02:49 -04'00'

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Keriema S. Newman, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: **The Sherwin Williams Company** **400 Bert Schulz Boulevard, Winter Haven, Florida 33881** EPA ID No.: **FLD984242453** Respondent.	Docket No. **RCRA-04-2024-4009(b)** Proceeding Under Section 3008(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a)

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified, and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22.

The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED.

TANYA FLOYD

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Date: 2025.05.19 15:37:20 -04'00'

_____

Tanya Floyd
Regional Judicial Officer

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CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, In the Matter of **The Sherwin Williams Company**, Docket No. **RCRA-04-2024-4009(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:

Jason Perdion
VP, Associate General Counsel
Corporate Legal Services
The Sherwin Williams Company
jason.perdion@sherwin.com

(216) 566-2000

To EPA:

George McBroom
Environmental Engineer
mcbroom.george@epa.gov
(404) 562-8170

Joshua Lee
Attorney Adviser
lee.joshua@epa.gov
(404) 562-9255

Shannon Richardson

Digitally signed by Shannon Richardson
Date: 2025.05.21 07:00:05 -04'00'

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